

the services of an interpreter. Where such services are necessary and the patient does not secure them, they shall be made available without payment by the patient to the extent that the patient lacks sufficient means to pay.

3. The patient and the patient's counsel may request and produce at any hearing an independent mental health report and any other reports and oral, written and other evidence that are relevant and admissible.

4. Copies of the patient's records and any reports and documents to be submitted shall be given to the patient and to the patient's counsel, except in special cases where it is determined that a specific disclosure to the patient would cause serious harm to the patient's health or put at risk the safety of others. As domestic law may provide, any document not given to the patient should, when this can be done in confidence, be given to the patient's personal representative and counsel. When any part of a document is withheld from a patient, the patient or the patient's counsel, if any, shall receive notice of the withholding and the reasons for it and it shall be subject to judicial review.

5. The patient and the patient's personal representative and counsel shall be entitled to attend, participate and be heard personally in any hearing.

6. If the patient or the patient's personal representative or counsel requests that a particular person be present at a hearing, that person shall be admitted unless it is determined that the person's presence could cause serious harm to the patient's health or put at risk the safety of others.

7. Any decision on whether the hearing or any part of it shall be in public or in private and may be publicly reported shall give full consideration to the patient's own wishes, to the need to respect the privacy of the patient and of other persons and to the need to prevent serious harm to the patient's health or to avoid putting at risk the safety of others.

8. The decision arising out of the hearing and the reasons for it shall be expressed in writing. Copies shall be given to the patient and his or her personal representative and counsel. In deciding whether the decision shall be published in whole or in part, full consideration shall be given to the patient's own wishes, to the need to respect his or her privacy and that of other persons, to the public interest in the open administration of justice and to the need to prevent serious harm to the patient's health or to avoid putting at risk the safety of others.

#### PRINCIPLE 19

##### *Access to information*

1. A patient (which term in the present Principle includes a former patient) shall be entitled to have access to the information concerning the patient in his or her health and personal records maintained by a mental health facility. This right may be subject to restrictions in order to prevent serious harm to the patient's health and avoid putting at risk the safety of others. As domestic law may provide, any such information not given to the patient should, when this can be done in confidence, be given to the patient's personal representative and counsel. When any of the information is withheld from a patient, the patient or the patient's counsel, if any, shall receive notice of the withholding and the reasons for it and it shall be subject to judicial review.

2. Any written comments by the patient or the patient's personal representative or counsel shall, on request, be inserted in the patient's file.

#### PRINCIPLE 20

##### *Criminal offenders*

1. The present Principle applies to persons serving sentences of imprisonment for criminal offences, or who are otherwise detained in the course of criminal proceedings or investigations against them, and who are determined to have a mental illness or who it is believed may have such an illness.

2. All such persons should receive the best available mental health care as provided in principle 1 above. The present Principles shall apply to them to the fullest extent possible, with only such limited modifications and exceptions as are necessary in the circumstances. No such modifications and exceptions shall prejudice the persons' rights under the instruments noted in paragraph 5 of principle 1 above.

3. Domestic law may authorize a court or other competent authority, acting on the basis of competent and independent medical advice, to order that such persons be admitted to a mental health facility.

4. Treatment of persons determined to have a mental illness shall in all circumstances be consistent with principle 11 above.

#### PRINCIPLE 21

##### *Complaints*

Every patient and former patient shall have the right to make a complaint through procedures as specified by domestic law.

#### PRINCIPLE 22

##### *Monitoring and remedies*

States shall ensure that appropriate mechanisms are in force to promote compliance with the present Principles, for the inspection of mental health facilities, for the submission, investigation and resolution of complaints and for the institution of appropriate disciplinary or judicial proceedings for professional misconduct or violation of the rights of a patient.

#### PRINCIPLE 23

##### *Implementation*

1. States should implement the present Principles through appropriate legislative, judicial, administrative, educational and other measures, which they shall review periodically.

2. States shall make the present Principles widely known by appropriate and active means.

#### PRINCIPLE 24

##### *Scope of principles relating to mental health facilities*

The present Principles apply to all persons who are admitted to a mental health facility.

#### PRINCIPLE 25

##### *Saving of existing rights*

There shall be no restriction upon or derogation from any existing rights of patients, including rights recognized in applicable international or domestic law, on the pretext that the present Principles do not recognize such rights or that they recognize them to a lesser extent.

### 46/120. Human rights in the administration of justice

#### *The General Assembly,*

*Recalling* its resolution 45/166 of 18 December 1990,

*Bearing in mind* the principles embodied in articles 3, 5, 9, 10 and 11 of the Universal Declaration of Human Rights<sup>8</sup> and the relevant provisions of the International Covenant on Civil and Political Rights<sup>26</sup> and the Optional Protocols thereto,<sup>132</sup> in particular article 6 of the Covenant, which explicitly states that no one shall be arbitrarily deprived of his life and prohibits the imposition of the death penalty for crimes committed by persons below eighteen years of age,

*Bearing in mind also* the relevant principles embodied in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>119</sup> and in the International Convention on the Elimination of All Forms of Racial Discrimination,<sup>2</sup>

