DEFENSA DE NIÑAS Y NIÑOS INTERNACIONAL DNI
DEFENSE DES ENFANTS INTERNATIONAL DEI
DEFENCE FOR CHILDREN INTERNATIONAL DCI

Ending Violence Against Children in Justice Systems

Strategies for Civil Society Engagement in the Follow-up to the UN-Study on Violence Against Children

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DEFENCE FOR CHILDREN INTERNATIONAL (DCI)

Ending Violence against Children in Justice Systems:

Strategies for Civil Society Engagement in the Follow-up to the UN Study

Defence for Children International (DCI)

Anna Volz

Geneva, November 2009

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About Defence for Children International

Defence for Children International (DCI) is an independent non-governmental organisation that has been promoting and protecting children's rights on a global, regional, national and local level for 30 years.
DCI is represented in over 40 countries worldwide through its national sections and associated members, across Africa, Asia and Pacific, the Americas, Europe and the Middle East. Located in
Geneva, DCI's International Secretariat is the focal point of the movement at the international level, developing programmes and projects which promote child rights globally and support the activities and growth of its members.

At its most recent International General Assembly in Brussels, Belgium (October 2008) the DCI movement released its Brussels Declaration, confirming its commitment to maintaining juvenile justice as its priority issue at the international level.

DCI has longstanding experience in the area of juvenile justice, undertaking advocacy, research and lobby actions, as well as direct interventions to assist children in conflict with the law. At present, over 75% of DCI's national sections work in the field of juvenile justice.

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FOREWORD by DCI Executive Director

This is the second in a series of three annual reports intended to present the progress in the reflection on juvenile justice and child rights, looking at it each year from a different angle and highlight a different aspect of it. It takes stock of the latest international insights into the causes and circumstances of violence in institutions, and how the civil society can contribute through direct action, political pressure and other forms of advocacy, so that the international positions adopted find their way into national legislations and ultimately improve the fate of the child in conflict with the law, wherever that is.

The first book provided a mapping of the situation on the ground in a number of countries: how the rights of the child as laid down in the Convention are respected in national juvenile justice law. Several national DCI sections assisted in collecting the necessary baseline data.

The present volume is based on Dr Paulo Pinheiro's comprehensive work on violence against children in institutions. Ms Volz has applied her great experience of civil society international advocacy for juvenile justice in general on an analysis of those recommendations of Mr Pinheiro that are directed at reducing the risk of violence for children in closed institutions, whether for penitentiary or custodial reasons.

The last volume, under preparation, will look at pre-trial detention, which, according to the Convention, should be a last recourse measure but is widely used as a measure of first resort, even in countries where alternatives are feasible.

Violence against children is a terrible reality. Though it affects millions of children in all societies and of all social classes and situations, children are far from equal before this risk. Some children are far more exposed to violence, including to violence of the most serious nature. Children in custodial and penitentiary institutions are among the least protected.

As Dr Pinheiro said when opening our international conference in Brussels last year, for a child, the very fact of being deprived of its freedom of movement is a violence in itself. But the violence that children in detention and institutional custody endure inside or on top of that violence must be reduced, yes eliminated.

This book will help NGOs and other civil society activists to set out the most effective course of action, adapted to the circumstances in their country, to denounce institutional violence against children and propose concrete measures, including staff training, to stop it.

Dr Pinheiro and his colleague Ms Diya Nijowne were kind enough to write an introduction to our compendium that I believe explains well their passionate commitment and deep concern for the plight of children and youth in conflict with the law, and how the public and political response to rising crime rates raises the level of institutional violence against them. We are very grateful for their invaluable contribution to this report.

Laetitia van Haren
Executive Director

INTRODUCTION by Prof Paulo Pinheiro and Ms Diya Nijhowne

ENDING VIOLENCE AGAINST CHILDREN IN JUSTICE SYSTEMS: THE WAY AHEAD

PAULO SÉRGIO PINHEIRO [1] and DIYA NIJHOWNE [2]

The World Report on Violence against children, identified the issue of violence against children in juvenile justice systems as a priority area for immediate initiatives by States. Due the intensity and frequency of violence committed against children in custody and detention, as well as the dearth of data on this phenomenon, the improvement of juvenile justice systems can no longer be neglected by States and societies around the world.

As you well know, throughout the world, there is widespread public fear regarding rising crime levels and statistics indicating that children are committing more crimes of increasing severity at younger ages. These statistics suggest that the current systems for preventing and rehabilitating criminal activity amongst children are insufficient and need reform. At the same time, the alarm created by the statistics signals a risk that society will demand more draconian measures against young offenders. These measures, which typically involve longer sentences in more secure or adult detention facilities, expose children to more hardened offenders and serve as a training ground for further criminal activity. They tragically curtail opportunities for children's and adolescents' normal social interaction with friends, family and community, which is critical to their development and ability to grow into functioning adults. Juvenile justice systems in compliance with international law must focus on diverting children away from detention except in the most serious of cases and then only for the shortest period possible, and must focus on prevention and rehabilitation rather than punishment.

When we consider the multifarious needs of children and adolescents in the justice system it must be remembered that they are both human beings, and therefore rights bearers owed all the due process guarantees enjoyed by adults, and children, who must thus receive special protection and treatment. This is one of the basic lessons learned in the process of preparing the World Report, to which Defence of Children International made an outstanding contribution.

The present publication of DCI addresses the recommendations of the World Report and brings the experiences and expertise of the different chapters of DCI and of civil society organizations together by examining cases from all over the world. This publication also reflects the rich contribution made by all participants at the DCI International Conference on "Ending Violence against Children in Juvenile Justice Systems: From Words to Action", held in Brussels, from October 1-3, 2008.

During that conference, we had the opportunity to discuss the content of the special treatment owed to children, how to secure it and safeguard the protection of the rights of children and adolescents caught up in the justice system, while also ensuring the security of society at large. These goals are often seen to be contrary to each other, but in almost all cases, this is an erroneous assessment: recognition that a child's developmental stage warrants a different response to an adult offender leads to an emphasis on rehabilitation. Rehabilitation will serve to prevent further criminal activity amongst children, and the adults they become, creating a safer and more just society for everyone.

This most valuable publication demonstrates how we can better ensure that children's human rights are protected, including rights to be presumed in-

1 Commissioner and Rapporteur on Children, Inter-American Commission on Human Rights, Organization of American States, Washington, DC and former Independent Expert for the UN Secretary-General Study on violence against children, www.violencestudy.org

2 Consultant on Children's Rights, Rapporteurship on the Rights of the Child, Inter-American Commission on Human Rights, OAS.

nocent, participate in hearings effecting them, obtain legal or other appropriate assistance, receive dispositions that are proportional to the severity of their offence, not be charged for an action that was not an offence at the time of commission, amongst other rights. The challenges and best practices from different regions identified in this publication, also offer new approaches for other countries and regions to consider adopting in tackling the sometimes overwhelming task of preventing our children from coming into contact with juvenile justice systems, and steering them away from this path when they do.

The discussion of the recommendations of the World Report developed in this publication and the cases examined, also offer guidance on how we can better ensure that children receive the special treatment they are owed due to their developmental status as children. We can see that there have been successes in the two decades since the Convention on the Rights of the Child has been enacted, thanks in great part to the involvement of civil society organizations. Government agencies, in partnership with NGOs, are diverting children who commit minor offenses away from the court system.

From all the experiences discussed in this publication, it is evident that every justice system can be improved, despite barriers, because in many societies all over the world enabling factors, new partnerships with government sectors, and unexpected coalitions that can facilitate reform already exist. Based on the observations, recommendations and discussion of cases contained in this publication, I would like to propose what I consider some priority areas for intervention, reform and partnership:
-Ensure practical recognition of the fact that the developmental status of children means that they cannot be culpable for their actions in the same way as adults. Criminalization of children in need of protection must end and children in need of protection must be treated separately from children in the juvenile justice system. Often legislation that criminalizes children who engage in activities such as begging or wandering, and deprives them of their liberty, stigmatizes and victimizes children. These children should be dealt with by the child protection system, not the criminal justice system.

