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# Protecting the rights of children in conflict with the law

PROGRAMME AND ADVOCACY EXPERIENCES FROM MEMBER  
ORGANISATIONS OF THE INTER-AGENCY COORDINATION PANEL  
ON JUVENILE JUSTICE

Office of the UN High Commissioner  
for Human Rights

United Nations Children's Fund

United Nations Development  
Programme

United Nations Office on Drugs  
and Crime

Casa Alianza

Defence for Children International

Penal Reform International

Save the Children UK  
Terre des hommes

World Organisation Against Torture





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## Foreword

In their efforts to comply with the Convention on the Rights of the Child many States Parties have taken or are taking legislative measures to address the problems of children in conflict with the law, an area also known as juvenile justice.

The UN Committee on the Rights of the Child (CRC Committee) welcomes the results of these efforts in terms of often considerate improvement of existing laws relevant to juvenile justice. But at the same time, it regularly expresses its concern at the lack of implementation of the improved law and regulations. There is also the concern that the UN Rules and Guidelines on the Administration of Juvenile Justice, on the Deprivation of Liberty and on the Prevention of juvenile delinquency are often not implemented, partly due to lack of knowledge.

Over the past 15 years we have seen a lot of legislative measures and a lot still has to be done. But for the coming years more systematic attention should be paid in order to bring it in compliance with the CRC and the UN Standards mentioned before.

Therefore, the CRC Committee welcomes this publication of the Inter-Agency Coordination Panel on Juvenile Justice. It provides you with useful information on the Organisations that are members of this Juvenile Justice Panel, their missions, mandates and activities, but perhaps even more importantly, it presents innovative practices in areas like legal support, alternative sanctions, capacity building, and public awareness and advocacy.

The CRC Committee hopes that this publication and further activities of the Juvenile Justice Panel will contribute to a substantial improvement in the practice of juvenile justice in many States parties to the CRC. It is not easy to run a juvenile justice system (law + practice) that is in full compliance with the CRC. If you need technical/expert/or other support in that regard, you should not hesitate to contact the Panel or one of its member organisations.

**Jaap E. Doek**  
*Chairperson UN Committee  
on the Rights of the Child*





# **Introduction**

## **Overview of the Inter-Agency Coordination Panel on Juvenile Justice**



## Panel Objectives

Established by a 1997 Resolution of the Economic and Social Council, the Inter-Agency Coordination Panel on Juvenile Justice, (formerly known as the UN Coordination Panel on Technical Advice and Assistance in Juvenile Justice or the UNCPIJJ) aims to coordinate policies, projects and activities among international organisations engaged with national authorities in juvenile justice reform. The work of the Panel is guided by the relevant provisions of the Convention on the Rights of the Child, other relevant international standards related to juvenile justice, and the recommendations of the UN Committee on the Rights of the Child.<sup>1</sup>

The objective of this body is to enhance national and global coordination in juvenile justice by:

1. Identifying panel member organisations working at country level and their activities.
2. Encouraging our respective field offices to work together towards a common approach at country level.
3. Promoting on-going dialogue with national partners in juvenile justice reform.
4. Identifying, developing and disseminating common tools and good practices.
5. Bringing protection of the rights of children in conflict with the law on to agenda of international community.

## Highlights of Panel Initiatives

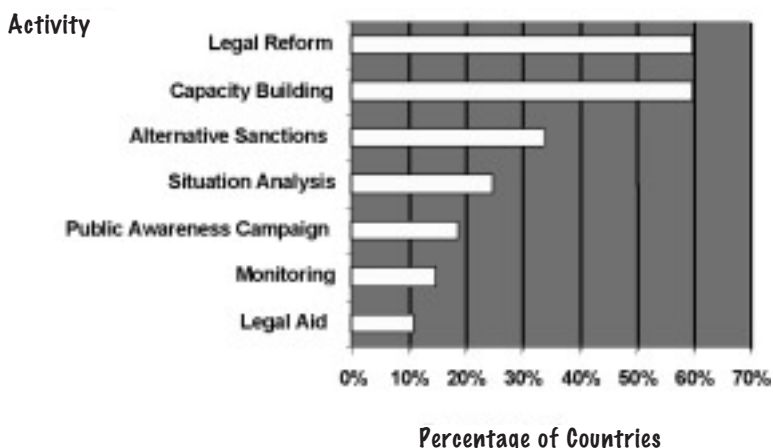
- In several countries worldwide, member organisations of the Panel have supported coordination for the implementation of the

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1 International Standards include: the UN Covenant on Civil and Political Rights, the Convention against Torture, The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, United Nations Guidelines For the Prevention of Juvenile Delinquency, United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Vienna Guidelines for Action on Children in the Criminal Justice System.  
Standard Minimum Rules for the Treatment of Prisoners and United Nations Standard Minimum Rules for Non-custodial Measures.

recommendations of the Committee on the Rights of the Child. Examples include:

- In 2000, Uganda: where coordination made possible a training and strategy development workshop organised by OHCHR, DCI, UNICEF, Save the Children UK and Danida.
- Beginning 2003, Uruguay: where DCI, OMCT, Save the Children, Terre des hommes Foundation, UNICEF and others collaborated to conduct monitoring and high level advocacy activities.
- In 2004, the Panel undertook a global mapping of justice initiatives for children in conflict with the law in 127 countries. The figure at the left shows an approximate breakdown of the panel members' organisational activities in juvenile justice reform, dated March 2004.
- The Panel now has a shared website, accessible to all staff of member organisations.
- Future initiatives of the Panel include the establishment of a focal point and secretariat for the Panel, the establishment of a public website and coordinated technical support for the production and dissemination of the CRC Committee's upcoming General Comment on Juvenile Justice.



## Member Organisations

### UNITED NATIONS OFFICE ON DRUGS AND CRIME

The United Nations Office on Drugs and Crime (UNODC) implements an integrated programme of drug control, drug demand reduction, crime prevention, criminal justice reform and counter-terrorism in the context of sustainable development and human security. The Office is responsible for carrying out activities in international crime prevention and control by strengthening regional and international cooperation in preventing and combating trans-national crime. In particular, UNODC undertakes activities related to the prevention of organised crime, money laundering and trafficking of women and children. It also promotes crime prevention strategies, as well as effective and fair administration of justice, with due respect for the rights of all those affected by crime or involved in the criminal justice system.

#### How juvenile justice fits within the mandate of UNODC

UNODC has a long history of assisting Member States by developing and promoting the use and application of international instruments, standards and norms in crime prevention and criminal justice, including those related to juvenile justice. Operational work in the juvenile justice sector is relatively new to the organisation and is based on various resolutions of the General Assembly and the Economic and Social Council. Upon request by a Member State, UNODC implements technical cooperation projects to prevent youth crime, strengthen juvenile justice systems and improve the rehabilitation and treatment of young people in conflict with the law, as well as to improve the protection of child victims.

#### UNODC's approach to juvenile justice

UNODC has developed an integrated strategy to assist Member States with juvenile justice reform, emphasising the importance of prevention and rehabilitation. Pilot projects, based on international standards and good practices, include the following type of activities:

- promoting and advising on the drafting and reviewing of legislation, especially extra-judicial alternative measures and non-custodial sanctions for young people in conflict with the law and the protection of victims and youth at risk,

- capacity building, including the creation of a ministerial level focal point for all matters pertaining to juveniles, including the collection and analysis of relevant data,
- launching awareness-raising campaigns and developing national action plans for juveniles at risk and young people in conflict with the law,
- developing training curricula and conducting training courses for all criminal justice actors dealing with young people in conflict with the law and juveniles at risk,
- improving detention conditions for juveniles, by refurbishing specialised centres, setting up filing systems and strengthening vocational and educational training programmes,
- establishing after-care programmes for juveniles released from closed institutions, in partnership with non-governmental community services.

The recent merger of the United Nations drug and crime programmes within UNODC offers new opportunities in the field of juvenile justice, such as integrated drug and crime prevention programmes, including awareness-raising and peer education for young people, and specialised programmes for preventing the spread of HIV/AIDS in closed institutions. Based on lessons learned in Afghanistan, UNODC also is exploring further possibilities to integrate juvenile justice reform projects into larger criminal justice reform programmes for post-conflict countries. In cooperation with other institutions, UNDOC is involved in the development of guidelines on justice for child victims and witnesses of crime, and has also compiled good practices, in particular in relation to urban crime and youth at risk.

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## OFFICE OF THE UN HIGH COMMISSIONER ON HUMAN RIGHTS

The mission of the Office of the United Nations High Commissioner for Human Rights (OHCHR) is to protect and promote human rights for all. The High Commissioner for Human Rights is the official with the main responsibility for United Nations human rights activities. OHCHR is guided in its work by the Charter of the United Nations, the Universal Declaration of Human Rights and subsequent human rights instruments, and the 1993 Vienna Declaration and Programme of Action. The promotion of universal ratification and implementation of human rights treaties is at the forefront of OHCHR activities. OHCHR aims to ensure the practical implementation of universally recognised human rights norms. It is committed to strengthening the United Nations human rights programme and providing the United Nations treaty monitoring bodies, including the UN Committee on the Rights of the Child, and special mechanisms established by the Commission on Human Rights, with the highest quality support possible. OHCHR engages in dialogue with governments on human rights issues with the goal of enhancing national capacities in the field and improving the respect for human rights; it provides advisory services and technical assistance when requested, and encourages governments to pursue the development of effective national institutions and procedures for the protection for human rights. OHCHR provides extensive technical cooperation in the field of the administration of justice, including juvenile justice (i.e. law reform, institutional capacity building, training and awareness raising).

### OHCHR's focus within Juvenile Justice

In the field of juvenile justice, OHCHR is committed to assisting States in implementing the Convention on the Rights of the Child along with other relevant international norms and standards; and to follow-up recommendations made by the Committee on the Rights of the Child.

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### UNICEF

The United Nations Children’s Fund (UNICEF) is mandated by the United Nations General Assembly to advocate for the protection of children’s rights. UNICEF is guided by the Convention on the Rights of the Child and strives to establish children’s rights as enduring ethical principles and international standards of behaviour towards children. UNICEF insists that the survival, protection and development of children are universal development imperatives that are integral to human progress. Working in 158 countries and territories, UNICEF is committed to ensuring special protection for the most disadvantaged children — victims of war, disasters, extreme poverty, violence and exploitation, and children with disabilities. UNICEF takes a preventative approach against the abuse and exploitation of children by supporting governments to create a protective environment for all children.

#### How juvenile justice fits within the mandate of UNICEF

Children in conflict with the law are protected by the UN Convention on the Rights of the Child, which guides UNICEF’s work. Juvenile justice is part of UNICEF’s overall commitments to Child Protection, an area which addresses prevention and response to violence, abuse and exploitation of children, as well as the particular rights of children not in the care of their families. In the majority of countries where UNICEF works, activities are underway to promote the reform of justice systems for children in conflict with the law. This work is undertaken in various legal and social contexts, including areas undergoing armed conflict, where instrumental use of children can put them in conflict with the law and endanger their rights to due process and child-specific treatment before the law.

#### UNICEF’s focus within Juvenile Justice

UNICEF believes that jails and detention should be a last resort for children in conflict with the law. UNICEF’s work in juvenile justice focuses on reducing recourse to deprivation of liberty, through the promotion of non-custodial sanctions, restorative justice, and diversion. UNICEF aims to create a protective environment for all children, which implies a systemic, multi-level approach that includes securing government commitment, building capacities, reforming laws, monitoring and reporting rights violations, changing peoples’ attitudes, building children’s own skills, and providing reintegration services.



For example, UNICEF supports the reform of legal systems by encouraging local actors to revise and implement legislation that is conform with international standards. UNICEF also builds the capacity of actors within the juvenile justice system so as to specialise in a child rights-based approach to their work. In order to coordinate inter-sectoral reform, UNICEF acts as a convenor among NGOs and the various ministries of government, including Justice, Corrections, Social Welfare, Youth, and Interior. Lastly, UNICEF works with the media and NGOs to support child justice reforms and educate the public about children's rights.

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### UNITED NATIONS DEVELOPMENT PROGRAMME

United Nations Development Programme (UNDP) is the UN's global development network, advocating for change and connecting countries to share knowledge, experience and resources to help people build a better life. UNDP is on the ground in 166 countries, working with them on their own solutions to global and national development challenges. As they develop local capacity, they draw on the people of UNDP and their wide range of partners. UNDP's network links and coordinates global and national efforts to reach the Millennium Development Goals, including the overarching goal of cutting poverty in half by 2015. UNDP focuses on helping countries build and share solutions to the challenges of democratic governance, poverty reduction, crisis prevention and recovery, energy and environment, and HIV/AIDS. UNDP integrates information and communications technology for development into its work in democratic governance and poverty reduction, helping developing countries improve government accountability and service delivery. UNDP helps countries attract and use aid effectively. In all its activities, UNDP promotes the protection of human rights and the empowerment of women.

### How juvenile justice fits within the mandate of UNDP

UNDP recognises that the existence of an efficient justice system is central to development. There is a crucial link between the rule of law, poverty eradication, human rights and sustainable human development. The goal of UNDP's justice sector reform programmes is improved access to timely and effective justice for all: especially the poor, women and other disadvantaged groups. UNDP advocates that the poor should be able to seek and obtain justice under laws which are in conformity with international human rights standards and national constitutional norms. Such standards and norms seek to safeguard the rule of law, for all persons, against both governmental lawlessness and that of powerful and well-entrenched vested interests in society. These include specific norms and standards for juveniles, who also make up a large proportion of the population in most developing countries. Juvenile justice issues are therefore a central feature in work relating to the justice system, the prison system or law enforcement programmes.

### UNDP's focus within Juvenile Justice

Issues relating to juvenile justice may feature as an integrated component of a larger justice sector programme, supported either by UNDP or another UN agency (mainly UNICEF), or as a stand alone programme specifically dealing with juvenile justice. Specific areas of focus within UNDP's work on juvenile justice include capacity strengthening for the national police to carry out their responsibilities from a rights based perspective, judicial reform and others.

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## DEFENCE FOR CHILDREN INTERNATIONAL

Defence for Children International (DCI) is an independent, non-governmental organisation that was set up in 1979, the International Year of the Child, to promote and protect the rights of the children. DCI has grown into an international network with members in some 42 countries. DCI's mission is to:

- foster awareness about, and solidarity around, children's rights situations, issues and initiatives throughout the world,
- seek, promote, and implement the most effective means of securing the protection of children's rights in practice,
- ensure that the rights of the child are given primacy in all respects, by civil society and by all authorities, including the United Nations,
- provide leadership in international standard setting for children's rights,
- ensure that children participate in decisions and actions that affect their lives.