*Calling attention* to the numerous international standards in the field of the administration of justice, such as the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment,<sup>143</sup> the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power<sup>146</sup> and the safeguards guaranteeing protection of the rights of those facing the death penalty,<sup>147</sup> as well as the Basic Principles on the Independence of the Judiciary,<sup>148</sup> the Basic Principles on the Role of Lawyers,<sup>149</sup> the Model Agreement on the Transfer of Foreign Prisoners and recommendations on the treatment of foreign prisoners,<sup>148</sup> as well as the Code of Conduct for Law Enforcement Officials,<sup>150</sup> the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials<sup>149</sup> and the Standard Minimum Rules for the Treatment of Prisoners,<sup>151</sup>

*Recognizing* the important contribution of the Commis-

sion on Human Rights in the field of human rights in the administration of justice, as reflected in its resolutions 1991/34 of 5 March 1991 on human rights in the administration of justice, 1991/39 of 5 March 1991 on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, 1991/43 of 5 March 1991 on the right to a fair trial and 1991/71 of 6 March 1991 on summary or arbitrary executions,<sup>38</sup>

*Welcoming* Commission on Human Rights resolutions 1991/31 of 5 March 1991 on human rights and thematic procedures, 1991/42 of 5 March 1991 on the question of arbitrary detention and 1991/70 of 6 March 1991 on co-operation with representatives of United Nations human rights bodies,<sup>38</sup>

*Also welcoming* Commission on Human Rights resolution 1991/41 of 5 March 1991,<sup>38</sup> establishing an inter-sessional working group to finalize the draft declaration on the protection of all persons from enforced or involuntary disappearances, and inviting the Commission to consider the revised draft declaration as a matter of high priority at its forty-eighth session,

*Further welcoming* the recommendations contained in the first report of Mr. Louis Joinet<sup>152</sup> on strengthening the independence of judges and lawyers and endorsed by the Subcommission on Prevention of Discrimination and Protection of Minorities in its resolution 1991/35 of 29 August 1991,<sup>153</sup> including those on planning and organizing advisory services and technical assistance, and also welcoming the decision of the Subcommission to entrust Mr. Joinet with the preparation of a further report,

*Welcoming* the further progress achieved by the Subcommission on the subject of compensation for victims of gross violations of human rights and also Subcommission resolution 1991/25 of 29 August 1991,<sup>153</sup>

*Recalling* the standards unanimously adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and the recommendations made with a view to ensuring more effective applications of existing standards, and recalling also its invitation to Governments to respect these standards and to take them into account within the framework of their national legislation and practice,

*Recognizing* the significant work accomplished in this area under the United Nations crime prevention and criminal justice programmes,

*Reaffirming* the importance of the principles contained in its resolution 41/120 of 4 December 1986 on standard-setting in the field of human rights,

*Underlining* the need for further coordinated and concerted action in promoting respect for human rights in the administration of justice,

1. *Reaffirms* the importance of the full and effective implementation of United Nations norms and standards on human rights in the administration of justice;

2. *Once again calls upon* all States to pay due attention to these norms and standards in developing national and regional strategies for their practical implementation and to spare no effort in providing for effective legislative and other mechanisms and procedures, as well as for adequate financial resources to ensure more effective implementation of these norms and standards;

3. *Calls upon* all States to ensure the widest possible

dissemination of the texts of international instruments in this field;

4. *Endorses* Economic and Social Council resolution 1991/15 of 30 May 1991 concerning the implementation of United Nations standards and norms in crime prevention and criminal justice;

5. *Recalls* its resolution 45/155 of 18 December 1990 and takes note of Commission on Human Rights resolution 1991/30 of 5 March 1991,<sup>38</sup> in which the Commission recommended that the Preparatory Committee for the World Conference on Human Rights should pay particular attention to the effective implementation of existing standards and instruments in the field of human rights;

6. *Welcomes* Commission on Human Rights resolution 1991/42, by which the Commission created a five-member working group to investigate cases of arbitrary detention, and requests the Secretary-General to provide all necessary resources to the working group, taking into account its important and broad mandate;

7. *Requests* the Secretary-General:

(a) To continue to assist Member States, at their request, in implementing existing international human rights standards in the administration of justice, in particular under the programme of advisory services of the Centre for Human Rights of the Secretariat;

(b) To continue to provide all necessary support to United Nations bodies working on the promotion and protection of human rights and on international standard-setting in this field;

(c) To ensure the widest possible dissemination of the texts of the international instruments in this field, including those adopted unanimously by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and to include the respective relevant texts in the next edition of the United Nations publication entitled *Human Rights: A Compilation of International Instruments*;

(d) To continue to coordinate activities in the field of human rights in the administration of justice, including the various technical advisory services carried out by the Centre for Human Rights and the Centre for Social Development and Humanitarian Affairs of the Secretariat, with a view to undertaking joint programmes and strengthening existing mechanisms;

8. *Emphasizes* the important role of the regional commissions, specialized agencies and United Nations institutes in the area of human rights and crime prevention and criminal justice and other organizations of the United Nations system, as well as intergovernmental and non-governmental organizations, including national professional associations concerned with promoting United Nations standards in this field;

9. *Requests* the Secretary-General to report to the General Assembly at its forty-eighth session on the implementation of the present resolution.

*75th plenary meeting  
17 December 1991*

#### 46/121. Human rights and extreme poverty

*The General Assembly,*

*Reaffirming* the Universal Declaration of Human Rights,<sup>4</sup> the International Covenant on Civil and Political