- se deprivation of liberty as a last resort measure for the shortest period of time and develop non-custodial measures for responding to offences committed by children. Options for moving children out of the court system and away from custodial measures must be adopted at every stage of the juvenile justice process, from first contact with the police to sentencing.
- Expand pre-trial diversion options and use them more widely. Perhaps even more so than in sentencing, pre-trial detention must be a very last resort measure and for the shortest period possible because the children charged may be innocent. In some countries, there are more children in pre-trial detention than there are convicted children in detention and they are sometimes treated more harshly than children who have already been sentenced.
- Respect due process guarantees. Although due process guarantees are provided in most States' constitutions or national legislation, they are not fully adhered to. Despite people's right to have cases heard without delay, the courts adjudicating on juvenile justice issues are typically overwhelmed due to increasing caseloads, amongst other reasons. The right to legal counsel or other appropriate support is not complied with uniformly either.
- Prohibit cruel and inhuman punishments as sentences for children and as disciplinary measures. Corporal punishment still exists as a sentence in many regions and children can be whipped or receive strokes for committing some offences. The World Report has set 2009 as a target date for universal prohibition of corporal punishment, including in the home. As of March 2009, the total number of States with full prohibition was 24.

INTRODUCTION by Prof Paulo Pinheiro and Ms Diya Nijhowne

At least 90 States have not prohibited corporal punishment in schools. In addition, corporal punishment has not been prohibited as a form of discipline within penal institutions in many countries. Punishments of restricted diets, solitary confinement in cells for extended periods and the use of mechanical restraints are also permitted in legislation and prison rules throughout the region. These are all punishments that are considered cruel and inhuman and are prohibited under international law.

- Ensure that when children are sent to institutions as a last resort measure, conditions promote and facilitate rehabilitation and reintegration into society. Facilities and conditions for rehabilitation are sorely lacking in institutions for children. Overcrowding is a serious problem in most countries. This precludes opportunities to provide recreational, life-skills, educational and vocational programming for children as there is little space and insufficient staff to run these programs. In addition, more punitive measures are typically employed in overcrowded environments because staff feel they have less control over conditions in the facilities.
- Provide specialized services for girls in conflict with the law. States must ensure separate facilities for girls in the juvenile justice system. Girls are often housed in women's prisons where they are mixed with the adult population. This is a growing problem because the number of girls who come into contact with the penal system is increasing. In addition to creating special facilities for girls, it is important that they have access to at least the same level of rehabilitative programming that boys in custody enjoy, including recreational, educational and vocational programming as well as health services.
- Develop inspection and monitoring systems for children in institutions and policies for addressing violence against children. An important means by which conditions and an environment conducive to rehabilitation can be improved in institutions of the juvenile justice system is by establishing functioning mechanisms for inspecting and monitoring children in detention facilities and responding to complaints and concerns.

It is essential that States develop policies for ensuring that violence is not committed against children and young adults by state authorities or non-state actors, and mechanisms are in place to prosecute perpetrators of this violence if it does occur. The ideas consolidated in this excellent publication will be extremely useful in informing new strategies to propel improvements for the protection of children's rights in justice systems. There are many initiatives discussed here that deserve highlighting and can be replicated throughout the region. This publication clearly identifies ways in which juvenile justice systems can be created, with the contribution of civil society organizations and NGOs, that truly do justice to our children and youth.

PURPOSE OF THE STUDY

The key message of the "United Nations Secretary General's Study on Violence against Children" (UN Study) is that "no violence against children is justifiable, and all violence against children is preventable." [3]

The results of the UN Study have been elaborated into a more detailed book entitled "The World Report on Violence against Children" (World Report) which examines violence against children across five settings: the home and family; schools and educational settings; care and justice systems; places of work; and the community and sets forth recommendations to States for ending violence in each context.

Defence for Children International (DCI) has been involved in the Study since the beginning, first as a member of the "NGO Advisory Panel" [4] for the preparation of the UN Study. As member of the Panel, DCI collected and provided information, supported the Independent Expert in carrying out his work and also took part in a consultative session on the theme of violence in care and justice systems. Once the Study was released and officially presented by the Secretary-General, the Advisory Panel was dissolved and an "NGO Advisory Council" [5] was established to focus its work on the follow-up to the recommendations of the UN Study. This new international NGO body has a more balanced geographical representation, with regional and international NGOs.

While the recommendations presented in the UN Study on Violence against Children are primarily directed towards Governments, members of civil society [6] can play a key role in holding governments accountable and supporting them in translating their commitments into action. As the World Report notes: [7]

"The participation of other actors at national, regional and international level is critical to assist Governments to carry out their commitments. These include UN entities, civil society organisations including national human rights organisations, professional bodies such as doctors' and nurses' associations, community associations, educators, parents and children."

It is in response to this call that the present report has been written. If the participation of civil society is critical to realising the recommendations of the Report, then it is equally critical to identifying strategies and good practices for this civil society engagement.

While there are a number of non-governmental organisations undertaking actions which support the recommendations of the UN Study, there is a need to explore how and why these actions are effective, identify lessons learned and provide tools and strategies for other NGOs to use in their follow-up activities.

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3 Report of the independent expert for the United Nations on Violence against Children, A/61/299,2006, p.5

4 International Organizations involved in the International Advisory Panel were: Save the Children were, World Vision; Human Rights Watch; Defence for Children International (DCI); Plan International; Global Initiative to end Corporal Punishment.

5 Composed of: ECPAT; World Vision; CRIN; Save the Children; Defence for Children International; World Organization Against Torture (OMCT); WAO Afrique; Red por los Derechos de la Infancia; Child Help Line; Children's Rights Centre; Child Workers Concerned Centre (CWIN); The Cradle's Children's Foundation; Centre for the Promotion,
Advocacy and Protection of Children's Rights Foundation Inc; Arab Council for Childhood and Development.

6 Civil society refers to the arena of collective action around shared interests, purposes and values. Civil society commonly embraces a diversity of spaces, actors and institutional forms, varying in their degree of formality, autonomy and power. Civil societies are often populated by organizations such as registered charities, development non-governmental organizations, community groups, women's organizations, faith-based organizations, professional associations, trade unions, self-help groups, social movements, business associations, coalitions and advocacy groups.

7 World Report on Violence against Children, p.24

PURPOSE OF THE STUDY

The present report has attempted to do this by focusing on Chapter 5 of the World Report: violence in care and justice systems. As a contribution to the follow-up to the UN Study, between October 1-3 2008, DCI organised a three day conference and training entitled ''Ending Violence against Children in Juvenile Justice Systems: From Words to Action''. The conference addressed the recommendations for ending violence against children in juvenile justice systems put forward by the Study.
The objectives of the conference were to raise awareness, share lessons learnt about best practices to end violence in penal juvenile justice institutions and build the capacities of NGOs to lobby and support their governments to act. The conference was structured with plenary sessions followed by thematic workshops and practical training sessions to mobilise civil society in pushing for less words and more action in ending violence against children in custody and detention[8]. This report is based on the rich exchanges, concrete case studies, good practices and outcomes of the conference.

The objective of this report is to better understand what role civil society organisations can play and what specific actions they can undertake to ensure their governments pay heed to the recommendations of the Study, in particular those that seek to end violence against children in justice systems.

Recommendations will be categorised and illustrated through case examples of projects and activities that have been implemented by DCI sections and other civil society organisations.
Most of the examples were provided during the DCI conference and have been chosen because they illustrate the different strategies for follow-up well.

This report also proposes additional recommendations to make civil society action even more effective.

8 See Annex 1 p.54 for the complete conference's programme.

CHAPTER 1

The UN Study on Violence against Children: Violence in Justice Systems

I. The UN Study and its Recommendations

Published at the end of 2006, the United Nations Secretary General's Study on Violence against Children [9] gives a detailed picture of the nature, extent and causes of violence against children in different settings, and proposes recommendations on how to prevent and respond to it. The study was developed under the leadership of Prof. Paulo Sérgio Pinheiro, the independent expert appointed by the Secretary-General and with the support of the Office of the High Commissioner on Human Rights (OHCHR [10]), the United Nations Children's Fund (UNICEF), and the World Health Organization (WHO). The study was prepared through a participatory process which included regional, sub-regional and national consultations; expert thematic meetings; and field visits. Governments, international organisations, civil society organisations and children from around the world provided extensive inputs to the elaboration of the report and the formulation of its recommendations. At the UN General Assembly in October 2006, member States, international organisations and NGOs welcomed the Study and committed to promoting the implementation of its recommendations.