### How juvenile justice fits within the mandate of DCI

DCI has been involved in legal defence work relating to children ever since its establishment in 1979. Since the adoption of the UN Convention on the Rights of the Child in 1989, DCI sections have increasingly engaged in activities related to juvenile justice. At the international level, DCI has participated in the elaboration of international standards concerning juvenile justice, and consistently pursues juvenile justice reforms. Despite the existence of international standards, little progress has been achieved with regard to the implementation of rights of children in conflict with the law. For these reasons, DCI not only offers assistance to children in conflict with the law, but also lobbies to include the issue of juvenile justice on the international debating agenda.

### DCI's approach to Juvenile Justice

The juvenile justice programme of DCI's International Secretariat includes several projects, including the International Network on Juvenile Justice, the programme of the Socio-legal Defence Centres, the

programme for reforming Juvenile Justice systems in Latin America, the coordination of the NGO Subgroup on Juvenile Justice as well as advocacy work with regard to the Committee on the Rights of the Child.

The primary intervention strategy of DCI both at the local and international level is to provide information about the situation of children and their rights. By sensitising families, communities and governments, DCI intends to raise awareness about the reality faced by children and adolescents in conflict with the law.

Another important element of DCI's work is to improve the co-ordination of activities and initiatives addressing juvenile justice issues. DCI has established exchange forums in order to permit actors to make more efficient use of resources. These information-sharing tools allow DCI to engage in lobbying activities before UN and other International bodies, in order to put the issue of juvenile justice on the international debating agenda.

DCI sections also provide direct assistance to victims of child rights violations, in order to decrease those children's immediate suffering. By adopting a rights-based approach, DCI seeks to empower children so that they become aware of their rights and are involved in the process.

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## WORLD ORGANISATION AGAINST TORTURE

World Organisation Against Torture (OMCT)'s objective is the fight against torture, summary executions, forced disappearances and all other forms of cruel, inhuman or degrading treatment. Its programmes include urgent campaigns, special procedures, assistance to victims of torture, violence against women, children's rights, economic, social and cultural rights. Their work is based on the information and requests coming from its network of 266 member organisations worldwide.

The OMCT defends children against torture and other forms of violence, through urgent appeals on concrete cases of torture or other forms of violence and interventions on violations of children's rights before international and regional human rights mechanisms.

### How juvenile justice fits within OMCT's mandate

Most urgent appeals issued by OMCT's children's rights programme fall within the scope of juvenile justice: arbitrary arrests, torture during police custody, absence of judicial guarantees, abusive punishments and extra-judicial killings of children by law enforcement officials. Some appeals also relate to arbitrary detention of children in irregular situations or lack of due diligence in the protection of minority children. OMCT reports, shared with UN treaty monitoring bodies (CRC, HRC, CAT) focus largely on juvenile justice, both in legal and practical terms. In its advocacy and capacity-building work, OMCT also makes juvenile justice one of its priority themes.

### OMCT's approach to juvenile justice

Most acts of torture of children are carried out while the children are in police custody. OMCT's approach is to sensitise the public about this situation, alert authorities, request their due intervention, and denounce perpetrators in order to fight impunity and deter other potential torturers.

OMCT also argues that - in addition to its adverse effects for children in terms of education, role models, psycho-social and physical well-being - deprivation of liberty has the potential to increase all forms of violence. Allegations of such cases are regularly reported and documented by OMCT's children's rights programme and its partners. OMCT's approach is therefore to promote alternatives to imprisonment for children and emphasise that deprivation of liberty should remain a last resort.

OMCT also takes public stands, participates in research and training, and documents specific situations, arguing that certain forms of corporal punishment applied to children, as well as certain conditions of detention, are in contradiction with international law and amount to cruel, inhuman and degrading treatment and punishment.

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### PENAL REFORM INTERNATIONAL

Penal Reform International (PRI) is an international NGO created in 1989. Its headquarters is in London and it has offices in Paris, Moscow, Bucharest, Costa Rica, Nepal, Rwanda, Burundi, Malawi, Georgia and Kazakhstan. Over the past ten years, PRI has developed programmes in more than 50 countries in sub-Saharan Africa, the Middle East, Central and Eastern Europe and Central Asia, South Asia, Latin America and the Caribbean.

PRI works towards bringing criminal justice systems more into line with international standards, promoting alternatives to custody, and improving access to justice. PRI encourages and supports indigenous initiatives in prison and penal reform and provides technical support to NGOs and government agencies willing to undertake reforms of criminal justice in the context of their region and culture. PRI seeks to achieve penal reforms, whilst recognising diverse cultural contexts, by promoting:

- the development and implementation of international human rights instruments with regard to law enforcement, prison conditions and international standards;
- the elimination of unfair and unethical discrimination in all penal measures;

- the abolition of the death penalty;
- a reduction in the use of imprisonment throughout the world;
- the use of constructive non-custodial sanctions which encourage social reintegration whilst taking into account the interests of victims.

### PRI's Approach to Juvenile Justice

Establishing a proper juvenile justice system in conformity with international standards is a long, technical, and costly process as it implies in-depth legal and institutional reforms.

Taking into account the immediate physical and psychological dangers faced by children in conflict with the law, PRI devotes efforts towards juvenile justice reform. Prison and penal reform with both governmental and non-governmental partners at national and international levels facilitates programmes on juvenile justice. PRI's approach focuses on the need to use deprivation of liberty as a last resort and the implementation of alternatives as sanctions, and/or to prevent pre-trial detention. PRI has developed either specific programmes on juvenile justice or has included a component on juvenile justice in broader prison and penal reforms in South Asia, Africa, South America, Eastern and Central Europe and USA.

More specifically, PRI's work on juvenile justice, at country and/or regional levels, focuses on:

- Advocacy and lobbying,
- Capacity building: support the implementation of international Human Rights standards and norms, through particular training of law professionals and actors, development of training and sensitisation tools,
- Legal reforms: support drafting or reviewing of national legislation,
- Provision of legal aid through paralegals,
- Promotion of alternatives to imprisonment, in particular community service,
- Promotion and implementation of diversion or extra judiciary measures,
- Improvement of detention conditions for children deprived of their liberty.

PRI's experience in the area of prison and penal reforms has underlined the need for collaboration among actors working with criminal justice in order to improve the system and make it more humane, fair and efficient. PRI encourages dialogue and cooperation among the various actors involved in the area of juvenile justice: the police, the prison administration, the court, the family, the offender, the victim, the social worker, the communities and any other professional dealing with children in conflict with the law.

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### TERRE DES HOMMES FOUNDATION

Founded in 1960 by Edmond Kaiser, free from any political and religious bias, and financed primarily by private individual Swiss donors, Terre des hommes Foundation works in 30 countries, mainly with nutritional and social programmes. Juvenile justice, the fight against child trafficking, and against sexual exploitation are taking on increasing importance. Through permanent programmes frequently operated via national NGO partners, Terre des hommes campaigns and advocates on these issues, in coalition with other Terre des Hommes movements based throughout Europe.

#### How Juvenile Justice fits within the mandate of Terre des hommes

With a history of programmes for street children, Terre des hommes decided to expand its psycho-social programmes into the legal sphere in order to follow-up these children. In the context of growing urbanisation, it was also noted that the size and the gravity of juvenile delinquency is



growing. National authorities often feel they can efficiently combat this phenomenon by increasing the number of years of deprivation of liberty, and by lowering the age of penal responsibility for minors. This is contrary to international norms on juvenile justice, which advocate for alternatives to detention wherever possible.

### Terre des hommes Approach to Juvenile Justice

Terre des hommes initiated its juvenile justice work in 1996 by formulating an “NGO collection of information” in order to assess the legal and practical situation of children deprived of liberty in some of its countries of intervention (Lebanon, Mauritania, Guinea, Romania, Kosovo, Peru, Burundi, Haiti, etc.).

In close collaboration with the relevant Ministries, the active promotion of alternatives to detention is discussed and implemented in the above-mentioned countries, followed by regular prisons visits. The first priority is to focus on the awareness and training of basic local actors dealing directly with children in conflict with the law: magistrates, policemen, social workers. In the long term, Terre des hommes aims to develop a “culture of juvenile justice”, so that national actors acquire a feeling of ownership of juvenile justice reform efforts. In some countries, this approach has promulgated the establishment of a national NGO specialised in training governmental and non-governmental actors dealing with street children or child victims of trafficking. In respect of the governments in question, the aim is to convince the authorities that training of social workers, magistrates and policemen is less expensive than building prisons or closed institutions for children in conflict with the law, since such “centres” are in most cases “schools for crime”.

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### SAVE THE CHILDREN UK

Save the Children UK (SCUK) is a member of the International Save the Children Alliance, the world's leading independent children's rights organisation, with members in 29 countries and operational programmes in more than 100 countries.

Save the Children works with children and their communities to provide practical assistance and, by influencing policy and public opinion, bring about positive change for children.

#### How Juvenile Justice fits within the mandate of Save the Children

Many of Save the Children's programmes focus on "at risk" groups of children who often come into conflict with the law, (and may be criminalised under local legal systems): notably street children, children fleeing abusive families, children that have dropped out of school, children without parental care, migrant children, children involved in exploitative/high risk labour, trafficked children and child soldiers among others. Through the Child Protection programme SCUK work with these children and their communities to develop pragmatic and sustainable interventions and solutions that promote awareness of their rights, strengthen protection mechanisms against abuse, neglect and exploitation and target the risk factors that make them vulnerable in the first place. It works with governments to develop laws and policies that adequately reflect the protection needs of these children through an integrated and holistic approach to child protection that focuses on their support at the community level.

#### Save the Children's Approach to Juvenile Justice

Save the Children believes that, wherever possible, children should be kept out of the justice system. Not only are the overwhelming majority of children in conflict with the law petty offenders and first time offenders, all too often they are children 'on the margins' whose very survival behaviours and strategies have been criminalised, or whose protection-systems have failed. They are children with care issues, children living in the streets, children who survive through begging, scavenging or petty theft, children who are victims of trafficking or sexual exploitation, sometimes even children who are detained simply because of what is deemed to be "anti-social behaviour" or unruly behaviour. In some countries, children are even detained (in so called "protective custody") and

dealt with as offenders when they are victims of physical and sexual violence.

The formal justice system is an inadequate and ineffective way to deal with the challenges faced by those children and their communities. It is often a process that further exposes them to a violent and dangerous environment where children become hardened, victimised and more alienated from society. Save the Children believes that even at its best, the formal criminal justice system should deal only with a very small minority of children who have committed very serious crimes and represent a threat to themselves and/or to society. The overwhelming majority of children in conflict with the law should be dealt with and supported through a range of diversion systems that recognise the causes of their behaviours and identify strategies at the community level to effectively prevent re-offending.

As a result, Save the Children works primarily to support programmes that divert children from the criminal justice system. One of the main objectives of its work in children's justice is to promote non-custodial, community based responses, which support the reintegration of children into society and prevent re-offending behaviour. It supports initiatives to prevent and reduce children's involvement in crime that are based on social development, human resource development and the reform of criminal justice systems. It works on the reform of laws and justice systems to create a system of Children's Justice that is based on prevention and diversion at every possible level. It works on building the capacity and the co-ordination of the social and justice sectors to effectively support the reintegration of children in their communities.

At the core of all its work is Save the Children's conviction that children are key in finding effective solutions to the problems and challenges they face. Save the Children believes that children must be involved in preventative strategies to minimise children coming into conflict with the law in the first place, as well as in the reform of the system and the development of community-based alternatives.

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## **CASA ALIANZA**

Casa Alianza is an independent, non-profit organisation dedicated to the defence of children in Guatemala, Honduras, Mexico, Nicaragua and Costa Rica. Casa Alianza is the Latin American branch of the New York-based Covenant House. Founded in Guatemala in 1981, it expanded into Honduras and Mexico in 1986, and into Nicaragua in 1998. Casa Alianza offers its services to more than 9,000 children a year, most of whom have been orphaned, abused or rejected by dysfunctional and poverty-stricken families, and further traumatised by the indifference of the societies in which they live.

Social injustice, poverty, lack of access to education, jobs and opportunities, and economic violence in Central America lead children into difficult circumstances. Some of them unfortunately enter into permanent conflict with law and authorities. Considered criminals, the goal of the police and the judicial system is, very often, to take them out of the streets by any means. Detention is one of the principal options for repressive officers. Violations of the human rights of children are ubiquitous. During detention, children and youth have been tortured, abused and killed. Their life is often put in danger, especially when they are detained in jails designed for adults.

### **Casa Alianza's approach to juvenile justice**

On a regular basis, Casa Alianza receives complaints from children and youth who denounce the violation of their rights during arrest and detention. Monitoring the rights of the child is one of the agency's priorities. The investigations conducted by Casa Alianza have led the organisation repeatedly to the detention centres. Considering the number of children and youth detained by the authorities, as well as the situations that lead them to the streets, monitoring the conditions of the detention centres has become a constant necessity. Central American governments have implemented repressive laws and plans to counteract youth gangs, increasing the level of detentions of minors in their countries. However, they have neglected the reason why those children and youth become members of such groups. Casa Alianza is conscious of the responsibility of the judicial authorities and knows that it is their duty to punish criminals, but the human rights of children and youth must be a leading consideration in every judicial system.

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## Programme and Advocacy Experiences

These programme and advocacy experiences in juvenile justice reform represent the diversity of approaches of the member organisations on the Inter-Agency Coordination Panel on Juvenile Justice. This set of programme and advocacy experiences span five categories of reform efforts: Legal Support, Alternative Sanctions, Capacity Building/Training, Public Awareness and Advocacy and Monitoring and Reporting. All of these specific practices are interventions forming part of broader multi-level reform efforts in child justice. They are presented here to raise awareness of promising tactics for improving the protection for children in conflict with the law and to stimulate ideas and action for future reforms.

This list below is non-exhaustive, and represents select examples of programme and advocacy experiences of the member organisations of the Inter-Agency Coordination Panel on Juvenile Justice. Source documents and more information about each organisation's broader work in juvenile justice reform can be obtained from the Panel member organisations. See the Panel overview for contact information.

