

Resolution 25/2

Promoting legal aid, including through a network of legal aid providers

The Commission on Crime Prevention and Criminal Justice,

Recalling the Universal Declaration of Human Rights,¹ which enshrines the key principles of equality before the law and the presumption of innocence, as well as the right to a fair and public hearing by an independent and impartial tribunal, established by law, along with all the guarantees necessary for the defence of anyone charged with a penal offence, other minimum guarantees and the entitlement to be tried without undue delay,

Recalling also the International Covenant on Civil and Political Rights,² in particular its article 14, which states that everyone charged with a criminal offence shall be entitled to be tried in his or her presence and to defend himself or herself in person or through legal assistance of his or her own choosing or assigned to him or her where the interests of justice so require, in a fair and public hearing by a competent, independent and impartial tribunal established by law,

Recalling further General Assembly resolution 67/187 of 20 December 2012, containing the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, which states that legal aid is an essential element of a fair, humane and efficient criminal justice system that is based on the rule of law and that it is a foundation for the enjoyment of other rights, including the right to a fair trial, as a precondition to exercising such rights and an important safeguard that ensures fundamental fairness and public trust in the criminal justice process,

Recognizing that certain groups are entitled to additional protection or are more vulnerable when involved with the criminal justice system, and noting in that regard that the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems have provided specific provisions for women, children, victims of crime and groups with special needs,

Reaffirming the definitions of “legal aid”, “legal aid provider” and “legal aid service providers” as defined in the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, and in this context recognizing that States employ different models for the provision of legal aid, including public defenders, private lawyers, contract lawyers, pro bono schemes, bar associations, paralegals and others,

Taking note of General Assembly resolution 70/1 of 25 September 2015, entitled “Transforming our world: the 2030 Agenda on Sustainable Development”, which includes under Sustainable Development Goal 16 a call for the promotion of peaceful and inclusive societies for sustainable development, access to justice for all, strengthening relevant national institutions, including through

¹ General Assembly resolution 217 A (III).

² General Assembly resolution 2200 A (XXI), annex.

international cooperation, and the building of effective, accountable and inclusive institutions at all levels, as part of a balanced and integrated approach to achieving sustainable development in its three dimensions: economic, social and environmental,

Bearing in mind General Assembly resolution 70/175 of 17 December 2015, containing the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which underscores the rights of prisoners, including those under arrest, held prior to trial or convicted, to be informed of their right to access to legal advice, including through legal aid schemes, and procedures for making requests or complaints, and be provided with adequate opportunity, time and facilities to be visited by and to communicate and consult with a legal adviser of their own choice or a legal aid provider and have access to effective legal aid,

Recalling General Assembly resolution 65/229 of 21 December 2010, containing the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),

Bearing in mind General Assembly resolution 43/173 of 9 December 1988, containing the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 11 of which states that a detained person shall have the right to defend himself or herself or to be assisted by counsel as prescribed by law,

Recalling the Bangkok Declaration on Synergies and Responses: Strategic Alliances in Crime Prevention and Criminal Justice,³ in which Member States are called on to take steps, in accordance with their domestic laws, to promote access to justice, to consider the provision of legal aid to those who need it and to enable the effective assertion of their rights in the criminal justice system,

Recalling also the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World,⁴ and noting the need to reduce pretrial detention, where appropriate, and promote increased access to justice and legal defence mechanisms, including during pretrial detention,

Recalling further the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation,⁵ in which Member States are called upon to continue the development of specialized networks of practitioners, including legal aid providers and defence lawyers, to exchange information and share good practices and expertise and to support community initiatives and foster the active participation of citizens in ensuring access to justice for all,

³ General Assembly resolution 60/177, annex.

⁴ General Assembly resolution 65/230, annex.

⁵ General Assembly resolution 70/174, annex.