A. Violence against Children in Care and Justice Settings *(Chapter 5 of the Study)*

Children in custody and detention are estimated to number about one million worldwide. These children are low on the list of government priorities and the violence committed against them is often normalised, ignored or rationalised as a deserving treatment.

Children who come in conflict with the law are often vulnerable and neglected. Many have already been subject to violence in the home or on the street and suffer from chronic poverty. Due to their young age, their "institutional treatment is likely to be more physically and psychologically punitive than that of other groups or in other environments" [11].

The majority of children in detention have not even been convicted of a crime or an offence yet – they are simply on remand and awaiting trial. In cases where children have been convicted of an offence or a crime, the sentences and punishments are often disproportionate to the offence. Most children, for example, are only charged with minor offences or petty crimes and are first-time offenders. Despite international standards clearly indicating that detention should only be used as a measure of last resort and that alternative measures should be privileged[12], large numbers of children are still sentenced to correctional facilities or prisons.

The excessive recourse to these measures can be explained by the fact that the criminal justice system in general and detention in particular are often used as substitutes for adequate care facilities and protection systems.

Identified sources of violence in justice institutions include: violence by staff (which is still tolerated in more than 70 countries), violence in police custody and by security forces (including harassment, beatings, sexual assault, torture and killings), violence as a sentence (corporal punishment as a court sentence against children is still permitted in about 30 countries), violence by adult detainees (in institutions where children are not placed in separate facilities), violence by other children and self-harm, including suicide.
Factors that contribute to violence in institutions

9 The Report can be downloaded from www.unviolencestudy.org

10 Specific follow-up actions are being undertaken by the Office of the High Commissioner for Human Rights (OHCHR), where an officer has been specifically appointed for it. See Annex 2 p.58 for an overview of OHCHR's follow-up activities.

11 World Report on Violence against Children, op. cit, p. 190

12 Convention on the Rights of the Child (CRC), Art. 37c

include that it is seldom a priority for the government to stop it; staffing is poor and inadequate; there is insufficient monitoring and oversight; and children of different ages and personalities are put together, what we call mixed levels of vulnerability, with the stronger bullying the weaker.

Indeed, ending violence in institutions is not always a priority for governments: some countries do not even have the basic legal framework for prohibiting violence in them. But even if there is, government regulations are woefully inadequate. Without an effective complaints mechanism, impunity for the perpetrators of violence is the rule rather than the exception.

B. The Study's recommendations on ending violence against children in care and justice settings

Chapter 5 of the World Report identifies 15 specific recommendations to States for ending violence: [13]

1 ***Prohibit all violence in care and justice systems.***
Governments should ensure that sectoral laws applying to care and justice systems reflect the State-wide legislative prohibition of all forms of violence. Legal prohibition should be backed by detailed guidance for all involved.

2 ***Ensure institutionalisation is a last resort and prioritise alternatives.***
Governments should ensure that placement in an institutional setting is avoided whenever possible, and a full range of alternatives should be available for both care and justice systems.

3 ***Ensure quality staffing and training.***
Governments should ensure that staff recruitment, training and employment policies, and rights-based codes of conduct ensure that all those who work with children in care and justice systems are both qualified and fit to work with children and young people, that their professional status is recognised, and that their wages are adequate. Levels of staffing should ensure adequate supervision and oversight.

4 ***Sensitise police, referral agencies, lawyers, judges, institution managers and staff.***
Governments should ensure that all those who come into contact with children during the process of their assimilation into care and justice systems should be familiarised with children's rights; this applies equally to the children concerned and to their parents.

5 ***Ensure court systems are sensitive to the needs of children and their families.***
Governments should ensure that child victims, including those who have witnessed family violence, are not re-victimised during the justice process nor subjected to extended or drawn out cross-examination or other legal processes. In line with the Guidelines on Justice for Child Victims and Witnesses of Crime (ECOSOC Resolution 2005/20), all investigations, law enforcement, prosecution and judicial processes should take into account the needs of these children in terms of their age, sex, disability and level of maturity; and fully respect their physical, mental and moral integrity. If it is in their best interests, children should be accompanied by a trusted adult throughout their involvement in the justice process. Moreover, the child's privacy should be protected, his or her identity and confidentiality respected, and he or she should not be subjected to excessive interviews, statements, hearings and unnecessary contact with the justice process.

Consideration should be given to the use of videotaping and other testimonial aids such as screens or closed-circuit televisions. Unnecessary contacts with the alleged perpetrator or their defence coun-

13 Extract from the World Report on Violence against Children, op.cit., pp. 216-219

sel should be eliminated. Speedy trials should also be ensured, unless delays are in the child's best interests.

6 ***Regularly reassess placements.***
Governments should ensure that authorities regularly review the reasons for a child's placement in care, residential or detention facilities, and assess whether continued institutionalisation is necessary; children (and their parents when appropriate) should be involved in reviews at all stages to determine appropriate care options.

7 ***Ensure effective complaints, investigation and enforcement mechanisms.***
Governments should ensure that children have simple, accessible and safe opportunities to raise concerns and complain about the way they are treated without the risk of reprisals, and have access to the courts when necessary. All allegations of violence must be investigated thoroughly and promptly, safeguarding "whistleblowers" from reprisals.

8 ***Ensure effective sanctions against perpetrators.***
Governments should adopt and apply a continuum of appropriate criminal, civil, administrative and professional proceedings and sanctions against individuals who are responsible for violence against children, as well as against those who are responsible for institutions where such violence takes place.

9 ***Ensure effective monitoring and access.***
Governments should ensure that institutions are inspected regularly by appropriately empowered independent bodies authorised to enter without warning, interview children and staff in private and investigate any alleged cases of violence. Access to institutions by NGOs, lawyers, judges, ombudspersons, national human rights institutions, parliamentarians, the media, and others as appropriate should be assured, while respecting children's privacy rights.

10 ***Registration and collection of data.***
Governments should ensure that all placements of children and movements between placements, including detention, are registered and centrally reported. Data concerning children in detention and residential care should be systematically collected and published. At a minimum, such data should be disaggregated by sex, age, disability and reasons for placement. All incidents of violence should be recorded and centrally reported. Information on violence against children should also be collected through confidential exit interviews with all children leaving such institutions, in order to measure progress in ending violence against children.

(…)[14]

13 ***Reduce detention.***
Governments should ensure that detention is only used for child offenders who are assessed as posing a real danger to others, and then only as a last resort, for the shortest necessary time, and following judicial hearing, with greater resources invested in alternative family- and community-based rehabilitation and reintegration programmes.

14 ***Legal reforms.***
Governments should ensure that all forms of violent sentencing, including the death penalty and all indeterminate and disproportionate sentences, including life imprisonment without parole and corporal punishment, are prohibited for offences committed before the age of eighteen. Status offences (such as truancy), survival behaviours (such as begging, selling sex, scavenging, loitering or vagrancy), victimisation connected with trafficking or criminal exploitation, and anti-social or unruly behaviou should be decriminalised.

15 ***Establish child-focused juvenile justice systems.***
Governments should ensure that juvenile justice

14 Recommendations No. 11 and 12 only concern care and social welfare systems

systems for all children up to age 18 are comprehensive, child-focused, and have rehabilitation and social reintegration as their paramount aims. Systems should adhere to international standards, ensuring a child's right to due process, legal counsel, access to family, and the resolution of cases as quickly as possible.

II. Opportunities for civil society follow-up to the recommendations to end violence in justice systems

While the recommendations of the UN Study are directed primarily at governments, civil society can engage in activities to ensure follow-up in a number of ways. In general, civil society can participate in the follow-up to the recommendations for ending violence in justice systems through: **1)** conducting advocacy and lobbying; **2)** providing technical assistance; **3)** reporting violence; and, **4)** providing legal assistance to children in conflict with the law.