## Table of Contents

Foreword .....	7
Introduction .....	9
<b>1. Legal Support .....</b>	<b>33</b>
Creation of a Child Protection Unit with the Bar Association <i>UNICEF</i> .....	35
Paralegal Advisory Service <i>Penal Reform International</i> .....	38
Supporting Lawyers and Social Workers at Police Stations <i>Terre des hommes</i> .....	41
<b>2. Alternative Sanctions .....</b>	<b>43</b>
Community Based Diversion and Reintegration <i>Save the Children UK</i> .....	45
Alternative Conflict Resolution at Community Level <i>United Nations Office on Drugs and Crime</i> .....	49
Local Councils as Courts of First Instance <i>Defence for Children International</i> .....	53
Village Level Children’s Mediation Units with Oversight from the Ministry of Justice <i>Save the Children UK</i> .....	56
Community Crime Prevention Committees <i>UNICEF</i> .....	59
Police Level Diversion: HALT Alternative Sanction Programme <i>Defence for Children International</i> .....	62
Use of a Drop-in Centre for Child Protection, Crime Prevention and Diversion <i>Save the Children UK</i> .....	65
<b>3. Capacity Building and Training .....</b>	<b>69</b>
Internal Guidelines for Divisions involved in Juvenile Justice Reform <i>Office of the UN High Commissioner for Human Rights</i> .....	71

Building a Pool of Expertise with Common Cultural Reference <i>Penal Reform International</i> .....	45
Inter-Sectoral Training Courses in Juvenile Justice <i>Terre des hommes</i> .....	47
Inclusion of Prison Visits during Training Events <i>Terre des hommes</i> .....	79
<b>4. Public Awareness and Advocacy</b> .....	<b>81</b>
Study on the Age of Discernment of Out of School Children <i>Office of the UN High Commissioner for Human Rights</i> .....	83
Photography Project on Children in Conflict with the Law <i>Penal Reform International</i> .....	85
Alliance with the National College of Journalists <i>UNICEF</i> .....	87
<b>5. Monitoring and Reporting</b> .....	<b>89</b>
Computerised Data System United Nations <i>Office on Drugs and Crime</i> .....	91
Establishment of Individual Dossiers United Nations <i>Office on Drugs and Crime</i> .....	96
Submission of Alternative Reports to the CRC <i>World Organisation Against Torture (OMCT)</i> .....	98
Investigation and Legal Action Against the Detention of Children with Adults <i>Casa Alianza</i> .....	101
Mainstreaming Child Justice Issues in Human Rights Reporting <i>World Organisation Against Torture (OMCT)</i> .....	104
Use of Regional Human Rights Fora to Create Precedents for the Protection of Children <i>Casa Alianza</i> .....	107
Issuing Urgent Appeals <i>World Organisation Against Torture (OMCT)</i> .....	110



# 1. Legal Support



## 1. Creation of a Child Protection Unit with the Bar Association

*Collaborating Organisations:*

- UNICEF
- Bar Association of Cambodia and others

*Country:* **Cambodia**

### Background Information

The legal protection for children in conflict with the law is not sufficient in Cambodia. Children in conflict with the law too often have their rights to legal protection denied. This includes the right to have access to justice, to obtain redress, and to have legal assistance in the preparation of their defence. The reasons for this gap in protection include the following: a shortage of funds for legal aid lawyers, a lack of lawyers specialising in children's issues, low interest in handling such cases, and in some circumstances, judges not appointing lawyers as required by law.

### What was Done?

In May 2000, UNICEF supported the creation of a Child Protection Unit within the Bar Association.

UNICEF also provides training to the Child Protection Unit and facilitates networking and training with other relevant NGOs and government agencies.

#### *Legal Representation*

The Child Protection Unit undertakes a number of activities in relation to legal representation, including:

- Representing children accused of criminal offences and child victims. Only poor children, children from poor families or children in the care of NGOs or Government institutions are eligible. Due to a heavy workload and conflicts of interest, the Child Protection Unit must sometimes refer cases to other legal aid or defence organisations.

- Maintaining a database on the numbers of cases received, accepted and referred.
- Visiting detained children in prisons to monitor their situation, including gathering statistics such as the number of children in detention.
- Liaising with NGOs (working with and/or for children), existing child protection networks, prison authorities in Phnom Penh and Kandal provinces, police, and Social Affairs authorities. This is necessary in order to encourage these groups to refer children to the appropriate social services (including psycho-social support when necessary), ensure contact with their families, and collect information related to juvenile detention. Social workers in particular might also be involved in interviewing the child, visiting incarcerated children and introducing psycho-social information to the Court.

### *Sensitisation of law professionals and other actors in child justice*

The Child Protection Unit publishes and distributes a leaflet in Khmer and English describing the Unit and its activities in order to increase awareness among NGOs and government authorities (e.g. Ministry of Social Affairs, Faculty of Law, Senate, National Assembly, Constitutional Council, police) regarding legal representation of children. To date, 2,150 copies of the leaflet have been distributed to all court levels.

The Child Protection Unit also publishes a quarterly journal which aims to disseminate court decisions related to children's issues, with commentaries by lawyers and a list of articles related to children's rights. The journal ensures that the identity of the child is protected. The publication is distributed free of charge to all courts, legal organisations, members of the Bar Association, the Council of Jurists, concerned Ministries and other relevant NGOs and groups involved with the protection of children in conflict with the law.

### *Documentation Centre*

Legal books and other reference documents relating to children's rights, juvenile justice and child victims have been collected and are deposited with the Child Protection Unit. The documents are an important resource for the Child Protection Team as well as for other lawyers and practitioners.

## How is it a good practice?

### *Achievements*

- This project started with two lawyers providing legal representation in seven provinces and now has nation-wide coverage (24 provinces). Three well-trained lawyers and one judicial assistant with a specialisation in child protection, including juvenile justice and issues relating to exploitation and abuse of children, run the project.
- An increased number of children have been provided with legal representation.
- Acquittals have increased, pre-trial detention periods have decreased, and on a few occasions, children's cases have been diverted, though this is rare as Cambodia has no legal basis for diversion.

### *Necessary Conditions*

- Sustainable source of funding

### *Source Document:*

Justice for Children: Detention as a Last Resort, Innovative Practices in the East Asia and Pacific Region, UNICEF East Asia and Pacific Region, 2003

## 2. Paralegal Advisory Service

*Collaborating Organisations:*

- **PRI, Malawi Prison and Police Services,**
- Malawi NGOs:**
- **Eye of the Child in Blantyre**
- **Malawi CARER in Zomba**
- **Centre for Legal Assistance (CELA) in Lilongwe**
- **Youth Watch Society, Mzuzu**

*Countries:* **Malawi**, also applied in **Benin**

### Background Information

The Paralegal Advisory Service (PAS) is an innovative experiment offering paralegal aid in criminal matters in Malawi. In Malawi, four NGOs work in partnership with the Malawi Prisons, Police Services and the courts to offer legal education on the front-lines of criminal justice. The scheme has been operating since May 2000 and involves 27 trained paralegals who cover 84% of the prison population, four police stations and four court centres.

### What was done?

The Paralegal Service supports both adult and child prisoners, in prison, in courts and at police stations. However the police station activities focus exclusively on children in conflict with the law. All components are described below.

In prison, the paralegals conduct daily legal aid clinics using theatre techniques to maximise the participation of prisoners (as many as 200 attend a clinic). The paralegals assist prisoners to complete standard bail forms or appeals forms. The paralegals then lodge the bail requests and appeals with the court.

In courts, the paralegals visit the prisoners in the holding cells and assist witnesses, the accused and members of the public.

In the police stations, the paralegal advisory service works according to a Code of Conduct and under the authority of police officers. As part of an

agreement with the police and the National Juvenile Justice forum, the paralegals interview child suspects in the police stations using a screening form developed in consultation with the police and judiciary. The paralegal doing the screening then recommends a diversionary option if the young person satisfies the criteria (first offender, minor offence, admits fault) which is passed on to the prosecution who decides whether or not to divert the accused child. Paralegals also attend police interviews to ensure the rights of the child are protected. Police are often handicapped in their investigation of juvenile cases due to the absence of the parent or guardian. Paralegals assist in tracing parents and producing them at the police station.

The role of the paralegals in Malawi can be assumed by social services and probation officers where they exist in sufficient numbers.

### How is it a good practice?

#### *Achievements*

Paralegals are able to offer assistance at the critical stage of the criminal justice process, namely during police interviews where, in many countries, most abuses occur. The practice promotes diversion of children from the criminal justice system at a very early stage. The service also encourages criminal justice actors to work together to move cases through the system more speedily and in a low cost way and supports the development of partnerships with civil society.

For both children and adults, the Paralegal Advisory Service has:

- Reinvigorated communication, cooperation and coordination between police, courts and prisons in all four magisterial districts,
- Encouraged magistrates, court clerks and police prosecutors to screen case lists of persons who had been detained unlawfully or inappropriately,
- Caused judges and magistrates to remark on the sophisticated understanding prisoners have of criminal laws and procedures as well as on the improved understanding of their rights,
- Substantially reduced the number of persons unlawfully remanded in prison,

- Set professional standards within the criminal justice system which other actors are beginning to emulate.

### *Necessary Conditions*

Collaboration among all the actors involved with children in conflict with the law, including with the police,

Regular and intense training and monitoring of the paralegals.

### *Source Document:*

Index of Good Practices in Reducing Pre-trial Detention [PRI], Paralegal Advisory Service Brochure and Training Manual



### 3. Supporting Lawyers and Social Workers At Police Stations

*Collaborating Organisation:*

**Terre des hommes**

*Countries:* **Romania, Mauritania, Lebanon, Guinea**

#### Background Information

There is often a shortage of lawyers available to handle children's cases from the moment of arrest. However, The presence of the lawyer and/or the social worker at the police station is decisive for three reasons:

- The child must know his/her rights, as far as his/her maturity and discernment allow.
- With a lawyer or social worker present, there is a better chance that questioning will take place in conditions that respect procedures and the rights of the child.
- In many cases, the alternative to detention at the police station depends on the possibility of finding the child's family, which police officers cannot always do immediately. Without assistance in this matter, the child is often taken into custody by default, especially in cases where local public opinion may be hostile to an immediate release of the child.

#### What was done?

To support gaps in legal and social protection for children in conflict with the law, Terre des hommes appoints and trains independent lawyers and social workers. These lawyers and social workers are contacted upon the arrest of the child and support police officers in filing social reports, finding the child's parents, preventing pre-trial detention and advocating for alternative sanctions where possible.

The role of the lawyer begins from the moment the child is taken to the police station. Even if the offence in question is low grade and the likely outcome is an informal settlement or a simple fine, the presence of a lawyer is crucial to ensure that the sanction is something that is within the ability of the child or his/her family to pay. Otherwise, fines that are

too high can make it possible to justify police custody or pre-trial detention instead of the non-custodial options. The social worker can assume this role, on condition that he or she can rapidly consult the lawyer if necessary, particularly at the moment when a decision is made to prolong police detention.

As part of its approach, Terre des hommes supports the training and appointment of younger lawyers at the start of their career. Experiences in several countries show that lawyers just starting out gain a sense of pride specialising in children's issues.

### How is it a good practice?

#### *Achievements*

- Due to Terre des hommes' efforts, approximately of children who are supported by lawyers and/or social workers are not deprived of their liberty.
- On the whole, government partners find that it is less costly to appoint social workers than to imprison children.
- This initiative in Romania has led a group of lawyers to form their own NGO, "Jean Val jean" to protect the rights of children in conflict with the law.

#### *Necessary Conditions*

- Neutral reputation: Much of TDH's work is facilitated by the fact that it is well known and trusted by both governmental and non-governmental partners.
- Legal Permission: The law of some countries allows the lawyer to be present at the police station; in other countries, he or she may be present but as a silent witness, and sometimes only after 24 hours of police detention. In still other countries, such authorisation is granted only to social workers.

#### *Source Document:*

Terre des hommes: Legal and Social/Educational Programs for Minors in Conflict with the Law Workshop to Provide an Overview of Best Practices Lyon (France) 29 April 2001 - 4 May 2001

## **2. Alternative Sanctions**



## 1. Community-based Diversion and Reintegration via Peer Education

*Implementing Organisations:*

- **Free Legal Assistance Volunteers Association (FREELAVA)**
- **Save the Children UK**

*Country:* **Philippines (Cebu, island of Visayas)**

### Background Information

Research in the Philippines has shown that children in conflict with the law experience particularly high levels of abuse at the time of arrest and in police custody. The conditions in detention facilities are generally bad and children are often detained with adults. There is almost no practical experience of crime prevention programmes or diversion in the formal system, and little support to help children returning to their communities to become socially reintegrated after detention.

There is currently no legislation setting out a separate system to address situations of children in conflict with the law. There is a number of Juvenile Justice Bills awaiting Congress' attention. Crime prevention and diversion are components of these Bills but there are as yet very few practical models that could be followed. This project is one of them.

### What is done?

In October 2001 SCUUK formed a partnership with FREELAVA (a well known NGO active in Cebu, the second largest city in the Philippines) to establish a 'Community-based Prevention & Diversion/Mediation Programme for Children in Conflict with the Law'. This set out to divert children from the formal justice system, help them change their behaviour, to reintegrate children after their release from custody and to institutionalise a prevention of offending model.<sup>2</sup>

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<sup>2</sup> The initiative has other facets, including research, capacity building of the pillars of justice and communities and to change local policies based on the project's experience. SC UK understands the pillars of justice as Community, Law enforcement, prosecution, the Courts and Correction.

The project's diversion scheme is for less serious offences, which make up the great majority of cases of children currently arrested and taken into police custody. In addition, research in Cebu indicates that 94% of children arrested by the police between 1999 and 2001 were first-time offenders. The project does not view diversion as appropriate for cases of murder, extreme violence, rape, high levels of recidivism or major drugs trafficking. However, the project's reintegration after custody scheme might assist such offenders.

The project now operates in 12 local government areas called barangays, which have populations varying from 10-100,000. In each of these a Children's Justice Committee (CJC) has been set up to resolve less serious offences through mediation instead of a child being formally arrested and held in police custody prior to going to court. The CJC has 11 members but it is the appointed chair and vice-chair of the barangay justice committee who usually conduct the CJC's business with input from others.

In each of the 12 barangays, Community Volunteers and Peer Educators, who are young people who were themselves previously in conflict with the law, advise and assist children brought to the CJC or those returning to the area after release from detention. Both Community Volunteers and Peer Educators have undergone training. There are usually about 10 Community Volunteers and 10 Peer Educators in each local authority barangay. An effort is made to choose community volunteers from the different settlements within the barangay. The minimum requirements to become a community volunteer are: an interest in helping young people, knowing the law, communication and facilitation skills, and patience. Their training helps develop these skills. The community volunteers meet monthly and make oral reports which are recorded by FREELAVA. The community volunteers are well-known to the CJC members and they are sometimes asked to attend the CJC mediation and/or to assist a child afterwards.

