BREAKING FREE FROM THE SHADOWS...

“Addressing the needs of children with neurodisabilities in the juvenile justice system: What must governments do to better satisfy their international human rights obligations for children in detention?”

Written by Kasey Tyler
Supervised by Assistant Professor Maria Archimandritou
Addressing the needs of children with neurodisabilities in the juvenile justice system: What must governments do to better satisfy their international human rights obligations for children in detention?

ABSTRACT

This paper looks at research that suggests there is an over-representation of children with neurodisabilities in juvenile detention and examines whether international human rights law adequately protects these vulnerable young people. The most relevant international instruments to the topic of juvenile administration and disability are identified and the obligations of State’s towards detainees under these instruments are examined. Two case studies are featured to demonstrate the ways in which States are implementing, or otherwise, their obligations under international human rights law. Examination suggests that, though international human rights law and associated guidelines adequately provide for children in detention with neurodisabilities, both the awareness of the overrepresentation of neurodisabilities in the juvenile detainee population, and State implementation of their obligations to these children, are in need of rapid and substantial improvement.
CONTENTS

INTRODUCTION ..........................................................................................................................5
  Boundaries within which this paper will stay ........................................................................7
  Configuration of this paper ..................................................................................................9
CHAPTER 1 ..................................................................................................................................11
  1.1. Definition and use of the term “neurodisability” in a juvenile justice context .................11
  1.2. Neurodisabilities and juvenile detention ........................................................................15
      1.2.1 The overrepresentation and impact of neurodisability in juvenile detention ..............16
CHAPTER 2 ..................................................................................................................................20
  2.1 International Human Rights Law and Rights of Juvenile Detainees .................................20
      2.1.1. Internationally binding instruments and human rights obligations ..........................21
      2.1.2. International Standards and Norms in Juvenile Justice ...........................................34
  2.2 Five core principles required for an internationally compliant juvenile justice system .........41
      2.2.1. Best interests of the child .....................................................................................42
      2.2.2. Individual development and wellbeing .................................................................44
      2.2.3. Rehabilitation ....................................................................................................46
      2.2.4. Reintegration ......................................................................................................49
      2.2.5. A constructive role in society ...............................................................................51
  2.3 From obligation to implementation ..................................................................................53
      2.3.1. Health ................................................................................................................53
      2.3.2. Disability ............................................................................................................56
      2.3.3. Education ...........................................................................................................58
      2.3.4. Personal development ..........................................................................................62
  2.4 Indigenous children .........................................................................................................63
CHAPTER 3 ..................................................................................................................................69
  3.1. Case Study 1 – UK Ministry Of Justice, “Transforming Youth Custody” .......................69
  3.2. Case Study 2 – Parkville College, Victoria, Australia .....................................................73
CHAPTER 4 ..................................................................................................................................80
  4.1 Effective Methods of Implementation and Advocacy .......................................................80
      4.1.1. International human rights law and behaviour change ...........................................80
      4.1.2. Domestic policy and implementation of international protections ..........................85
  4.2 Alternative methods of promoting the implementation of international juvenile justice policy .....................................................................................................................86
      4.2.1. Incarceration and the cycle of crime .................................................................86
      4.2.2. The cost of incarceration ......................................................................................87
CONCLUSION ............................................................................................................................89
Addressing the needs of children with neurodisabilities in the juvenile justice system: what must governments do to better satisfy their international human rights obligations for children in detention?

Tyler, Kasey

https://doi.org/20.500.11825/463

Downloaded from Open Knowledge Repository, Global Campus’ institutional repository