1) Advocacy & Lobby:

Members of civil society can advocate and lobby their governments to take action on the recommendations on the UN Study for ending violence against children in justice systems [15]. All of the recommendations listed in Chapter 5 of the World Report can be followed-up by advocacy and lobby with key stakeholders, including governments. In particular, the recommendations that require political will to implement (e.g. "prohibit all forms of violence in institutions") can be most effectively pushed forward through consistent lobby and pressure to improve legislation. In this way, civil society can work to raise awareness about the recommendations of the UN Study and hold governments accountable for ending violence against children [16].

2) Technical Assistance:

Technical assistance can be defined as the act of providing advice, assistance, and training to governments to support their work in ending violence against children in conflict with the law. Some members of civil society, such as child rights NGOs, have particular expertise in juvenile justice and violence prevention and can offer technical assistance to governments in support of their implementation of the UN Study recommendations. For example, they may be asked to provide training on children's rights in juvenile justice to police officers, judges, lawyers and other justice professionals, which responds to recommendation 3: "ensure quality staffing and training".

In supporting the follow-up to the UN Study, advocacy and technical assistance go hand in hand: NGOs will not have the opportunity to provide technical assistance to their governments until they have convinced their governors how important it is to act on the Study's recommendations!

a) Sensitisation and training of judges, lawyers, police officers, prison staff and other justice professionals. Topics for training are international child rights legislation, children's rights in juvenile justice, the recommendations of the UN Study, etc.

b) Monitoring places of detention to report on conditions, ensure transparency, that is make sure that there are mechanisms for complaints and that perpetrators will be accountable, no matter their position, speak with the children and ensure that standards that have been set are being met.

c) Demanding accurate and adequate collection and registration of data to monitor violence against children in conflict with the law. Civil society should demand from their governments that disaggregated data on children (that is separate data by sex and age) in the justice system are systematically collected. Activist experts can provide technical support in establishing reliable and accurate Management Information Systems.

15 Further information about strategies for juvenile justice advocacy and sample activities can be found in DCI's Advocacy Strategies Training Manual: www.defenceforchildren.org

16 We will refer to these activities as "advocacy", which refers to the action of bringing about change in behaviours and attitudes, policies and practices with regard to a chosen issue. It is a long-term process, and it is an umbrella term that encompasses many other sub-terms, and encapsulates many approaches and methodologies, including campaigning, lobbying, awareness-raising, mass mobilisation and other measures.

d) Providing legal and administrative support to governments in the development of legislation. Civil society may be invited by the government to participate in the drafting of new legislation by offering technical expertise.

3) **Reporting violence against children** and issuing complaints about violations of children's rights. This may be done through the use of complaint mechanisms (where they exist) or by publicly raising awareness and urging action on a specific situation.

4) **Providing (direct) legal support to children in conflict with the law.** Although not referred to specifically in the recommendations of the UN Study, many civil society organisations play a leading role in offering legal support to children in conflict with the law as well as to child victims and witnesses of violence. States must ensure the child's right to legal representation and civil society can assist by providing legal representation itself or by ensuring that children get it.

These types of intervention are not independent from one another; rather, they complement each other and are most effective when conducted together. The case examples described in the following chapter illustrate the interrelated nature of civil society engagement, as one follow-up activity is often preceded by another and precedes a third one. For example, civil society organisations may offer technical support in the drafting of new legislation, followed by sensitisation and training sessions with justice professionals to ensure understanding of the new legal provisions. This may be followed by monitoring visits to detention centres to ensure how the new legislation has been translated practically to address violence.

In particular, strategic advocacy can provide a framework and key opening for all other actions. It is unlikely that civil society will be invited to provide technical assistance if they have not conducted prior advocacy to build political commitment. Organisations need to gain recognition and confidence from governments or institutions where they want to intervene, and governments may need to be persuaded as to why they need such technical support.

Ending violence against children in justice systems requires the engagement of multiple stakeholders, and civil society organisations are in a position to play a leading role. The following chapter explores case studies from civil society organisations about their efforts to advocate, provide technical assistance, report and offer legal support to end violence against children. The cases provide practical illustrations of the types of interventions listed above, including strategies and lessons learned from civil society organisations.

CHAPTER 2

Follow-up activities to prevent and protect violence against children in the justice system

Introduction: Civil Society Follow-up Activities

This chapter provides detailed information and case examples to illustrate the eight [17] types of follow-up activities conducted by civil society organisations to help governments implement the recommendations of the UN Study on Violence against Children. Examples have been provided by DCI national sections and other partner NGOs [18] who participated in DCI's international conference and training "Ending Violence against Children in Justice Systems: From Words to Action" which took place in October, 2008 in Brussels, Belgium.

These examples represent a wide range of follow-up projects and activities (international/national, very broad/very specific, etc.) as a means of illustrating that opportunities for engagement are varied and should be tailored towards the organisation's expertise and capacities.

Participants at the DCI International Conference and Training "Ending Violence against Children in Justice Systems: From Words to Action".

17 Advocacy and lobby; sensitisation and training; monitoring detention; data collection; administrative and legal support; reporting violations; legal assistance

18 Each NGO profiled in this report has provided further information and feedback regarding its case example.

I. Advocacy and Lobby

Recommendations 1, 2, 3, 8, 13 of the World Report

A. Why is there a need to do advocacy?

"Despite changes in child care practice and the evolution of children's rights, including juvenile justice standards, reform has been slow to take place in institutions. (…) This is mainly because of the low level of importance accorded to the most disadvantaged children in society (including children in conflict with the law)." [19]

There is still significant work to be done in encouraging governments to implement the recommendations of the UN Study. The absence of political will, limited resources, and misplaced priorities can make governments resistant to following-up, or even engaging in debate about the recommendations of the Report at the national level. The role and action of concerned civil society organisations in exerting pressure on authorities to raise awareness therefore becomes extremely important.

B. What is recommended in the Study? How can civil society organisations follow-up?

As the Study's recommendations are directed towards governments, they do not expressly state the need to advocate and lobby authorities. However, civil society organisations have experience with pressuring and lobbying their governments for the implementation of international standards or the concluding observations of the Committee on the Rights of the Child. They can therefore play an important role in ensuring that the Study's recommendations are known, considered and implemented by governments.

C. Case example: National Lobby and Advocacy on Juvenile Justice in Sierra Leone , by Defence for Children International – Sierra Leone

Introduction:

DCI-Sierra Leone (DCI-SL) has been active in the field of juvenile justice for the past ten years. Advocacy with the government is a key action undertaken by DCI-SL in addressing violence against children in the justice system.

Violence in the Sierra Leonean justice system takes a number of forms: poor conditions of detention, detention of children and adults together and lengthy periods of pre-trial detention, among others. Up until 2007, violence against children in justice systems was permitted even in legislation in the form of corporal punishment against boys.

Over the years, DCI-SL's advocacy work has kept pressure on the government and resulted in vast improvements in these areas. The most important action has been the successful lobby for the adoption of an improved legislation for children's rights: the **Child Rights Act 2007.**

As a member of the Child Rights NGO Coalition of Sierra Leone, DCI-SL undertook a number of advocacy activities that led to the adoption of the new Child Rights Act 2007 by Parliament [20](see separated box

19 World Report on Violence against Children, op.cit, p. 181

20 The Act entered into force in October 2008, after that the President signed a statutory document for commencement of the Act. http://www.sierra-leone.org/Laws/2007-7p.pdf

I. Advocacy and Lobby

for a presentation of the new Act). As a result of DCI-SL's advocacy efforts, the new Act is consistent with international standards in juvenile justice: it promotes diversion from the justice system, raises the minimum age of criminal responsibility to fourteen and provides for other measures which decrease children's vulnerability to violence. Most importantly, it prohibits torture, cruel, inhumane and degrading treatment and punishment while repealing the former Corporal Punishment Act which allowed physical violence to be given as a sentence by law.