The peer educators are chosen because they have adopted a positive life-style and attitude since their release, often with the assistance of a community volunteer. The peer educators receive sensitisation on the Convention on the Rights of the Child, leadership and the importance of respecting others. Under the guidance of the project staff and the community volunteers, their role is to support children who have come to the CJC. This frequently means that they participate with these children in sporting and cultural activities. Many of the peer educators have returned to school with the financial assistance of FREELAVA. As yet, there are no

girl peer educators; girls make up about 3 per 100 offenders and, unlike boys, are usually assisted by the social welfare department because of their perceived vulnerability.

FREELAVA appoints its own outreach workers to assist the community volunteers and peer educators in each *barangay*. There is also a peer educators' parents group.

### How is it a good practice?

#### *Achievements*

- The local authority leader in one *barangay* reported that 1000 children had been diverted from the formal justice system in the two years since the project started.
- There are about 120 trained Community Volunteers attached to the project and working with the CJs in the 12 *barangays*. The 10 community volunteers in *Ermita barangay* are working with about 200 children in conflict with the law. The success of the project in that *barangay* has meant there is an urgent need for more volunteers.
- The fact that quite a number of Community Volunteers were elected onto CJs in last year's elections shows that their work is appreciated.
- There are about 100 peer educators. They say that their relationship with the community volunteers has changed their perception of themselves; they now see themselves as having value. They enjoy helping other children by relating their own experiences and bringing them into their activities. The project has both reintegrated peer educators socially and assisted them to play a positive role in the lives of child offenders.
- The police seem to have a positive attitude towards the peer educators.
- The detention cells in the *barangay* centres are no longer used for children. Instead, if necessary, children are kept in unlocked rooms. If apprehended, children are not usually kept overnight.
- The local police now have a sound knowledge of Child Rights, and they do not handcuff children, but rather explain why they are apprehending them and taking them to the CJC instead of the police station.

- Mediation follows a set protocol. A copy of the agreement is given to the victim, the offender, CJC and FREELAVA. Files are kept confidential. A general report of cases dealt with is sent to the Department of Local Government quarterly.
- A two day meeting with 30 recently released children was held in which they gave their views about their experiences of the criminal justice system.
- FREELAVA is looking at other ways of establishing CJsCs in the local government system to suit barangays that are less progressive and have a different structure.
- FREELAVA is forging links with other NGOs that are involved with child protection and are interested in supporting children in conflict with the law.

### *Necessary Conditions*

- **Good relationships** kept with *Barangay* Captains and Councillors, and Municipal mayors. This will also assist the CJC structure to be adopted through local ordinances.
- **Continuity:** Elections can produce a major change in personnel in the local government structures, so ways are needed to bring continuity to the CJC membership.
- **Commitment:** from CJC members and many NGOs if the concept of community volunteers and peer educators is to be replicable.
- **Monitoring and Evaluation:** Quantitative and qualitative evaluations of various aspects of the project are awaited, i.e. numbers of children seen by CJsCs, agreements made, support given; the work of community volunteers and peer educators and their opinions about it; how the process of mediation is conducted and regarded by those involved; links with social work, local government and NGO bodies.
- **Follow-up Support:** on cases of children who have gone through the CJC to identify the longer-term impact on them in relation to their successful reintegration in society.

### *Source Document:*

Breaking Rules: Children in Conflict with the Law and the Juvenile Justice Process. The Experience in the Philippines, Save the Children UK, 2004



## 2. Alternative Conflict Resolution Mechanisms at Community Level

*Collaborating Organisations:*  
**UNODC and partners**

*Country:* **Senegal**

### Background Information

Urban crime in Dakar is largely a youth-related phenomenon. Criminality among young people essentially takes the form of petty theft (e.g., from parked vehicles) and aggravated theft (e.g., handbag snatching). However, attacks on persons and street violence have increased over the past years (homicides, armed robberies) and fuel a growing sense of insecurity, which has led to the proliferation of protection and security firms.

The outskirts of Dakar, to which the poorest sectors of the population are relegated, have become areas of marginalisation, violence and danger. The deprivation of population groups living in these dilapidated and underprivileged districts is not only an economic but also a social problem. People in these areas feel they have no right to expect the same level of health care, education, welfare or safety as other sectors of the population that enjoy such services. This leads to an erosion of the sense of belonging to the community, a feeling reinforced by the absence of public services provided by the State in these neighbourhoods. It is largely this sense of exclusion from the community that is conducive to violence and delinquency.

Urban crime and juvenile delinquency can only be curbed by initiatives close to the community, such as the establishment of a neighbourhood police force and judicial service and the setting up of judicial centres. It is important that the judiciary is closer to the public for the settlement of disputes arising in daily life, such as neighbourhood quarrels, incidents involving petty theft or property damages, family disputes, failure to pay maintenance or failure to present children for visitations. The conventional judicial approach is not the most appropriate response as it does not ensure prompt access to justice in all cases. Moreover, mechanisms are to be developed to reduce the recourse to detention for juveniles in

conflict with the law. According to international standards on juvenile justice, deprivation of liberty is to be used as a last resort and for the shortest possible period.

### What is being done?

Judicial centres are being established in the heart of targeted deprived districts in Dakar (Rufisque, Diamaguène-Sicap and HLM) with the aim of facilitating access to justice for all. The judicial centres provide the institutional framework for mediation and reconciliation.

The Judicial Centre are designed to:

- increase access to justice in poor neighbourhoods of Dakar;
- promote restorative justice as an alternative response to children's conflict with the law;
- advance preventative efforts to reduce urban crime and children's conflict with the law.

Under the overall supervision of the State Prosecutor, the Judicial Centres are directed by a mediator/ conciliator, who is appointed in accordance with the procedures established by legislation, and is assisted by a moderator/coordinator. These persons liaise with government departments responsible for social affairs, minors at risk, juveniles in conflict with the law, drug control and so forth, as well as with the municipal authorities and non-governmental organisations working in these areas. The mediator/ conciliator reports on concrete cases to the authority in charge of criminal proceedings and ensures that the various partners, who signed the agreement to establish the judicial centre, are informed about his or her activities.

At each judicial centre, a steering committee has been established. This body brings together the permanent members of the judicial centre (e.g., mediator/ conciliator, moderator/ coordinator), local officials (municipal hall, judicial and police officers) and representatives of residents' associations and non-governmental organisations working in liaison with the centre. The steering committee examines and monitors local problems related to insecurity and violence in the underprivileged districts within the centre's jurisdiction and draws up a plan of priority prevention activities to be undertaken locally.

Training has been provided for personnel working at or in liaison with the judicial centres in order to prepare them for their new functions. Training courses include modules on urban crime prevention policy and initiatives, victim assistance (advisory and support services) and penal mediation and conciliation techniques.

A public information campaign has been organised in which information leaflets have been distributed in public places to provide information on the judicial centres, the role of the mediator/ conciliator and the function of the neighbourhood police service.

The Senegalese State and the Dakar City Council are supporting this initiative in both institutional and financial terms. A framework agreement of constitution for the judicial centre was drawn up in order to determine the costs payable by each party involved and the arrangements to be made for the funding of the operations.

### Why it is a good practice?

#### *Achievements*

- **Access to Justice:** Penal mediation and conciliation make up an alternative approach, in penal cases, to judicial proceedings. These forms of restorative justice are more likely to inculcate in the offender a sense of responsibility, to fulfil the expectations of the victim and thus to defuse tensions in the community.
- **Increased Resources:** The involvement of local communities in the conciliatory and compensatory practices, gives access to local human, material and financial resources that may not be otherwise available.
- **Rehabilitation and Reintegration:** Conflict resolution at community level leads to the successful social rehabilitation and reintegration of offenders. This approach is in line with the Convention on the Rights of the Child and other international standards on juvenile justice matters.
- **Reduction in custodial responses to children in conflict with the law:** The alternative conflict resolution mechanisms also greatly reduce the use of pre-trial detention and custodial sanctions.

### *Necessary Conditions*

- Cooperation of local population: For sustainable outcomes to take place, strong foundations for local institutions are required and those can be built only with the cooperation of local people. Local people must feel that the elements of justice belong to them.
- Housing of the judicial centres: Premises must be identified and refurbished and equipment must be procured and installed.
- A legal basis is required, and therefore legislation may need to be reviewed and amended.

### *Source Document:*

Project document UNODC - FS/SEN/02/R36 “Crime Prevention in the Dakar region”

### 3. Local Councils as Courts of First Instance for Children in Conflict with the Law

*Collaborating Organisations:*

- **Defence for Children International- Uganda**
- **Legal Aid Clinic**
- **Save the Children**
- **District Local Governments**

*Country:* **Uganda**

#### Background Information

The Constitution of the Republic of Uganda provides for the creation of Local Councils as part of the decentralisation of power. Local Councils are the lowest units with administrative, legislative, and judicial powers on behalf of central governments.<sup>3</sup>

Local Council Courts have the authority to handle petty offences to the criminal code. The Children's Act also gives the local councils the responsibility to safeguard and promote the rights and welfare of children.

However, a situation analysis conducted in 2000 by DCI and partners revealed that Local Council courts were not handling petty offences as stipulated by law, as Local Council committees tended to prioritise cases other than those involving children in conflict with the law.

As a result there had been a high influx of children's cases of petty crime into the formal legal system.

#### What is done?

DCI Uganda has supported the Local Councils to implement measures that respect children's rights. To strengthen their capacity to handle children's cases, Local Councils were sensitised to their roles for protection of children in conflict with the law.

Specific Capacity building and support for the Local Council Committees has been:

- Training on roles and jurisdiction in handling child-related cases

- Training on data collection and management
- Training on diversion measures and their importance
- Training on mediation and restorative justice
- Strengthening capacity to follow up cases and promote rehabilitation of child offenders
- Logistical support to the Local Councils

Together with the national level Juvenile Justice Committee, DCI supports capacity building activities in:

- Children's rights, growth and development
- Basic counselling skills and child-friendly communication skills
- Data collection and management
- Rehabilitation and re-integration of children
- Leadership skills and accountability, training as trainers, monitoring & evaluation

Further training on mediation and restorative justice was done for selected Local Councils in Kampala district. Save the Children also conducts capacity-building activities with the Local Councils to support their ability to serve as courts of first instance.

Fit persons have been selected and trained from the local councils to follow up children in conflict with the law and ensure they are reintegrated and rehabilitated.

### How is it a good practice?

#### *Achievements*

- **Increase in Diverted Cases:** Where Local Council capacities have been strengthened, they effectively handle child-related cases and only refer more intricate cases to Police and Probation Social Welfare Offices. As a result, many child-related cases have been diverted from the formal justice system.
- **Use and Public Acceptance of Non-custodial Sanctions:** The Local Councils have been able to use alternative punishments like

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3 The Local Councils are also involved with activities such as making by-laws in the communities, general welfare and development, conflict resolution like land disputes, protecting the Constitution, and promoting democratic leadership and governance.

compensation, apology and restitution. Local Councils have also spearheaded sensitisation campaigns designed to teach surrounding communities about the value of non-custodial sanctions.

- **Prevention of Mistreatment:** Given the inadequacy of detention and remand facilities, the use of Local Council courts to handle child-related cases prevents children from being mistreated and learning negative behaviours while in detention centres.
- **Keeps children in school:** Handling of children's cases by Local Council courts saves school-going children from missing classes while in detention or on remand.

### *Necessary Conditions*

- **Community sensitisation:** DCI conducts broad-based sensitisation to promote the rights of children. They run a Live-Call-in Radio programme on the National Radio Station. The programme provides children with a platform to discuss issues concerning them. It is also used to sensitise the public on children's rights and responsibilities and provides information on relevant legislation. The target audience includes Local Councils, parents, local leaders, and other stakeholders.
- **Participation of children** since they need to be actively involved in matters affecting their lives.
- **Political will** and commitment from the local government leaders to prioritise child related issues.

### *Source Documents:*

Report on a Strategy Development and Training Seminar on the administration of Juvenile Justice in Uganda, DCI Uganda, October 2000; Juvenile Justice in Uganda: A Situation Analysis UNICEF/Save the Children UK, September 2000; . An Evaluation of the Juvenile Justice Programme in 4 pilot districts of Kampala, Gulu, Hoima and Masaka, Save the Children UK, 2003; Evaluation Report on the Programme of Strengthening the Capacity of Local Council Committees to handle child related cases in Kampala District. Legal Aid Clinic, December 2003; Report on the Evaluation of Restorative Justice Program in Kampala District, Legal Aid Clinic, April 2004; Children's Act; NGO Complementary Report on the Implementation of the UN Convention on the Rights of the Child in Uganda, Uganda Child Rights NGO Network, December 2002

#### 4. Village Level Children's Mediation Units with oversight from the Ministry of Justice

*Collaborating Organisations:*

- Lao PDR Ministry of Justice
- Save the Children UK

*Country:* Lao PDR

##### Background Information

In Lao PDR, villages have long had Village Mediation Units to resolve adult civil and some criminal disputes. Their role was defined legally by a Directive of the Ministry of Justice in 1997. As part of the Children's Justice Project<sup>4</sup>, Save the Children UK and the Lao Ministry of Justice conducted research in 2002 to investigate how the Village Mediation Units could be adapted to resolve issues concerning children's conflict with the law. The research explored the feasibility of establishing Children's Mediation Units which would be linked to the established structures of the Village Mediation Units.

##### What was done?

As part of a larger Children's Justice Project to promote diversion and build institutional capacity, Save the Children UK and the Ministry of Justice support Children's Mediation Units to operate at the village level. They mediate in children's cases primarily brought by victims, the local police and parents. The mediators often have experience mediating cases involving adults. Some children's mediators have been trained in conjunction with the Children's Justice Project, and are encouraged to pass their specialised, child-rights based knowledge on to others.

Mediation will not take place if children do not admit the offence. If the offence is too serious (murder, rape, extreme violence) it will be referred to the police. If no settlement can be reached it is up to the person referring the child to decide what to do.

A Central Management Team of Ministry of Justice officials oversees the project on behalf of the Minister. At provincial level there is a Provincial Monitoring Committee and a Provincial Operations & Training Team; at district level there is a District Implementation and Monitoring Committee.



Apart from the Central Management Team, these bodies are made up of a cross-section of senior members of the criminal justice system, e.g. the judiciary, police, prosecutors' office, the mass organisations of the Lao Women's Union and the Lao Youth Union and other relevant ministries. To ensure sustainability, other relevant government ministries are also involved in the activities of the Central Management Team.