Recalling General Assembly resolution 70/174 of 17 December 2015, entitled “Thirteenth United Nations Congress on Crime Prevention and Criminal Justice”, in which the Assembly requested the Commission on Crime Prevention and Criminal Justice to review the implementation of the Doha Declaration, and invited Governments to take into consideration the Doha Declaration when formulating legislation and policy directives and to make every effort, where appropriate, to implement the principles contained therein in conformity with the purposes and principles of the Charter of the United Nations,

Recalling also Economic and Social Council resolution 2007/24 of 26 July 2007 on international cooperation for the improvement of access to legal aid in criminal justice systems, particularly in Africa,

Welcoming the publication of *Early Access to Legal Aid in Criminal Justice Processes: A Handbook for Policymakers and Practitioners* and the launch by the United Nations Office on Drugs and Crime of the *Model Law on Legal Aid in Criminal Justice Systems with Commentaries*,

1. *Welcomes* the holding of the first International Conference on Access to Legal Aid in Criminal Justice Systems, in Johannesburg, South Africa, from 24 to 26 June 2014, with the attendance of over 250 legal aid policymakers and practitioners from 67 countries, including representatives of Ministries of Justice, the judiciary, public defender offices and bar associations, as well as legal aid lawyers, community-based paralegals, members of civil society and experts, and takes note of their efforts to discuss common challenges in providing access to effective legal aid services in criminal justice systems and to propose practical and achievable solutions through the Johannesburg Declaration on the Implementation of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems;

2. *Invites* Member States, in line with the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation,³² to participate in the second International Conference on Access to Legal Aid in Criminal Justice Systems, to be held in Buenos Aires in November 2016, and in this context requests the United Nations Office on Drugs and Crime to make available any ensuing report to the Commission on Crime Prevention and Criminal Justice;

3. *Encourages* Member States to adopt or strengthen legislative or other measures to ensure effective legal aid, including for victims of crime, consistent with their domestic legislation and in line with the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems;⁶

4. *Encourages* Member States, in line with the recommendations in the Johannesburg Declaration on the Implementation of the United Nations Principles and Guidelines on

⁶ General Assembly resolution 67/187, annex.

Access to Legal Aid in Criminal Justice Systems and consistent with the Doha Declaration and their national legislation, to provide legal aid, where possible, to facilitate the sharing of information and best practices among legal aid providers, making the best possible use of existing information and communication platforms, and to share expertise on the development of national-level indicators for target 16.3 of the Sustainable Development Goals;

5. *Invites* Member States to encourage, in collaboration with other relevant stakeholders as appropriate, the development of national, regional and international specialized networks of legal aid providers to exchange information and share good practices and expertise, including by considering, in the context of deliberations at the second International Conference on Access to Legal Aid in Criminal Justice Systems, potential options for establishing a global virtual network to facilitate legal aid providers at the national, regional and international levels to establish contact;

6. *Encourages* Member States, in line with the Doha Declaration, to collaborate with civil society and other relevant stakeholders to foster the active participation of citizens in ensuring access to justice for all, including awareness of their rights and the provision of legal aid;

7. *Urges* Member States, in line with the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice⁷ and relevant and applicable international human rights instruments, to ensure that children in contact with the justice system are informed of their rights and have prompt access to legal assistance and, where appropriate, legal aid, during police interrogation and while in police detention, and that they may consult their legal representative freely and fully confidentially;

8. *Also urges* Member States, in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),⁸ to ensure that women in contact with the justice system are informed of their rights and have prompt access to legal assistance and, where appropriate, legal aid, during police interrogation and while in police detention, and that they may consult their legal representative freely and fully confidentially;

9. *Requests* the United Nations Office on Drugs and Crime to work closely with other United Nations agencies to continue to develop and disseminate, subject to the availability of extrabudgetary resources, relevant tools such as best practices, handbooks and training manuals, and to provide advisory services and technical assistance to Member States, upon request, in the area of legal aid, and to continue reporting at future sessions of the Commission on its efforts in this regard;

⁷ General Assembly resolution 69/194, annex.

⁸ General Assembly resolution 65/229, annex.

10. *Invites* Member States and other donors to provide extrabudgetary resources for those purposes, in accordance with the rules and procedures of the United Nations.