Presentation of the project: DCI-Sierra Leone advocacy towards the adoption of the new Child Rights Act 2007

DCI-Sierra Leone began its lobbying in partnership with members of the NGO Child Rights Coalition of Sierra Leone. As DCI-SL was the only NGO specialised in juvenile justice, it worked to identify the flaws and areas in need of change in the former Children's and Young Persons Act 1960 – many of which heightened children's vulnerability to violence in the justice system.

DCI-SL developed key advocacy messages about the need for a new Child Rights Act and identified targets for its advocacy work. Some of these targets included the public (through the media) and government officials, especially the Ministry of Gender, Social Welfare and Children's Affairs.

DCI-SL sees their advocacy work as having two components – both direct and indirect activities. "Direct" advocacy refers to activities carried out by an organisation which are aimed at exerting pressure on decision makers and people or institutions that can influence the situation of children in conflict with the law. "Indirect" advocacy, or "rights-based advocacy", refers to building the capacity of marginalised individuals or groups by an organisation to enable them to advocate and lobby for their own rights themselves.

Examples of DCI-SL's direct advocacy and lobbying activities include:

- Organisation of meetings with State authorities
- Participation in national meetings organised by the government
- Participation in interagency coalition or network meetings
- Organisation of conferences and workshops inviting duty bearers
- Conducting research and launching reports
- Making presentations at national fora
- Making presentations in parliament
- Sending reports to national and UN institutions, as mentioned above
- Writing letters of complaints or protest
- Engaging the media through radio discussions, press conferences, and press releases

Examples of DCI-SL's indirect advocacy and lobby activities:

- Developing the skills of children and their parents to pay attention to their own rights
- Supporting individuals to set up children's rights groups
- Organising trainings and awareness raising workshops
- Organising meetings in their communities and schools to talk about their problems
- Giving their communities and schools the means to develop their own initiatives

The two approaches are complementary, and using them both in advocacy activities – of course at appropriate times and places – has proved to be a successful strategy for DCI-SL.

As part of its work with the media, DCI-SL repeated their message in radio broadcasts and newspaper articles. They hosted press conferences, issued news releases and discussed their vision for a new legis-

I. Advocacy and Lobby

lation during interagency (NGO and Government) meetings. A number of training sessions were also held for officers in charge of the administration of juvenile justice (police, probation officers, social workers, and staff of the judiciary, e.g. judges) as a means of building support among justice professionals. The training focused on the international instruments that guarantee children's rights in juvenile justice. The psychosocial needs of children and the role of the different actors in providing those needs were also discussed, along with international and community based good practices relating to informal and restorative conflict management approaches and violence prevention. DCI also organised meetings with key officials to explain some of the discrepancies between the former legislation and international standards such as the CRC.

DCI-SL worked hard to build a strong relationship of trust with the various government institutions that deal with children in conflict with the law. As a result DCI-SL was invited to become a member of the technical team that developed a new strategy on Child Justice. They also made various presentations in parliament on the proposed Child Rights Act to help parliamentarians understand the issues and pledge their support. This was important in ensuring that the proposed Act was not perceived as "imported from the West", but rather as an opportunity for Sierra Leonean children, including children in conflict with the law, to have their rights better respected.

Key features of the new Child Rights Act 2007 that address violence:

- Repeals former Corporal Punishment Act
- Prohibits all torture, cruel, inhumane or degrading treatment or punishment including "any cultural practice which dehumanises or is injurious to the physical and mental welfare of a child." [21]
- Repeals former legislations (such as the Children and Young Person's Act and Prevention of Cruelty to Children Act) which were in contravention of the CRC
- Raises the legal age of criminal responsibility of a child in Sierra Leone to 18
- Raises the minimum age of criminal responsibility to 14 years (from 10 years)
- Promotes diversion by providing for the establishment of Child Panels to resolve juvenile justice cases within their own communities
- Maintains a Family Support Unit at each police station in Sierra Leone that serves as a site for child protection and that shall exclusively investigate child cases, whether of children as offenders or victims [22]

Conclusion / Lessons learned:

DCI-Sierra Leone's experience has shown that advocacy and lobbying can bring about concrete improvements in ending violence against children.

DCI-SL identifies the following strategies for effective advocacy campaigns:

1. Clearly define and position your organisation:

- What is the best description of your organisation?
- What aspects of child rights does your organisation primarily focus on?

2. Clearly identify the advocacy issues and questions:

- Use the international standards, the concluding observations of the Committee on the Rights of the Child and the recommendations of the

21 Child Rights Act, 2007, section 33 (1)

22 idem, section 57

I. Advocacy and Lobby

Children in Sierra Leone attending school and listening to the teacher.

UN Study to provide content to your advocacy messages

- Know your own legislation and analyse if and how it conforms to international human rights standards
- Consult with key beneficiaries of your advocacy – including children!

3. Develop a realistic action plan:

- Know which issues are your main priorities
- Focus on cost effective analysis for sustainability
- Identify those who support your message and those you will need to convince
- Design a plan to include goals, activities, outcomes, timelines, target groups and resources that are realistic
- Design a monitoring and evaluation plan to collect feedback on your activities once they have been carried out

4. Know your government's priorities as well as those of the international agencies that work in your country:

- Where possible, be involved in the process and push your issues to be incorporated into the plans (ex: Plans of the governments such as their Poverty Reduction Strategy, Budget hearings, etc.; or Plans and activities of UNICEF and other UN agencies, which are usually regarded as government support programmes).

5. Ensure you are part of child rights and child protection, human rights, and civil society networks

and coalitions:

- Work to include your issues into their agendas
- Establish alliances with key media institutions and reporters
- To gain a wider circle of support, think about how your focus area is linked to the issues being worked on by other agencies – eg: what are the links between juvenile justice and child trafficking
- Be consistent in the way you present your issues at various forums of network partners and to the media

6. Identify strong and influential partners (UN agencies, National Human Rights Commissions, Law Reform Commissions, Embassies, etc.):

- Support their work by providing them with information, reports or findings relating to child rights issues. Try to be included into their programmes
- Try to understand how they function, what their focus is, and what are their action plans; send them reports on the issues you want to work on and include recommendations; invite them to participate in your efforts

7. Push for the establishment of Child Welfare departments within the various state institutions (e.g. the Judiciary, the Police, National and local authorities, etc.)

Successful advocacy work is not the result of luck; rather, it is the consequence of a series of long, diligent efforts, thoroughly planned and strategically directed towards the desired change.

Sources:

- Defence for Children International – Sierra Leone: Juvenile Justice Report 2006/2007

- Report of the DCI International Conference on "Ending Violence in Juvenile Justice Systems: From Words to Action".

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II. Technical Assistance (Sensitisation and Training)

Recommendations No. 3, 4, 5

A. Why is there a need for sensitisation and training?

Despite reforms to legislation in many countries, there remains a lack of awareness and training on children's rights in juvenile justice and violence prevention. This leads to poor conditions in detention centres and the hire of under-qualified and unqualified staff, ill equipped to uphold children's rights and protect them from violence. In some cases, staff members do not receive any training on children's rights or on juvenile justice norms and standards and there is a lack of monitoring and transparency, that is, there are no control and complaints mechanisms, which leaves the door open to violence and abuse.

B. What is recommended in the Study? How can civil society organisations follow-up?

Recommendations number 3, 4 and 5 of the World Report's Chapter on Violence in Care and Justice Institutions emphasise the importance of ensuring that all those who come into contact with children during the process of their assimilation into care and justice systems should be familiarised with children's rights (Rec. No. 4); that court systems are sensitive to the needs of children and their families (Rec. No. 5), and that professionals working in institutions are adequately trained and remunerated (Rec. No. 3).
NGOs can support the follow-up to these recommendations by providing awareness raising and training programmes.

C. Case example : Project to follow-up to General Comment No. 10 on "Children's rights in juvenile justice systems" (by Defence for Children International - International Secretariat)

Introduction

The Committee on the Rights of the Child's General Comment No. 10 is one of the most comprehensive documents outlining children's rights in juvenile justice [23] and provides detailed guidance to States on the implementation of articles 37 and 40 of the Convention on the Rights of the Child as well as a number of international standards on juvenile justice. [24]

Despite the existence of these clear standards, there are still significant problems in translating these recommendations into concrete actions on the ground. With this in mind, members of the Committee on the Rights of the Child encouraged DCI to develop a project to follow-up on General Comment No. 10 (GC10) by promoting its use among States parties.