Other key programme components include:

- **Diversion from Court & Custody:** The ward/village, the police and the prosecutors' office are encouraged to divert children from court by using restorative justice methods, e.g. warnings, re-education, community work and victim-offender mediation.
- **Data Collection on Children:** All 8 provinces collect data on diversion used by Children's Mediation Units (CMU), police and prosecutors, as well as data on those children proceeding to court and the sentences given. The data indicate the type of diversion used but not the offences committed.
- **Training and Dissemination of Good Practices:** Training for criminal justice personnel, CMU mediators and those assisting in the prevention of offending behaviours includes knowledge and understanding of the implications of the Convention on the Rights of the Child, international instruments, Lao law and good practice principles. A key component has been producing and translating training and good practice materials in the local language, Lao.
- **Listening to Children:** Children's views are gradually being more sought and listened to than in the past by children's mediators, police, prosecutors and courts, but this is only at an initial stage.

### How is it a good practice ?

#### *Achievements*

- Data on children diverted from the police and court, and those sent to court were collated by a central management team of Ministry of Justice officials for the first time in 2004. The data cover the 8 provinces included in the Children's Justice Project.
- Of the total number of children coming to the attention of the children's mediators, police, prosecutors' office and courts in the 8 provinces, 96.4% and 95% were diverted in 2002 and 2003 respectively. (UNICEF estimates only 2% are serious offenders.) Diversion was accomplished by way of mediation agreements and warnings,

finances, re-education and mediation through the police and prosecutors' office.

- Between 2002 and 2003 children's cases resolved at the village level increased from 462 to 1157; while police diversion increased from 1198 to 1545.
- Monitoring is happening more regularly at all levels with the result that both practice and data collection has improved. Regular evaluations have ensured an emphasis on quality work.
- Children are also being asked more questions and listened to more by those involved in Children's Mediation Units and in the justice process.
- The reintegration process led by the police referred to locally as 'Re-education' is becoming a more child-focused process and increasingly involves members of the District Implementation and Monitoring Committee and the child's family. It usually encourages a change in behaviour and ways to do it, and a warning about the consequences of further offending.

### *Necessary Conditions*

- **Monitoring & Evaluation:** M & E has been primarily about implementation and recording to ensure that the children's justice principles laid down are closely adhered to, necessary adjustments made and shortcomings put right quickly. There is, as yet, no regular feedback from children and no monitoring of re-offending. Initiatives in monitoring at the provincial and district levels require regular financial disbursements to the provinces.
- **Follow up with children:** Who have participated in mediations at the community mediation units.

### *Source Document:*

Final Evaluation of the Ministry of Justice SCUUK Supported Children's Justice Project in Lao PDR Funded by the British Government from April 2002-April 2004, compiled by John Parry-Williams

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4 The Children's Justice Project began in September 2000 as a pilot in 4 of Lao PDR's 18 provinces. After evaluation, a 2 year project was signed between the Ministry of Justice and the Save the Children UK with the aim to extend a further two years. By March 2004, 8 provinces were included. The approach to build institutional capacity and reform the justice system by training and developing practices in line with international standards. These practices will become sufficiently entrenched within all departments of the criminal justice system and the goal is for them to be adopted within a children's justice statute.

## 5. Community Crime Prevention Committees

*Collaborating Organisations:*  
**UNICEF and partners**

*Country:* **Malawi**

### Background Information

Malawi currently does not have a specialised system for children in conflict with the law. There are no governmental legal aid services and there is a dearth of social workers. However, communities in Malawi have a history of caring collectively for children. Community based programmes, such as the Community Crime Prevention Committees, are a return to traditional ways of handling children's issues.

Traditionally in Malawi whenever a child committed a crime, the traditional system (chiefs, Traditional Authorities and the community elders, the child and his/her family and, finally the victim) would counsel the family and the child and make decisions on what to do. Most of the time the children were requested to do some work for the benefit of the whole community, for example, herding cattle or cooking. Such a sanction was not considered abuse or exploitation of the child, but simply the only means the community had with which to address the conflict and to support the rehabilitation of the child.

### What is done?

The community crime prevention committees are usually formed by distinguished members of the community: people who – on account of their position or their integrity – are regarded by the community as role models. The committee is usually composed of the Headmaster of the local school, some teachers, the traditional chiefs, elders and the secretaries of any other committees that have a role within the community life. Examples of such committees include the water and sanitation committee and the rights of the child committee. Parents and youths are also included in committee activities.

Whenever a child from the community comes in conflict with the law, the Community Crime Prevention Committee tries to solve the matter within the community itself without resorting to police or prison officials.

The committees aim to prevent and divert children in conflict with the law from the court system. Sometimes parents and teachers go to the crime prevention committee to discuss issues related to “unruly” children: children who do not want to go to school, children who damage school property etc. The committees then act as counsellors.

To support the work of the committees, UNICEF also supports sensitisation which:

- Is designed so that parents, teachers and especially Traditional Leaders are aware of diversion possibilities.
- Raises awareness on crime prevention, diversion, gives an overview of the trial process and how to work with the paralegals.
- Is conducted where juvenile justice issues are most acute due to social health and economic reasons such as an increase in children orphaned by HIV/AIDS, lack of parental guidance, poverty, unemployment, peer pressure, limited child development programs, and a low age of criminal responsibility.

### How is it a good practice?

#### *Achievements*

Most petty crimes are now addressed within the community without police and judiciary involvement. There has been a noticeable decrease in court caseloads, children’s conflict with the law and recidivism. Last available data show that 90% of children in custody – at prisons and reformatory schools - come from areas outside the districts where crime prevention committees and sensitisation activities have been implemented.

#### *Necessary Conditions*

- **Support from the government:** While a separate system for children in conflict with the law is not a pre-requisite for this practice, it is necessary that the law allows for diversion at the community level.

Community networks should be supported where feasible.

- **Awareness of children's rights:** UNICEF and partners also create opportunities for members of the Community Crime Prevention Committees to build upon their awareness of child rights. This ensures that sanctions mandated by the committees respect the rights of children and emphasise rehabilitation rather than punishment.
- **Coordination for scaling up:** The main challenges in Malawi have been in achieving long-term sustainability and scaling-up of efforts at district and community level. UNICEF Malawi is trying to address these issues with other counterparts in order to continue to make a difference for children in conflict with the law.

*Source Document:*

Correspondence with UNICEF staff in Malawi

## 6. Police Level Diversion : “HALT” Alternative Sanction Programme

*Collaborating Organisations:*

- **The Dutch Government**
- **HALT The Netherlands**
- **DCI The Netherlands does not directly implement the programme, but provides information and lobbies for HALT procedures.**

*Country:* **The Netherlands**

### Background Information

The Dutch criminal code and the code of criminal procedure contain special provisions which establish that sanctions for children in conflict with the law must be designed for rehabilitation.

In 1995, a new amendment to juvenile criminal law was passed in the Netherlands. While the amendment reinforced the legal basis for alternative sanctions, it also tightened provisions relating to juvenile criminal law. For example, the maximum period of imprisonment for children in conflict with the law was raised from one to two years. Legal restrictions were eased, which shielded children from the application of adult criminal law to their cases.

Since 1995, the possibility of calling on the services of HALT bureaux, which were set up in 1981, is embodied in the criminal code. Further details on the operation of the HALT bureaux have been laid down in legal regulation and in the unitary guidelines of the state prosecution service. The Dutch juvenile justice system lays down different forms of alternative sanctions at different levels. For instance, the police can refer to a HALT project and the public prosecutor and the judge have the possibility to use ‘task penalties’ that consist of learning- and working schemes.

DCI The Netherlands lobbies for and gives institutional support to alternatives to the deprivation of the liberty of children. This is done by sending out press releases, as well as organising expert seminars and meetings with politicians. One of the initiatives DCI supports is the HALT procedure.

## What was done?

HALT, short for 'the alternative', is an alternative sanction whereby the police can propose that the child offender be offered work or damage compensation for a maximum of 20 hours. In cases of vandalism, damage to property, or petty theft, the police can refer the juvenile to a HALT bureau.

The child in conflict with the law is given the choice of having the charges dropped in exchange for his or her participation in a HALT project. A written offer is made to the child with the reminder that he or she is not forced to participate in the scheme. If the child is below 16, the parents must give their consent. If the child agrees to the offer, the police draw up a protocol and send it to a HALT bureau.

HALT bureaus have been set up by the local authorities in cooperation with the state prosecution service. The HALT bureau makes the juvenile an offer to participate in a particular project for which his or her consent is again required. The possible measures offered are work, damage compensation or a combination of the two. A HALT project may not last longer than 20 hours, although in practice it is rare for them to exceed 10 hours.

After the measures have been carried out, the police conduct a review with the HALT team and decide whether the charges should be dropped. If the outcome of the HALT measure is positive, the police inform both the juvenile and the state prosecutor's office in writing. By doing so, further criminal proceedings are dropped unless the injured party has made a successful complaint to the courthouse. If the results of the HALT project are negative, a file for the instigation of preliminary proceedings is opened and passed on to the state prosecutor. Certain state prosecution service officials are mandated to deal with the police in HALT matters.

The HALT procedure has as a second important task, the prevention of children's conflict with the law. This is done by information sessions in schools, focusing on children and adolescents between 10 and 14. HALT is also involved in efforts to improve the safety of schools and/or communities. HALT often works together with the police, the fire brigade, health care, and probation services, and informs on matters of local policy.

### How is it a good practice?

#### *Achievements*

By promoting the HALT procedures, DCI Netherlands contributes to efforts to strengthen alternative programmes for child offenders. HALT is considered a successful project. Of the approximately 50,000 children that are arrested by the police, about 20,000 go to one of the 62 HALT bureaus. In particular, the HALT measures contribute to:

- empowering children in conflict with the law
- promoting the participation of the young people in the resolution of their cases
- keeping children out of the judicial system
- developing preventive approaches to children's conflict with the law
- promoting the cooperation between different sectors (including social workers, the judiciary and law enforcement personnel)

#### *Necessary Conditions*

- A society open to alternative measures, including restorative justice and mediation,
- Co-ordination between the different institutions involved,
- Training of police and social workers, which includes the provision of the necessary financial and human resources,
- The guarantee of rights of the child and the basic rules for a fair trial.

#### *Source Document:*

Annemieke Wolthuis, Moving Forward – Restorative Aspects in the Dutch Juvenile Justice System, DCI – The Netherlands, 2001



## 7. Use of a Drop-In Centre for Child Protection, Crime Prevention & Diversion

*Collaborating Organisations:*

- Nasli Navras (a Tajik NGO)
- Save the Children UK

Country: **Tajikistan**

### Background Information

Tajikistan signed the CRC in 1993. The National Commission on Child Protection (NCCP) was founded in 2001 and is chaired by the Deputy Prime Minister and attended by deputy ministers from relevant ministries. In 2001 the NCCP established an Expert Group to make recommendations for the harmonisation of child justice legislation and with the Convention on the Rights of the Child. The Director of Nasli Navras, SC UK's partner NGO, is a member of the Experts Group.

In Tajikistan, the Commission on Minors has a mandate to address the cases of children brought forward by either police or parents, as well as children in conflict with the law who are under the age of criminal responsibility. The Commission often sends children who are under 14 years (some as young as 7 and even 3 years of age) into detention centres, in contravention to their regulations. There are also cases where children are detained for long periods, e.g. a 13 year old who was detained for 6 years. The Commission on Minors is not constrained by 'due process', it does not offer legal assistance to children, judgements cannot be appealed, and matters are not investigated by the prosecutor's office. Its staff seldom have any social work training and are frequently transferred.

The children brought to the Commission on Minors are in need of care and protection and many are working children or children living in the street. It is these groups of children that Nasli Navras' Drop-In Centre has assisted as well as those released from detention. Until recently, the Centre was primarily involved with children who may also have been working but went home at night. Now they are assisting children living in the street. The life-style of these children is very different from the former as they live a hand-to-mouth existence in gangs, and are in frequent

contact with the police. The younger children are often in danger of violence, especially gang rapes by older children as punishment, usually for failing to collect sufficient amounts of money. The younger children are in need of shelter at night for protection.

### What is Done?

The Drop-In Centre has non-formal education classes emphasising literacy, various vocational groups, such as handicraft, sewing and embroidery (sold to local shopkeepers), computer literacy, foreign languages (English and Russian) gardening, and cultural activities, including traditional dance and musical instruments. There is a health clinic and a doctor, who is paid by the State and visits regularly, a dental clinic, and a pharmacy where medicines are supplied by Pharmacists without Borders. Through negotiation with a computer company the Drop-In Centre is planning on buying 10 computers this year. There is also a library. There are plans to restore a swimming pool and build a sauna (to be open to the public at certain times to raise funds), to provide a place for children to wash their clothes and to set up a car-wash scheme so children over the age of 15 can make money. Nasli Navras wishes to open a branch of the Drop-In Centre with a social worker and provide for regular visits by a doctor and lawyer.

The Drop-In Centre also does prevention work in five nearby pilot schools near to the Centre. There are Children's Clubs in the five schools each composed of about 30-40 children. They take a role in the governance of the school and a number have been trained as peer counsellors, one their tasks being to help integrate drop-out children back in school.

The Drop-In Centre is run by a Coordination Council, which includes representatives from NGOs, the five pilot schools, the district police and Commission of Minors, ward representatives, parents and children's organisations. The Coordination Council and Drop-In Centre undertake training of these groups and seek volunteers from them.

Nasli Navras is seeking to recruit trained social workers to enhance its ability to work with children who are 'at serious risk' or have come into conflict with the law. The social worker would give guidance, both informally and through relevant courses, on how staff can build up these children's self-esteem and confidence, their educational, vocational, recreational and social skills and address their offensive behaviour.

Having a social worker would facilitate the diversion of cases from the police, the Commission of Minors, and the courts.

Nasli Navras also wishes to extend the role of the Drop-In Centre by offering Drop-In Centre supervision as a way to divert children from being sent to police cells, pre-trial detention and institutions by the police and the Commission on Minors, and later for first offenders appearing before the court.

### How is it a good practice?

#### *Achievements*

- Nasli Navras' child protection work and its support from within the community may account for the reduction in the number of children coming to the attention of the police in Frunze (the largest district of the capital). In 2002, there were 350 cases that came to their attention and in 2003 there were 195. While this reduction was happening in Frunze, these figures are said to be rising in the other three Dushanbe districts.
- Last year the Commission on Minors sent six children and the police sent about 35 children to the Nasli Navras Drop-In Centre instead of sending them to the temporary Isolation Unit. Also last year, 90 children were released from detention in a general amnesty and of the 84 Nasli Navras received, none of the children re-offended while with them.
- There are 300 children on the Drop-In Centre register. Of these about 60 come daily. 210 are street and working children (70%); 12 are children released from detention; the rest are from poor families. In the years 2001-03, children were assisted in the following ways: 372 completed various courses, 24 children obtained jobs, 40 obtained their driving licence, or other necessary official documents. Recently, a few street children were reintegrated with their parents but most refused to take them but did offer their children gifts. It is hoped that by keeping up regular contact with parents the number accepted back will increase.
- The staff at the five participating pilot schools see their prevention work as leading to more self-esteem and confidence among the children. There has also been some successful resolution of problems between teachers and pupils.