General Comment No.10 sets forth important recommendations for addressing violence in justice systems. In particular, the 13th paragraph of the GC10, which refers to the dignity of the child, states that.....

23 The Committee's General Comments elaborate and provide further guidance to States on implementing specific articles and principles of the Convention on the Rights of the Child.

24 The international instruments most commonly referred to are: the UNCRC, Riyadh Guidelines, Beijing Rules, JDLs, Tokyo Rules and Vienna Guidelines.

II. Technical Assistance (Sensitisation and Training)

Respect for the dignity of the child requires that all forms of violence in the treatment of children in conflict with the law must be prohibited and prevented (…)The Committee urges the States parties to take effective measures to prevent such violence and to make sure that the perpetrators are brought to justice and to give effective follow-up to the recommendations made in the report on the United Nations Study on Violence Against Children presented to the General Assembly in October 2006 (A/61/299).

In terms of preventing violence, General Comment No. 10 recommends States to avoid institutionalisation, ensure that the deprivation of liberty is used as a last resort and for the shortest period of time possible, promote diversion from the justice system and privilege alternatives to detention.

Presentation of project: DCI follow-up on General Comment No. 10 on Juvenile Justice

DCI launched the project at the beginning of 2008 with the goal of promoting and monitoring the use of General Comment No. 10 through a mix of awareness-raising, advocacy and training activities – particularly engaging actors responsible for guaranteeing these rights to children in the justice system and the community. The project was piloted by DCI's International Secretariat in Geneva and implemented in collaboration with eight DCI National sections in Albania, Costa Rica, Ecuador, Sierra Leone, Sri Lanka, Uganda, Cameroon and Ghana.

At the international level**,** activities included the preparation and the dissemination of a series of seven user-friendly Fact Sheets in English, French and Spanish outlining key themes and provisions in General Comment No. 10. The first one provides the introduction; the second one is on preventing juvenile delinquency; the third one on promoting diversion; the fourth one on ensuring an appropriate minimum age of criminal responsibility; the fifth deals with guaranteeing a fair trial; the sixth one with prohibiting the use of the death penalty and life imprisonment; and, finally the seventh is about promoting alternatives to the deprivation of liberty . [25] The Americas region added an eighth one providing an overview of juvenile justice legislation in the region.

A training manual on advocacy strategies [26] was also produced by the International Secretariat of DCI. It is meant to build the capacities of DCI sections and partners to further promote GC10 at the national level. In addition, the International Secretariat organised a number of meetings, round tables and panel discussions with international NGOs, experts and diplomats in Geneva to promote and disseminate GC10.

Pilot activities for advocacy, lobbying awareness raising and training were implemented by the eight DCI national sections that participated in the project. Depending on their capacity and the country context, each section implemented a combination of the following activities:

- Translation and distribution of the Fact sheets

  -Example: DCI-Sierra Leone produced and distributed a reader-friendly brochure which illustrated each theme of the GC10 in relation to Sierra Leonean laws and how each theme was to be put into practice. The brochure was distributed widely to government officials, civil society, journalists, police and children.

25 The seven fact sheets can be downloaded from DCI's website www.defenceforchildren.org

26 The "Advocacy Strategies Training Manual" is part of the project. It contains advice and ideas for the planning and implementation of a comprehensive advocacy strategy on behalf of the dissemination of General Comment No.10. http://www.defenceforchildren.org/files/Advocacy%20Manual%-%20GC10_FINAL_EN.pdf

II. Technical Assistance (Sensitisation and Training)

-Example: DCI-Sri Lanka translated the GC10 Fact Sheets into Sinhala and will also translate them into Tamil. The Fact Sheets will be published as a book to be distributed not only among juvenile justice professionals such as judges, probation officers, prison officials, police officers, but also among journalists, child rights activists, NGOs and teachers.

- Sensitisation meetings were organised with government officials to explain the General Comment and the need for follow-up action and implementation.

  -Example: DCI-Albania organised eight meetings with juvenile justice professionals and juvenile justice authorities between March and June 2008. The meetings took place in public institutions and prisons with the aim of informing the authorities and professionals about GC10 and reviewing the existing policy/legislative measures taken by the government in the area of juvenile justice and violence prevention. The sensitisation and training meetings were a response to a lack of awareness about children's rights in juvenile justice and provided tools to professionals for reducing children's exposure to violence in the justice system.

- Sensitisation (awareness raising) meetings were organised with the media to inform them about children's rights in juvenile justice and to train them in how to report cases of violence and of children in conflict with the law in a manner that is respectful of the child's rights to e.g. dignity and anonymity.

  -Example: DCI-Cameroon held a press conference in May 2008 to denounce violations of children's rights in the justice system. This triggered pledges of support from the media to speak out and report on abuses of children's rights. Members of the media expressed their interest in working with DCI to develop a media network for the promotion of children's rights, with particular emphasis on children in conflict with the law. Following the press conference, numerous reports were released on the radio and in the press.

- Training on Juvenile Justice and GC10

  -Example: DCI-Sri Lanka held three training seminars between March and September 2008 in a number of districts [27] , attended by more than 135 professionals, i.e. police officers, probation officers, childcare officers, lawyers, teachers, labour officers, NGO representatives, journalists and child rights promotion officers.

Other project activities, apart from sensitisation and training, were networking and building alliances with national partners and organising meetings with children about GC10.

Conclusion / Lessons learned

DCI has completed an evaluation of its activities for the General Comment No.10 project. Please contact: juvenilejustice@dci-is.org to obtain a copy. Below are some selected lessons learned from the project related to training and sensitisation about violence in the justice system:

- As justice systems often have high staff turnover it is important to ensure that training and awareness raising are sustainable and that knowledge is transferred to the institution, not just to the individual staff member or professional attending. Ongoing training of staff is also crucial and provisions should be made for training reviews to determine the long-term impact of such practices.
- Identifying the "right" professionals who need

27 Kalutara District, Ratnapura District, Gampaha District, and Colombo District

training and sensitisation is important. NGOs must learn the identities of the decision-makers and implementers in the system and try to understand their personalities.

- Focusing the training on the specific context of the different professionals is crucial. This can be ensured by conducting a needs assessment of professionals to determine the appropriate starting point for trainings and the expectations of participants.
- A combination of sensitisation and capacity building activities is most likely to bring about the necessary change of mentality for authorities and juvenile justice professionals to implement standards more systematically.

Sources

- Committee on the Rights of the Child, General Comment No. 10 (2007): Children's rights in juvenile justice, CRC/C/GC/10, 25 April 2007
- DCI, intermediate reports of the 8 national sections participating to the project (internal documents)

Contact and information:

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III. Technical Assistance (Monitoring Detention)

Recommendations No. 6 and 7

A. Why should civil society monitor places of detention?

According to the UN Study, children in institutional care are often subjected to violence from staff and other officials who are supposed to be responsible for their wellbeing. This is often due to inadequate staffing. There is not enough personnel around and it is poorly trained. There are gaps in monitoring and there is insufficient oversight. The absence of accountability and transparency in some institutions makes children particularly vulnerable to violence: "If cases are reported, those in a position to take action may be complicit in the abuse, reluctant to discipline or prosecute a colleague, or fearful of negative publicity or loss of financial support. They may respond by blocking or threatening to dismiss workers if they speak out" . [28]

Many States are failing in their obligations to prevent ill-treatment due to a lack of effective monitoring in the justice system. This then is an area in which civil society can provide technical assistance and expertise to help States develop monitoring systems. They can also conduct their own monitoring of places of detention to expose violations and provide a voice for children where the government is failing to do so.

B. What is recommended in the UN Study? How can civil society organisations follow-up?

The World Report on Violence against Children recommends that "Governments should ensure that institutions are inspected regularly by appropriately empowered independent bodies with the authority to enter without warning, interview children and staff in private and investigate any alleged violence; access to institutions by NGOs, lawyers, judges, ombudspersons, national human rights institutions, parliamentarians, the media, and others as appropriate should be assured, while respecting children's privacy rights" (Chapter 5, Recommendation No. 9). [29]

NGOs and other civil society organisations can play an important role by advocating for the development and implementation of monitoring and other control mechanisms and/or by providing this service themselves.

28 World Report on Violence against Children, p. 182

29 Other international instruments, namely the Convention on the Rights of the Child, the Convention against Torture, the Committee on the Rights of the Child General Comment Nr. 10, and the UN Rules for the Protection of Juveniles Deprived of their Liberty (see annex) also insist on the importance of monitoring,

In addition, the importance of submitting places of deprivation of liberty to external independent monitoring at the domestic level is recognized by the Optional Protocol to the Convention against Torture (OPCAT) and is based on the principles of independence, effectiveness, professionalism and transparency.

III. Technical Assistance (Monitoring Detention)

C. Example: "Preventing Violence by Monitoring Places of Detention for Children and Juveniles", by the Association for the Prevention of Torture (APT)

Introduction:

The Association for the Prevention of Torture (APT) [30] has over thirty years of experience and expertise in monitoring places of detention and other approaches to preventing torture worldwide, including in places where children and juveniles are detained.

During DCI's International Conference on "Ending Violence against Children in Justice Systems" in October 2008, APT gave a workshop on preventive monitoring for participants to better understand the role of NGOs in monitoring justice institutions regularly to ensure they are in compliance with international standards.

Presentation of project: Monitoring places of detention through regular independent inspections to prevent torture and violence:

APT provides advice and guidance to States on appropriate methods of monitoring detention centres. As part of this work, the organisation distinguishes between 'traditional' monitoring and 'preventive' detention monitoring. The former involves the identification of alleged cases of human rights violations against persons deprived of their liberty, wherein incidents are either reported or litigated and the victim is provided with assistance. The latter, preventive detention monitoring, provides a mechanism for scrutiny, analysis and dialogue, leading to clear recommendations to the authorities on how to improve conditions, treatment and administration.

According to APT [31] , monitoring can have several important functions, namely:

1. Prevention: the fact that someone from the outside regularly enters a place of detention in itself contributes to the protection of those held there.

2. Direct Protection: visits make it possible to react immediately to problems affecting the detainees which have not been dealt with by the officials in charge.

3. Documentation: During the visits, the material conditions of detention can be examined and their adequacy assessed; the information collected provides a basis for forming a judgement and documenting it and for justifying any corrective measures proposed.

4. Support to detainees: Direct contact with persons deprived of their liberty is, in itself, a form of moral support and an opportunity for them to express their views and experience.

5. Basis for dialogue with the detaining authorities: Visits make it possible to establish a direct dialogue with the authorities and officials in charge of the detention facility. This dialogue, provided it is founded on mutual respect, leads to the development of a constructive working relationship, in which the points of view of the officials about their working conditions and any problems they might identifiy can also be obtained.

A preventive approach uses all the information

30 The Association for the Prevention of Torture (APT) is an international non-governmental organisation (NGO), which envisions a world in which no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment. Internet: www.apt.ch

31 APT, Monitoring Places of Detention: A Practical Guide, p. 26.

III. Technical Assistance (Monitoring Detention)

Closed detention facility for children of failed asylum seekers in Brussels, Belgium.

gathered proactively, including specific cases, to identify the factors that give rise to - or fail to prevent - torture and other ill treatment. The entire
According to APT, preventive monitoring of places of detention should be understood as:

1. A process of regular and unannounced visits to places of detention

2. An activity undertaken by independent bodies

3. A method of analysing treatment, conditions and administration

4. A means for strengthening the prevention of torture, ill treatment and other human rights violations and to improve conditions

5. An opportunity for constructive dialogue with the authorities

Before, during and after a preventive monitoring visit, a range of issues are analysed which may be summarised according to the following categories [32]:

- Treatment
- Protection measures
- Material conditions
- Regime and activities
- Medical services
- Personnel

During a visit, the monitors discuss progress and setbacks with the director and the staff of the facility, examine the conditions of detention first hand, check written documentation and records and hold confidential conversations with the children held in the facility. All this information is triangulated in order to gain an accurate vision of the situation. Qualified medical officers should participate in

32 APT, Monitoring Places of Detention: A Practical Guide, Ch. IV

the monitoring in order to access medical records and assess the situation of the right to health and healthcare provision. [33]

After completing the visit, the monitors submit a report on their findings. In their reports, they evaluate the compliance of the detention facilities with international human rights standards and national law. They also draw on a professional expertise and best practices. This report is used as a basis for constructive dialogue with the authorities and includes recommendations to guide the authorities in complying with their obligations to respect and protect the rights of the young people deprived of their liberty. Monitors may also inform other stakeholders at national or international levels of their findings, including the media and the public. [34]

Conclusion / lessons learned:

Regular and independent monitoring of places where children are deprived of their liberty represents a fundamental means by which to assist the State in preventing and ending violence against children in detention.

APT published a report in July 2003 on lessons learned from visiting places of detention [35]. The main conclusions were:

- Independence of monitoring institutions is fundamental
- Well-defined working relationships must be cultivated to earn trust with authorities
- Visit preparation and planning is crucial. Preparation includes: ensuring sound knowledge of international standards, pre-selection of most appropriate team members, background knowledge of the institution, a meeting with the institution director, explanation of the mandate etc.

Strong collaboration amongst visiting bodies

NGOs and other civil society organisations that do not have the possibility to undertake monitoring themselves can become involved in advocacy activities such as:

- Encouraging National Human Rights Institutions and other organisations to monitor detention places for juveniles
- Advocating and lobbying their government for the ratification of the Optional Protocol to the United Nations Convention against Torture
- Ensuring that the mechanisms of the Optional Protocol also address the situation of children in detention.

Sources:

- APT, Monitoring Places of Detention: A Practical Guide
- World Report on Violence against Children (Chapter 5)
- DCI, minutes of the Conference on Ending Violence Against Children in Juvenile Justice Systems (report of the APT workshop).
-Additional suggestions by APT Detention Monitoring Programme

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33 Committee on the Rights of the Child, General Comment Nr. 10, Children's rights in Juvenile Justice; UN Rules for the Protection of Juveniles Deprived of their Liberty, 1990, Rule 72 – 73.

34 APT, Monitoring Places of Detention: A Practical Guide for NGOs

35 Visiting places of detention, Lessons learned and practices of selected domestic institutions, report on an expert seminar, Geneva, July 2003 http://www.apt.ch/component/option,com_docman/task,cat_view/gid,83/Itemid,59/lang,fr/ (accessed 23 April 2009)

IV. Technical Assistance (Supporting registration and collection of data)

Recommendation No. 10

A. Why do we need data collection?

Comprehensive, high quality information about juvenile justice systems, institutions and regimes is imperative if every child deprived of liberty is to be protected against violence. As the UN Study notes: "When government officials and the institutions making up the juvenile justice system do not have information either about the functioning of the system or the children who are in contact with it, abuse, violence and exploitation can occur with impunity, and the experience of the child is unlikely to be in his or her best interests". [36] However, data collection on the situation of children in conflict with the law remains a challenge for States who lack the human and financial resources required as well as adequate training.

All incidents of violence should be recorded by institutions holding children, e.g. police cells, courts, prisons, detention facilities and welfare institutions. This data should be reported to a central authority, collated, analysed and disseminated.

The Committee on the Rights of the Child frequently raises concerns about the lack of data collection in its concluding observations of States parties. In its General Comment No. 10 on Children's Rights in Juvenile Justice, the Committee "urges the States parties to systematically collect disaggregated data relevant to the information on the practice of the administration of juvenile justice, and necessary for the development, implementation and evaluation of policies and programmes aiming at the prevention and effective responses to juvenile delinquency in full accordance with the principles and provisions of CRC" . [37]

According to the Manual on the Measurement of Juvenile Justice Indicators [38] published by UNODC and UNICEF, the juvenile justice indicators are useful on a number of levels:

A global "baseline" definition

Firstly, the indicators offer a clear global definition of "baseline" information that every country should be able to produce. The availability of reliable and consistent information within and between countries is essential for planning and monitoring policies and programmes, national and global advocacy, and providing focus for the different actors involved. The use of standard indicators allows for a comparison of the situation across different countries.