### *Necessary Conditions*

- Good understanding and liaison between Nasli Navras and the Commission on Minors and all the departments in the criminal justice system as to the Drop-In Centre's objectives, role and limitations in terms of child protection and conflict with the law.
- Sustainability of the Drop-In Centre for assisting the protection and justice system in its work.
- The establishment of a centre for social work training so that competent social workers can assist 'at risk' children and work with their families.

### *Source Documents:*

SCUK Tajikistan Report, Nikhil Roy, March, 2002, Children who are in Conflict with the Law: Report of the Expert Group, 2003, Report on Suggested Strategy for SCUK in Tajikistan for Children's Justice, John Parry-Williams, March, 2004

### **3. Capacity Building and Training**



## 1. Internal Guidelines for Divisions Involved with Juvenile Justice Reform

*Collaborating Organisations:*

- OHCHR
- UNICEF

*Country:* **Philippines**

### Background Information

In the Philippines, justice sector officials, including police, prosecutors, attorneys, judges and officials of correction centres had limited internal operating procedures on how to handle cases involving child offenders and had not received specialised training in this area.

To help professionals who administer juvenile justice to fulfil their professional obligations in a way that reflects the best interests of children and that is consistent with the Convention on the Rights of the Child, OHCHR and UNICEF offered technical assistance in development of internal operating guidelines in order to facilitate the realisation of children's rights when they come into contact with the law.

### What was done?

In 2000-2002, the Philippine Supreme Court developed new Rules on the Examination of Child Witnesses (including child offenders) and Rules on Children in Conflict with the Law (in effect April 12, 2002). The Rules have been widely distributed to all divisions involved with juvenile justice reform. The Rules on the Examination of a Child Witness remove some of the formality of proceedings involving children, allow the public to be barred from the courtroom, and permit the use of technological aides such as live-links in taking children's testimony. They also introduce the concept of a court-appointed special advocate or guardian ad litem (called CASA/GAL) as a representative of the community to look after the best interests of the child.

The Public Attorney's Office has also issued new Standard Office Procedures in Extending Legal Assistance to Juveniles in Conflict with the Law. They have been printed in booklet form and distributed throughout the country.

The Parole and Probations Office developed draft new Rules and Procedures for Children in Conflict with the Law Placed Under Probation. The rules are in the process of being finalised and approved.

The Manila Youth Reception Centre, a separate detention home for minors in Manila, completed its own Operation Manual on Good Juvenile Detention Practice in August 2001, which draws on the CRC and UN standards. It is anticipated that the manual will be used as a model for other DSWD and city-run juvenile rehabilitation centres.

### How is it a good practice?

#### *Achievements*

The new Supreme Court Rules demonstrate the power that agency guidelines can have in improving professional responses to children in conflict with the law, even absent comprehensive legislative reform.

The Rules reference the Convention on the Rights of the Child and UN standards on juvenile justice, and have significantly altered criminal proceedings involving children, ensuring respect for their due process rights and making the process much more child-sensitive. Using the Court's power to settle certain cases, the Rules introduce pre-arraignment referral to a diversion committee, allowing children charged with minor offences to be processed outside the formal court system as required by the CRC.

#### *Necessary Conditions*

- Guidelines for professionals involved with juvenile justice reform should contain attainable standards such that professionals and front-line staff do not perceive them as unrealistic.
- Guidelines should also be drafted in a clear language avoiding acronyms, legal terms or statements of vague general principles. For example, instead of vague prohibitions of torture, threats and intimidation, the rules should be specific, using examples of



prohibited conduct, such as “this means that under no circumstances should children be beaten, punched, pushed, dragged .... Telling children that they will be kept in detention or sent to prison for a long time if they do not give a statement constitutes a threat and is not permitted.”

- Guidelines should be written in rights-based language. Explicit statements regarding children’s rights are necessary in order to avoid making child-sensitive treatment ‘optional’.

*Source Document:*

“Protecting the Rights of Children in Conflict with the Law Project Evaluation”,  
OHCHR

## 2. Building a Pool of Expertise with Common Cultural References

*Collaborating Organisations:*

- **Penal Reform International**
- **Arab institute For Human Rights**
- **UNICEF Regional and national offices and the OHCHR Beirut Regional office**

**At the national level, the main partners are national NGOs involved in juvenile justice, UNICEF country offices, prison administration, the Ministry of Justice or the Ministry of Interior, and other Ministries involved in the criminal justice system, such as the Ministry of Social Development.**

*Countries: Morocco, Jordan*

### Background Information

In February 2002, PRI, the Arab Institute for Human Rights and the Jordanian Royal Commission for Human Rights organised a regional conference on *Perspectives of Penal and Prison Reform in the Arab Region*, in Amman, Jordan. The conference participants included representatives of prisons, ministries of Justice and Interior, independent experts and NGO's from Jordan, Morocco, Algeria and Palestine.

The recommendations of this conference re-confirmed the need to focus juvenile justice reforms on the reduction of the number of juveniles in detention. Participants agreed that the reduction of children in detention was an objective best achieved through capacity building via a multidisciplinary approach.

PRI's previous experience in juvenile justice reform in the region revealed that a major obstacle has been a lack of expertise and tools in Arabic. Sharing information, experience, good practices and experts across Morocco and Jordan has proved to be very valuable in the development of expertise and the encouragement of attitudinal and behavioural change within the justice system.

## What was done ?

The following components are part of the effort to foster the development of a regional pool of expertise in the Arab region:

- Identification and diffusion of key juvenile justice reform initiatives and innovative measures in specific countries in the region that are suitable for application across the region;
- Supporting implementation of these initiatives and promoting interest among other countries in the region;
- Helping to arrange technical exchange and assistance and providing start-up funds for new projects considered as appropriate;
- Production, publication and circulation of national and regional materials on key themes, based on international human rights standards; including reducing the use of custody before and after sentencing, alternatives to imprisonment, legal aid programmes, mediation and alternative dispute resolution schemes.

## How is it a good practice?

### *Achievements*

- Exchange of experience, good practices, diversionary programmes and experience of non custodial measures, tools and information on legal reforms in both countries;
- Establishment of communication channels between different agencies and civil society groups;
- Improved understanding of the best interests of the child has been cultivated by exposure to other countries with similar cultural and economical conditions.

### *Future achievements expected from this regional programme are*

- In-depth assessment of each country situation to establish a country-based inter-agency strategy for juvenile justice with special focus on the promotion and establishment of diversionary programmes and non-custodial measures;

- Network and interagency partnerships among governmental, NGOs and other institutions committed to working together in implementing this strategy;
- Dissemination of good practices, for diversionary programmes and non-custodial measures through:
  - the establishment of a pool of specialised experts including governmental and non-governmental professionals, trainers, and other national and regional resource persons;
  - specialised courses and materials (in Arabic) on juvenile justice in general and non-custodial measures, adapted to the Arab world situation and needs;
  - the establishment of a communication tool: a specialised website to gather and disseminate information related to juvenile justice reforms.

### *Necessary Conditions*

- The willingness of governments and civil society to engage on this issue,
- The common conditions, cultural references and context of juvenile justice,
- Common need to develop and exchange good practices, tools and expertise on juvenile justice,
- A real partnership with all relevant national institutions working on this issue and incentive for inter-agency cooperation.

### *Source Documents:*

Nour, Training Manual on the Protection of Children in Conflict with the Law in Jordan (Arabic version); PRI, Human Rights and Vulnerable Prisoners, Training Manual (Arabic version); [www.Nour-atfal.org](http://www.Nour-atfal.org).

### 3. Inter-sectoral Training Courses in Juvenile Justice

*Collaborating Organisation:*  
**Terre des hommes**

*Countries:* **Lebanon, Mauritania, Guinea, Burundi, Kosovo, Peru, Romania**

#### Background Information

In an area as sensitive as the functioning of the justice system, the approach of Terre des hommes Foundation is to secure commitment at the highest level of the hierarchy before undertaking training initiatives. Experience shows that it is usually possible to find one or more people at high levels who are interested in achieving essential improvements in the treatment of children in conflict with the law. The desire to improve the country's image in international fora often serves as an incentive to pursue reforms.

#### What is done?

The participation of hierarchical superiors is essential in the first stage of training in order to secure support for the implementation of alternative measures on the ground. Once this commitment is in place, training courses are aimed at officials from various sectors who are in direct contact with children in conflict with the law and who must find - and often improvise - solutions.

Judges, prosecutors, police officers, military personnel, prison staff, lawyers, and social workers/educators participate in training events together:

- Inter-sectoral "role-plays" helps participants understand the possibilities and constraints of inter-connected professions within the justice system.
- Training in the area of juvenile justice must include training in national law schools, national police academies, and sometimes in military barracks in places where the army ensures security in prisons and other places where children are deprived of their liberty.

- The analysis of events by the participants, helped by international experts allows for immediate comparison with the current situation and the ideal situation and helps to create a team atmosphere among the practitioners who work with children in conflict with the law in the same geographical area.

### How is it a good practice?

#### *Achievements*

By creating opportunities to interact at training events:

- Judges gain a better understanding of the constraints under which prison staff operate (for example, by going to the prisons where they send minors).
- Police officers understand the potential for lawyers and social workers to help police when a child comes into contact with the law. In certain programmes, it is the police station officers who after their first contact with the child take the initiative to contact the Terre des hommes team.
- Police officers have been able to voice their opinions in front of judges, something which, in some countries, rarely or never arises outside of the inter-sectoral training.
- Prosecutors have made the acquaintance of social workers working in their respective jurisdictions.
- There is an opportunity for juvenile justice professionals to learn about emerging changes in the legal framework, such as new definitions of misdemeanours, felonies and the penalties which result, and the duration of custodial sentences.

#### *Necessary Conditions*

- Participant Balance: The representation of the various professions concerned must be balanced, as must the proportion of high-ranking representatives and officials working on the ground.

#### *Source Document:*

Terre des hommes: Legal and Social/Educational Programs for Minors in Conflict with the Law Workshop to Provide an Overview of Best Practices Lyon (France) 29 April 2001 - 4 May 2001

## 4. Inclusion of Prison Visits during Training Events

*Collaborating Organisation:*  
**Terre des hommes**

*Countries:* **Romania, Lebanon, Guinea**

### What is done?

Training courses for juvenile justice practitioners include in their programmes a visit to detention centres where children in conflict with the law are sent both for pre-trial detention and post-trial detention. Experience has shown that it is possible to envisage an entire day of the course being spent within the prison - if only to give prison officers and their superiors the occasion to express their point of view in front of other professionals.

Prison visits are sometimes the only opportunity to meet the young people who are the subject of all the training, which allows them to observe how they are seen by magistrates and other practitioners. Moreover, the latter have the opportunity to engage in dialogue with the juveniles without having a role of immediate authority.

### How is it a good practice?

#### *Achievements*

- Experience shows that considerable and inexpensive improvements have been possible in prison conditions for minors, if the people who oversee these visits are the same people who taught the training courses.
- These visits can raise awareness of the over-reliance on detention for children in contact with the law.

#### *Necessary Conditions*

- In such a sensitive area, the approach of co-operating with and training government officials is essential: in some cases, the media have

even been invited to participate in visits to prisons (which contributes to the goal of informing public opinion).

- However, it is not necessarily desirable that the media should be present at all times during the training course: some practitioners, judges, prosecutors or police officers can feel uneasy about bringing up practical questions or expressing their opinions on improving the laws, in the presence of the media.
- Ideally, in between training courses, the Terre des hommes team, jointly with the members of ministries, local NGOs and UNICEF, make regular visits to the prisons.

*Source Document:*

Terre des hommes: Legal and Social/Educational Programs for Minors in Conflict with the Law Workshop to Provide an Overview of Best Practices Lyon (France) 29 April 2001 - 4 May 2001 [pp 22-24]



## **4. Public Awareness and Advocacy**



## 1. Study on the Age of Discernment of Out-of-School Children

*Collaborating Organisations:*

- OHCHR
- UNICEF
- PAYO (Philippine Action for Youth Offenders)

*Country:* **Philippines**

### Background Information

After much advocacy, part of a comprehensive draft juvenile justice bill aimed to raise the minimum age of criminal responsibility from 9 to 12. As in other contexts, raising the age of criminal responsibility had been a contentious issue in the Philippines.

### What was done?

In order to support the draft bill's proposed increase in the age of criminal responsibility, the Philippine Action for Youth Offenders (PAYO) conducted a Study on Age of Discernment of Out-of-School Children. Researchers interviewed 300 out-of-school children between the ages of 7 and 18, most of whom were street children. The study, which followed up on a similar study conducted with school children, concluded that out-of-school youth have a slower ability to discern and make positive choices in life and were generally at a very low level of discernment. At the age of 18, the out-of-school children tested were at a level of discernment comparable to a seven year old.

### How is it a good practice?

#### *Achievements*

The study has proven to be a useful advocacy tool to support the proposition that nine-year-olds lack the necessary level of discernment. It emphasises the need for judges to determine discernment on a case-

by-case basis, taking into account the child's individual level of development. The study also provides useful insight into the impact that living in the "real world" of the streets has on children's development. It highlights the need for interventions to support psycho-social health of out-of-school children, and includes general recommendations that will provide helpful guidance in the development of crime prevention and juvenile rehabilitation programmes.

### *Necessary Conditions*

- Identity protection for children involved in the study,
- Sensitivity and avoidance of stigmatisation of children involved in the study.

### *Source Document:*

"Protecting the Rights of Children in Conflict with the Law Project Evaluation",  
OHCHR

## 2. Photography Project with Children in Conflict with the Law

*Collaborating Organisations:*

- **PRI, Moscow and Paris offices**
- **Sretenie in Ardatov, Russia**
- **ACER-Russie in Paris, France**

*Country:* **Russia**

*Category:* Public attitudes towards children in conflict with the law

### Background Information

Penal Reform International started a photo project, involving 10 photographers, to perform work in selected countries where PRI was collaborating or supporting activities in penal and prison reform.

PRI's Photo Project focuses primarily on good practices and on positive impacts of penal and prison reforms. The overall aim is to promote penal reform activities led by PRI, national governmental institutions and local NGOs. PRI uses the photos in publications, on its website photo gallery, and exhibits them during meetings or conferences. A book and an exhibition are being planned.

### What was done?

As part of PRI's photo project, a French photographer, Jérôme Derigny, visited Sretenie, a PRI partner NGO in Russia. Sretenie works with children in conflict with the law, focusing on the rehabilitation of children in detention, and prevention activities for recently released and street children. Sretenie runs two centres; one in the centre of the Ardatov city (a building where children receive skills and vocational training), the other one in the countryside (where they go to learn about farming activities.)

Jérôme Derigny's work displays the children's lives in the countryside centre of Sretenie, including the children's slow readjustment to a typical social life, learning new skills, living in a group within a community, and mixing with people of the village. Her photos depict the hope, joy and

solidarity that exist among these children, despite difficult and often dramatic situations they face.

The names of the children are not mentioned, and the pictures have not been published in Russia. The photographer explained to them that the objective is not to present them as offenders, but on the contrary to show that they are children for whom rehabilitation is possible.

This work has received the 2003 Kodak France Award (27ème Prix Kodak de la Critique photographique 2003), and was largely covered by the media. It has generated many meetings, exchanges and forum discussions on the situation of children in institutions, and in particular on children deprived of the liberty.

### How is it a good practice?

#### *Achievements*

The photo project has contributed to:

- Promoting the idea that rehabilitation and reintegration of children in conflict with the law is possible within communities and families.
- Discussions and exchanges on the institutionalisation of children which explore the justification for alternatives to detention. It is hoped that this will improve public attitudes towards children in conflict with the law.
- Promotion of community-based projects for the protection and rehabilitation of children in conflict with the law.

#### *Necessary Conditions*

- Cooperation of governmental institutions and local NGOs,
- Agreement and collaboration of the children and staff of the relevant institution,
- Interest of the media on the issue,
- Identity protection for the children involved with the project.

#### *Source Documents:*

Photos of the project, media coverage

### 3. Alliance with the National College of Journalists

*Collaborating Organisation:*  
**UNICEF**

*Country:* **Panama**

#### Background Information

After several years of efforts directed at legal reform in juvenile justice, the reforms still faced significant resistance from Panamanian society. In the minds of many parents and teachers, recognising the rights of adolescents would diminish their own authority. To some, adolescents are seen as a risk to peaceful coexistence and to security on the street. As in other countries, some professional and business associations joined together to work for tougher sanctions and fewer due process protections for children in conflict with the law.

Due to negative public attitudes and significant pressure from business associations and others, a new law modifying various articles of the Law on the Special Regime of Criminal Responsibility for Adolescents was approved on June 6, 2003. The new law toughened responses to juvenile crime and removed some due process protections for children. These changes occurred despite the fact that reforms had not yet been fully implemented, and as such had not had any opportunity to show results.

#### What was done?

UNICEF established an alliance with the National College of Journalists, to which 90% of the country's journalists belong. UNICEF provided the journalists with data on children's conflict with the law in order to help dispel myths and exaggerations of adolescent crime. UNICEF also facilitated training courses on the CRC which built capacity among journalists to report on the rights of children in conflict with the law in the media. Through this programme, members of the media allied themselves with child protection advocates, sharing information prepared by UNICEF, and organising debates and public programmes to explore the issues around juvenile justice. These activities helped to foster rights-based analysis of children in conflict with the law.

## How is it a good practice?

### *Achievements*

The efforts with the media and partnerships between UNICEF and other actors in Panama's society succeeded in substantially limiting the number and the severity of the regressive reforms.

### *Necessary Conditions*

Partnership with media-related academic and professional institutions

### *Source Document:*

Juvenile Justice Systems: Good Practices in Latin America, UNICEF, p. 45.



## **5. Monitoring and Reporting**



## 1. Computerised Data System

*Collaborating Organisations:*  
**UNODC and national partners**

*Countries:* **Lebanon, Egypt**

### Background Information

Lebanon and Egypt were not in a position to confront the escalation in juvenile delinquency without restructuring their legislative and institutional systems. Efficient administration of juvenile justice in both countries was hampered by the absence of a coordinating body and the lack of an effective information-gathering system.

Therefore, within the context of juvenile justice reform, a Department for Minors (Lebanon) and the General Administration for the Legal Protection of Children (Egypt) were established as part of the respective Ministries of Justice. These ministerial entities coordinate the work carried out by the judicial police officers, judges, prosecutors, social workers, educators, and the personnel working in detention and correctional facilities. While working in close cooperation with other concerned ministries, these departments are responsible for policy development and for the initiation of new education and reintegration programmes. They also encourage the preparation of plans of action to prevent juvenile delinquency and to protect child victims.

### What has been done?

#### **(a) Lebanon**

A computerised data system was established within the Department for Minors in the Lebanese Ministry of Justice to collect the following information on juveniles in conflict with the law:

- Name, age, gender, nationality, residence, educational level, vocational training, job - if applicable,
- Type of offence committed,

- Dates at which child is interviewed at police stations, presence of a social worker,
- Dates at which child is interviewed at public prosecutor offices,
- Dates at which child appears at the juvenile court,
- Date of the judgement pronounced by the juvenile court,
- Name of the presiding judge,
- Nature and length of sentence pronounced (alternative measures, non-custodial sanctions, fines, etc.),
- Institution(s) where the sentence will be served,
- Social reports prepared, at the beginning, during, and at the end of the judicial procedure as well as during the execution of the measure/sanction.

The Department for Minors database system receives further case-related information from the police duty stations (after each interrogation), the juvenile courts, and the detention centres, as well as from the NGO(s) mandated to assist the child during the procedure (from police investigation until the sanction has been executed).

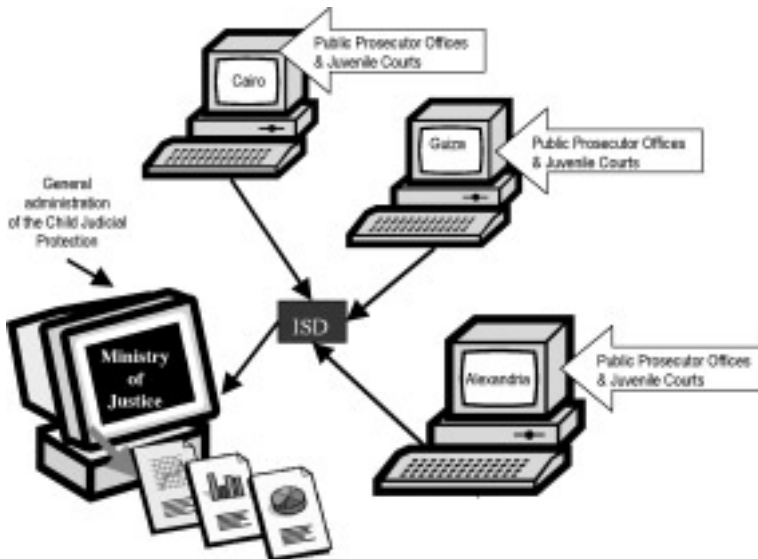
### Computerised data system in Lebanon

Information used to develop National policies on: prevention and rehabilitation



**(b) Egypt**

Based on the lessons learned in Lebanon, a computerised system was also developed in Egypt, tailored to national requirements. A technical committee has established a programme for data entry and analysis within the Judicial Information Center (ISD). The system in Egypt is currently in a test phase, and selected staff assigned to the General Administration of the Child Judicial Protection of the Ministry of Justice are being trained.

**Computerised data system in Egypt**

### Why it is a good practice?

#### *Achievements*

The data system has contributed considerably to the work of the coordinating ministerial body, acting as a focal point for juvenile justice matters. Emphasis has now been given to social protection measures for young people in difficult circumstances before they slide into delinquency.

The data system provides the ministerial department with:

- A better understanding of the criminal behaviour of children in conflict with the law: The data system in *Lebanon* shows that 75% of offences are minor offences, and are mainly property related. In fact, young people are mostly charged with (petty) theft, often committed as a means of survival. The fact that most offences reported are considered minor offences is a strong argument for the use of alternative measures. In *Egypt* children are frequently arrested on charges of being “vulnerable to delinquency”, which according to the national legislation includes ‘crimes’ such as begging, selling or performing for small amounts of money, collecting cigarette butts or rubbish, lacking a stable place of residence, and associating with suspect persons or others vulnerable to delinquency. Such children are in need of protection and assistance rather than punishment. A complete and transparent data collection concerning arrest practices may be an important first step towards a juvenile justice system that safeguards the rights and promotes the well-being of children in conflict with the law.
- A clearer perception of procedural gaps and weaknesses: Analysis of the data received has shown that young people in conflict with the law have not always been assisted and accompanied by specialised social workers, as required. The database also provides information on the average duration of the judicial procedure and delivers strong arguments for more efficient procedures, guaranteeing due process substantially and formally equivalent to that enjoyed by adults, as well as specific rights applicable to adolescents because of their age.
- Initiating and strengthening prevention and reintegration programmes: Available data illustrate that most children in conflict with the law were not enrolled in a school programme on the day of their

arrest. In order to improve the social situation of these children, reintegration programmes with educational and vocational training activities aim to reduce recidivism rates. Analysed data also show that the percentage of youngsters under the age of 15 in conflict with the law is on the rise and that early prevention programmes are crucial to curb juvenile delinquency.

- **Monitoring reforms:** Data management also assists officials in evaluating the impact of the activities undertaken. They use indicators such as average length of judicial procedure, average period in detention, and the frequency of the use of alternative measures and non-custodial sanctions.

### *Necessary Conditions*

- **Computer technology:** Funding, the effective inter-connection of different computerised systems, the development of appropriate user-friendly systems, specialised data entry personnel and appropriate training are essential for this practice to be successful.
- **Official agreements with other stakeholders:** The agreement of the coordinating ministerial body with all the other public and private stakeholders is essential to ensure that information on concrete cases is provided and collaboration is developed.
- **Privacy protection measures:** The privacy of children in conflict with the law must be guaranteed. Their names and details that could lead to their identification are to be kept confidential. In Lebanon and Egypt, only stakeholders can enter the data. Data analysis is undertaken solely by specialised personnel at the Ministry of Justice and is not accessible to third parties.

### *Source Documents:*

Juvenile Justice Initiative in Lebanon, Alexandre Schmidt and Ralph Riachy, Strengthening Legislative and Institutional Capacities of Juvenile Justice in Egypt, UNODC, Additional information provided by Zarir Merat, Renee Sabbagh (UNODC Field Office - Beirut/Lebanon) and Leif Villadsen, Myrna Bouhabib (UNODC Field Office - Cairo/Egypt)

## 2. Establishment of Standardised Individual Dossiers

*Collaborating Organisations:*  
**UNODC and national partners**

*Countries:* **Lebanon, Egypt, Afghanistan**

### Background Information

There was no real system in place for files prepared by social workers, police, magistrates and detention centres. Information was duplicated and dossiers were written in formats that were incompatible with each other.

Judges, relying on this information for decision-making found this frustrating. Efficient case management was almost impossible.

### What has been done?

A standardised individual dossier system was introduced, composed of three parts:

- a new standard form for social investigation, to be undertaken by the social workers and the officers of the Youth Police Unit;
- a revised court form, to be completed by the clerks of the juvenile courts; and
- a new standardised and computerised filing system, used by the staff in closed institutions.

Juvenile judges now receive all relevant information pertaining to the juvenile's situation in standardised forms. The new system facilitates the work of the judges and allows them to:

- speed up the judicial procedure,
- revise, if applicable and advisable, the sanction pronounced and redirect it into an alternative measure, such as probation or guardianship.



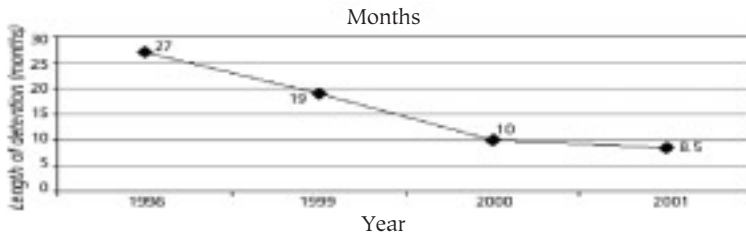
## Why it is a good practice?

### *Achievements*

This good practice, in combination with other interventions, has resulted in a reduction of the average length of the judicial procedure and in a reduction of the average period juveniles are deprived of their liberty in pre-trial and correctional detention. The practice brings the system in line with the Convention on the Rights of the Child and international standards, and more particularly with the norm that recourse to deprivation of liberty should only be used as a measure of last resort and for the shortest period possible.

In **Lebanon** in 1998, the average length of a judicial procedure was 4.5 years (varying per individual case from 10 days to 6 years). By 2000, this had been reduced to 2.4 years. The average time period juveniles were deprived of their liberty was reduced from 27 months in 1998 to 8.5 months in 2001.

**Average length of detention of juvenile offenders, 1998-2001**



Moreover, the use of standardised forms also facilitates the analysis of data for research and policy development and helps the evaluation of the impact of the reforms on the juvenile justice system as a whole.

### *Necessary Conditions*

- The printing and availability of user-friendly, compatible forms.
- Training and appropriate familiarisation with the revised dossier format.
- Regular record of data.

### *Source Documents:*

Juvenile Justice Initiative in Lebanon, Alexandre Schmidt and Ralph Riachy, UNODC, Additional information provided by Zarir Merat, Renee Sabbagh (UNODC Field Office - Beirut/Lebanon)

### 3. Submission of Alternative Reports to the CRC

*Collaborating Organisations:*

- **World Organisation Against Torture (OMCT)**
- **Association for Human Rights Legal Aid (AHRLA)**

*Country: Egypt*

#### Background Information

The effectiveness of the Committee on the Rights of the Child (CRC) depends on the quality and the objectivity of the information submitted to it, not only by State parties but also by independent human rights organisations. During 2001-2003, OMCT submitted more than 20 alternative reports to the CRC. These alternative reports are intended to highlight the legislative gaps in the protection of children's rights which States, for obvious reasons, do not mention in their own reports. Unlike reports prepared by national NGO coalitions and UNICEF offices that cover the whole range of children's rights, OMCT reports focus mainly on torture and other forms of State violence against children. Most legislative issues and concrete examples documented in these reports fall within the framework of juvenile justice.

#### What was done?

In January 2001, Egypt came before the Committee on the Rights of the Child. On the basis of information received from its members in the field and of its own analysis of Egypt's legislation, OMCT submitted an alternative report to the committee and made some specific recommendation concerning :

- the urgency to de-criminalise children in irregular situations,
- the need to develop and implement legal and practical measures for the protection and reparation for children who are victims, or at risk, of torture at the hands of law enforcement officials,
- the consideration to increase of the minimum age of criminal responsibility,

- the obligation to better guarantee procedural rights of children, the length of police custody, the prohibition of incommunicado detention, conditions of detention and trials of children accused of having participated in terrorist acts.

OMCT published its report –including the recommendations of the CRC– in 3 languages (English, Spanish, and French).

The CRC recommended that the State party fully review and reform its juvenile justice system to bring it into conformity with international law.

In July 2003, OMCT was contacted by the Association for Human Rights Legal Aid in Egypt. This NGO, actively engaged in juvenile justice advocacy and monitoring in the field, found that the report was a powerful tool for its work at the national level and proposed to translate it into Arabic. This fuelled its work on:

- campaigning to amend the Egyptian Children’s Code to make it consistent with the international CRC and the other UN rules and guidelines related to juveniles and children in general;
- developing a report about children in custody and torture of children in police stations in Egypt;
- further research on sexual abuse of girls in juvenile institutions, campaigning for the amendment of the Code N° 12, the Nationality Law, the Children’s Court and procedures.

At the time of publication, this work is in progress.

### How is it a good practice?

#### *Achievements*

- Mutual reinforcement of advocacy and monitoring work between national and international levels
- Capacity-building
- Legal change in process
- Evolution of practices in process

### *Necessary Conditions*

- Information-sharing
- Long-term involvement

### *Source Documents:*

[www.omct.org](http://www.omct.org), [www.ahrla.org](http://www.ahrla.org), [www.omct.org/base.cfm?cfid=993507&cftoken=5923063&page=children&consol=open](http://www.omct.org/base.cfm?cfid=993507&cftoken=5923063&page=children&consol=open)

## 4. Investigation and Legal Action Against the Detention of Children with Adults

### *Collaborating Organisations:*

- Casa Alianza UK
- CEJIL (Centre for Justice and International Law)
- CIPRODE (Centre for Investigation and Promotion of Human Rights in Honduras)
- Save the Children
- CODEH (Committee for the Defence of Human Rights in Honduras)
- COINPRODEH (Coordinator of Institutions for the Rights of the Child)

*Country:* Honduras

### Background Information

In 1990, the Congress approved the Children’s Code in order to apply the UN Convention on the Rights of the Child. In 1996, however, in response to high levels of violence blamed on youth, the Supreme Court implemented a ruling that allowed judges to send underage detainees to jails with adults. This plan was known as an “Autoacordado” and violated the Constitution of the Republic of Honduras, which, in article 122, prohibits the detention of children in jails designed for adults. Although the Supreme Court’s ruling stated that children should be kept separate from adult prisoners, the cramped and overcrowded conditions in the country’s dilapidated jails made the separation impossible.

### What was done?

Casa Alianza, with the aid of the organisations listed above, started a nation-wide investigation into every single Honduran jail as a first step to document the violations of the human rights of detained children. The investigation revealed that over 800 boys were detained in jails with adults.

Casa Alianza’s Legal Aid programme then presented 300 writs of Habeas Corpus for the children to be released or sent to juvenile detention

centres, in accordance with the Constitution of Honduras. Sadly, all but one of the writs were rejected on the grounds that the Supreme Court and the “Autoacordado” allowed this condition, a decision which failed to recognise that the Constitution was the higher legal norm.

Casa Alianza and CEJIL presented the case of the illegal detention of children with adults to the Inter American Commission on Human Rights (part of the Organisation of American States), exposing the situation and asking for an urgent call the State of Honduras to stop sending children to adult jails.

After several months, the Inter-American Commission on Human Rights released a report with a recommendation for the State of Honduras to cancel the “Autoacordado” that allowed the judges to send children to adult jails. At the same time, the Commission told the State to hold those judges legally responsible for approving an unconstitutional policy. Finally, it ordered economic reparations for all minors detained in adult jails. The State had to pay a total of \$188,000 (US \$20 per child per day of illegal imprisonment) in compensation to the victims.

### How is it a good practice?

#### *Achievements*

- Investigating and monitoring the human rights of detained children proved to be an effective protection tool.
- The results of this process allowed Casa Alianza to take advantage of the Inter American system for protection of human rights (Inter-American Commission on Human Rights) to protect the victims by applying international law.
- There was legal reform that reinforced the Constitution of the country in the matter of detained minors. The State finally abandoned the “Autoacordado” and paid the reparations to the minors, but not one judge was convicted for violating the Constitution.
- Since the report of the Commission, not one judge has sent a minor to an adult jail.
- The process had an impact on public opinion regarding the role of NGOs.

- The results of the effort have set an important precedent (so far as NGOs using local and international law to protect children's rights) and still bring attention to Casa Alianza.
- Other Casa Alianza offices in Central America have imitated the initiative, resulting in a similar investigation in Nicaragua.

### *Necessary Conditions*

- The NGO must be willing to take a firm stand, despite threats made by the government.
- Cooperation between local and international NGOs.
- Thorough analysis of the veracity of the evidence collected; knowledge of local laws and access to legal support.
- Follow up on the effects of the investigation and the actions taken by a State.
- Need to provide attention to the victims (both emotional and legal support).

### *Source Documents:*

Honduras: The illegal detention of minors, Casa Alianza's legal review <http://www.casa-alianza.org/EN/human-rights/violations/docs/honjail2.phtml>; Children jailed with adult prisoners in Honduran jails <http://www.casa-alianza.org/EN/human-rights/violations/docs/honjail.phtml>; Fire Claims The Lives of 102 Honduran Youth in Jail

<http://www.casa-alianza.org/EN/noticias/lmn/noticia902>; International concern starts to bear fruit in Honduras <http://www.casa-alianza.org/EN/noticias/lmn/noticia68>; Casa Alianza Honduras objects to five Supreme Court candidates <http://www.casa-alianza.org/EN/noticias/lmn/noticia199>.

## 5. Mainstreaming Child Justice Issues in Human Rights Reporting

*Collaborating Organisations:*

- OMCT
- PREDA (People's Recovery, Empowerment and Development Assistance Foundation, inc.)

*Country:* **Philippines**

### Background Information

OMCT attempts to reinforce the prevention and monitoring of torture by mainstreaming women's and children's issues in general human rights mechanisms and strengthening the capacity of national NGOs to use United Nations conventional mechanisms. This activity is included in a three-year project which has three components:

- Submission of alternative reports to the UN: the Committee Against Torture CAT and the Human Rights Committee and participation in their sessions with the possibility of a follow-up meeting in the field;
- Support for individuals and organisations wishing to challenge torture practices in international legal fora by presenting individual complaints to these Committees;
- Publication of a practical guide on torture and international and regional conventional mechanisms.

In all these activities, the protection of children from torture and other ill-treatment is fully integrated. To produce reports for the Human Rights Committee and the Committee Against Torture, a drafting committee is composed of a general human rights NGO, a women's rights NGO and a children's rights NGO, and its representatives are invited to Geneva to brief the Committees and attend the sessions. As part of this process, members of the Committees are directly exposed to child rights issues within their specific mandate.

Cases of torture or other forms of violence against children may be presented as individual complaints, depending on their relevance to the



procedures of the targeted committees. OMCT is proactive in identifying potential cases, taking into account the fact that cases concerning children rarely reach public scrutiny due to children's lack of access to complaint mechanisms and due to families and society's reluctance to expose such cases.

### What was done?

As the Philippines was scheduled to report to the UN Human Rights Committee (HRC) at the end of 2003, OMCT invited NGOs in the Philippines to prepare a collective alternative report. PREDA took the lead on the child rights component and produced a very thorough analysis of juvenile justice in the country.

This report was sent to the HRC and, together with NGO colleagues, Fr. Shay from PREDA made a powerful presentation during the briefing session and the international press conference organised in Geneva prior to the examination of the State report.

As a consequence, during its official session, the HRC fully addressed issues of juvenile justice in its dialogue with the government representatives – which it usually does not do because it has no specific information or concerns about juvenile justice. The Committee made many references to children throughout its concluding observations, including requests for legal changes and targeted interventions to stop abuses committed against children in detention. The report was published and distributed in English and is being translated into Tagalog for dissemination and follow-up at national level.

PREDA is also currently considering cases of children tortured in detention for OMCT to present individual complaints to HRC or CAT. All these elements will be further shared for follow-up with the Committee on the Rights of Child, when it will examine the Philippines report in early 2005.

### How is it a good practice?

#### *Achievements*

- effective mainstreaming of juvenile justice issues in lead UN treaty monitoring body, as complementary to reporting under the CRC,

- legal change and intervention by the State (on-going).

### *Necessary Conditions*

- necessary resources for travel, translation and publication, as key stages in the reporting process,
- follow-up both at national and international levels.

### *Source Documents:*

[www.omct.org](http://www.omct.org), [www.unhcr.ch/html/menu2/6/hrc/hracs77.htm#79th](http://www.unhcr.ch/html/menu2/6/hrc/hracs77.htm#79th)

## 6. Use of Regional Human Rights Fora to Create Precedents for the Protection of Children

### *Collaborating Organisations:*

- Casa Alianza
- Centre for Justice and International Law (CEJIL)
- Inter-American Commission on Human Rights
- Inter-American Court on Human Rights

*Country:* Guatemala

### Background Information

In 1990, five street-boys, aged 15-20 were kidnapped, tortured and murdered by the police in Guatemala. The bodies of four of them were found in the now infamous place called “Bosques de San Nicolás,” known as a dumping place for cadavers during this most tragic historical period in Guatemala. The boys’ eyes had been gouged out, their ears cut off, and their tongues cut out. The clear message was that they had seen, listened and talked about something they should not have. The last body was discovered down an alleyway in Guatemala City shortly after the discovery of his friend’s bodies: he had witnessed the kidnapping of his friends.

The case of the “Street Children” is the first case in the 20-year history of the Inter-American Court of Human Rights where children were the victims of human rights abuses. This was to be a trial that defined case law on the rights of the child. It addresses violations of the most fundamental human rights; personal freedom, not be subjected to torture and the right to life of children itself. The litigation of the case and the resulting judgments on the substance and compensation has created a historical change in the protection of the basic rights of children in Latin America.

### What was done?

In 1990, Casa Alianza brought criminal accusations against the four policemen accused of kidnapping the children and then torturing and killing them. The case lingered in the Guatemalan judiciary for 3 years

until the accused were acquitted due to a judge who, in handling the case, dismissed important evidence and witnesses in violation of the Criminal Code Procedures.

With the help of the NGO CEJIL, Casa Alianza placed a complaint against the State of Guatemala before the Inter-American Commission on Human Rights in Washington – an agency of the Organisation of American States (OAS), which was accepted in 1994. For a two-year period there were unsuccessful discussions and negotiations facilitated by the Commission to try and reach an agreement between the Petitioners (Casa Alianza, CEJIL) and representatives of the State of Guatemala. The State of Guatemala decided it did not want to reach any friendly settlement that would imply that the State of Guatemala violated the children's human rights as protected by the American Convention on Human Rights. This acceptance was a precondition of the co-petitioners.

Because of the lack of a settlement, in 1996, the Commission decided to submit the case to the Inter-American Court of Human Rights in Costa Rica. Guatemala ratified its acceptance of the jurisdiction of the Court and so the final 1999 ruling and settlement against the State of Guatemala was binding. Guatemala was found guilty of violating the victim's rights under a series of Articles of the American Convention and was ordered to pay US\$ 500,000 in damages to the families, to name a school after the slaughtered children, to re-open the criminal case against the accused, and to implement a national plan to benefit street children.

This case became case law and will therefore affect all future cases involving children and becomes binding in all countries in Latin America and the Caribbean which have ratified the jurisdiction of the Court. These countries in Latin American and the Caribbean now have a legal mechanism that can be utilised against their State if it does not apply the American Convention on Human Rights.

### How is it a good practice?

#### *Achievements*

- Made the horrendous crimes against street children visible, helping to end impunity which allows and even encourages the persistence of human rights crimes against street children.

- By condemning the State for depriving children of the basic protection set out in the American Convention on Human Rights, it makes other States aware of the consequences of not respecting children's human rights.
- The ruling lays the groundwork for important changes in the application of human rights law affecting children and adolescents throughout Latin America and the Caribbean to advance guarantees of legal protection for children and youth.
- The application of international law against the State of Guatemala encourages the authorities to apply the law locally to avoid international condemnation and embarrassment.
- This case is a good example of how an NGO can be effective in using international organisations to bring about improvements in the application of the law at the national level.

*Source Documents:*

Casa Alianza web site: The Bosques de San Nicolas Case <http://www.casa-alianza.org/EN/human-rights/violations/bosquescidh/>; The complete case and ruling of the Inter-American Court on Human Rights <http://www.casa-alianza.org/EN/human-rights/violations/bosquescidh/background.phtml>

## 7. Issuing Urgent Appeals

*Collaborating Organisations*

- **World Organisation Against Torture (OMCT)**
- **a local NGO, not to be named for its protection**

*Country: Nepal*

### Background Information

Since 1991, OMCT has been sending out urgent appeals under the heading “Child Concern” to a specific targeted audience likely to take prompt and effective action concerning these cases. Launching urgent appeals specifically relating to violence against children contributes to interventions in the field and raising global awareness. These urgent appeals –which are circulated to several thousands recipients all around the world– are also specifically addressed to relevant UN mechanisms (i.e. Special Rapporteur on Torture, Special Rapporteur of the Sale of Children, Child prostitution and Child Pornography, Special Representative on Children in Armed Conflicts, 1503 Procedure) and agencies (UNICEF, UNHCR, etc.) who use them as an important source of information.

### What was done?

Having received information from a reliable source in Nepal and double-checked it with its members in the country in November 2003, OMCT issued an urgent appeal alerting the international community that “*Manoj Rai, a 15-year-old boy, was arrested on September 27th 2003. He was taken to the Hanumandhoka District Police Office in Kathmandu, where he was ill-treated, tortured and arbitrarily detained for more than 20 days. He was also compelled to confess to a crime which occurred in the house of his landlord.*”

OMCT urged the government to act in compliance with its obligations under international law. On 1<sup>st</sup> December Manoj Rai was reported missing. OMCT issued a follow-up appeal stating that “*A guard confirmed that he was not in the custody of Hanumandhoka District Police Office anymore and that he had been released. However, Manoj Rai was nowhere to be*

*found. Further, the authorities neither acknowledged his arrest nor his supposed release.”*

The case was taken up by Theo Van Boven, the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment.

Manoj was released on January 1st 2004 and is now reunited with his family.

### How is it a good practice?

#### *Achievements*

- Liberation of a child arbitrarily detained and tortured
- Setting precedent of juvenile justice monitoring
- Fight against impunity (ongoing process)

#### *Necessary Conditions*

- Checking and analysis of information
- Rapid exchange and dissemination of information
- Follow-up/pressure by international and national recipients of the urgent appeal

#### *Source Documents:*

[www.omct.org](http://www.omct.org); Annual Report of the UN Special Rapporteur on Torture, paragraph 1247 [p. 257] in E/CN.4/2004/56/Add.1