Engagement of local actors

A national juvenile information collection process that leads to measurement of the indicators engages local institutions such as police stations, magistrates' courts and places of detention in information collection. This requires local level institutions to develop, collect and report information about individual children for whom they are responsible, contributes to the protection of those children by ensuring that they do not "slip through the net" and causes the institution to consider and review its treatment of the child. The reporting of information introduces a level of accountability to the information source.

36 United Nations Office on Drugs and Crime and UNICEF, "Manual for the Measurement of Juvenile Justice Indicators", Vienna and New York, 2007, p. 2

37 CRC/C/GC/10, para 98, p. 26

38 United Nations Office on Drugs and Crime and UNICEF, "Manual for the Measurement of Juvenile Justice Indicators", op.cit., p. 3.

IV. Technical Assistance (Supporting registration and collection of data)

Review of policy

Measurement of the indicators also enables the exercise of relevant policies to be assessed, both by local institutions and at the national level. The indicators may be used as a starting point for national assessment of how children in conflict with the law are dealt with, and for the identification of areas of improvement or reform. Where indicators are measured over time, the introduction of new laws, standards or policies may be monitored. In addition, the indicators are able to support States parties in adhering to international standards. In this respect, States parties to the United Nations Convention on the Rights of the Child are encouraged to use the indicators, where possible, in State party reporting to the UN Committee on the Rights of the Child.

B. What is recommended in the UN Study? How can civil society organisations follow-up?

Recommendation No. 10 of the chapter on violence in justice systems states that "Governments should ensure that all placements and movements of children between placements, including detention, are registered and centrally reported. Data on children in detention and residential care should be systematically collected and published. At a minimum, such data should be disaggregated by sex, age, disability and reasons for placement. All incidents of violence should be recorded and centrally reported. Information on violence against children should also be collected through confidential exit interviews with all children leaving such institutions, in order to measure progress in ending violence against children" .

[39] Civil society organisations can support their governments in developing data collection indicators and in using them to collect and analyse data about violence against children in justice systems.

C. Case example: "Better Data Collection on Violence Against Children in Conflict with the Law" (by Defence for Children International – The Netherlands)

Introduction:

Concerned by the lack of (statistical) data on violence against children in conflict with the law, and in particular children deprived of their liberty, DCI-The Netherlands, in collaboration with DCI-Belgium, DCI-France and the Howard League for Penal Reform (United Kingdom), carried out a one-year research project in Belgium, England and Wales, France and the Netherlands. The aim of the project was to develop a set of violence indicators to improve data collection and analysis across Europe. The resulting report "Violence against Children in Conflict with the Law: A Study on Indicators and Data Collection in Belgium, England and Wales, France and the Netherlands", was released in March 2008. The project was made possible with the financial support of the European Commission's Daphne II Programme to prevent and combat violence against children, young people and women and to protect victims and groups at risk.

Presentation of project / activity: "Violence against Children in Conflict with the Law: A study on indicators for better data collection in Europe"

In most European countries, more effective and more transparent data collection and publication in the area of juvenile justice are required. The centrally collected juvenile justice data which are made publicly available, e.g. juvenile justice statistics published

39 World Report on Violence against Children, op.cit, p. 10

IV. Technical Assistance (Supporting registration and collection of data)

by Ministries of Justice, either do not include or include very little specific data relating to violence. A fundamental aim of the research project was to develop a set of 'violence indicators' to improve data collection and analysis across Europe.

Twelve indicators were identified. [40] Eight of the indicators are quantitative:

- number of children in detention
- number of child deaths in detention
- self-harm
- sexual abuse
- separation from adults
- closed or solitary confinement
- contact with parents and family
- exit interviews

The other four are policy indicators:

- existence of regular independent inspections
- existence of complaints mechanisms
- limitation of physical restraint and use of force
- existence of specialised disciplinary measures and procedures. [41]

Six of the identified indicators replicated those found in the set of 15 juvenile justice indicators published by UNICEF and the UN Office on Drugs and Crime. [42]

Like the 15 juvenile justice indicators, the primary objective of the set of violence indicators is to offer a clear definition of 'baseline' information that every country should be able to produce and publish. The indicators are not designed to provide complete information on all possible aspects of violence against children deprived of their liberty in a particular country. Rather, they represent a basic dataset and comparative tool that offers a starting point for the assessment, evaluation, service and policy development. The availability of reliable and consistent information within and between countries is essential for planning and monitoring policies and programmes, national and global advocacy, and providing focus for the different actors involved. The use of standard indicators allows comparison of the situation in different countries.

The report presents the twelve indicators. It also describes the situation in the four countries on the following issues: the use of detention, imprisonment and other forms of deprivation of liberty; prevalence of violence; existing national standards on protection against violence; existing monitoring, inspection and complaints mechanisms; and the status of data collection by public authorities in the area of juvenile justice.

40 Please see next page for a more detailed presentation of the indicators.

41 Unicef and United Nations Office on Drugs and Crime, op.cit, 2007.

42 Definition: an "indicator" provides a common way of measuring and presenting information that reveals whether standards are being met.

IV. Technical Assistance (Supporting registration and collection of data)

The 12 Indicators on Violence against Children Deprived of Liberty

	INDICATOR	***DEFINITION***
	QUANTITATIVE INDICATORS	
1.)	Children in detention (I)	Number of children in detention per 100'000 child population
2.)	Child deaths in detention (II)	Number of child deaths in detention during a 12 month period, per 1'000 children detained
3.)	Self-harm	Percentage of children in detention who are victims of self-harm during a 12 month period
4.)	Sexual abuse	Percentage of children in detention who are victims of sexual abuse during a 12 month period
5.)	Separation from adults (III)	Percentage of children in detention not wholly separated from adults
6.)	Closed or solitary confinement	Percentage of children in detention who have experienced closed or solitary confinement at least once during a 12 month period
7.)	Contact with parents and family (IV)	Percentage of children in detention who have been visited by, or visited, parents, guardians or an adult family member in the last 3 months
8.)	Exit interviews	Percentage of children released from detention receiving confidential exit interviews by an independent authority
	POLICY INDICATORS	
9.)	Regular independent inspections (V)	- Existence of a system guaranteeing regular independent inspection of places of detention - Percentage of places of detention that have received an independent inspection visit in the last 12 months

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10.)	Complaints mechanisms (VI)	- Existence of complaints system for children in detention - Percentage of places of detention operating a complaints system
11.)	Limitations of physical restraint and use of force	- Existence of specialised standards and norms concerning recourse by personnel to physical restraint and use of force with respect to children deprived of liberty - Percentage of children in detention who have experienced the use of restraint or force by staff at least once during a 12 month period
12.)	Specialised disciplinary measures and procedures	- Existence of specialised standards and norms concerning disciplinary measures and procedures with respect to children deprived of liberty - Percentage of children in detention who have experienced a disciplinary measure at least once during a 12 month period

(I) Juvenile Justice Indicator No. 2; (II) Juvenile Justice Indicator No. 6; (III) Juvenile Justice Indicator No. 7; (IV) Juvenile Justice Indicator No. 8; (V) Juvenile Justice Indicator No. 12; (VI) Juvenile Justice Indicator No. 13

The study reveals an increase in repressive policies towards children in conflict with the law in all the four countries, including rising numbers of children in detention, and the prevalence of violence in justice institutions. The study concludes that children in detention are at particular risk of violence from staff or peers, and self-harm. Children in police custody are at heightened risk of violence, for example, during arrest, interrogation, or while being held in police cells.

The Study is available online under http://ecpat.nl/images/20/444.pdf

IV. Technical Assistance (Supporting registration and collection of data)

Conclusion / lessons learned

DCI- The Netherlands identified a number of lessons learned from the project.

On conducting research about violence against children in conflict with the law:

- The UNICEF/UNODC juvenile justice indicators can be used in all countries as a starting point for national assessment of how children in conflict with the law are dealt with, and for the identification of areas for improvement or reform.
- The data collection in countries varies drastically worldwide – i.e.: some countries have no data collection at all, whereas others have advanced systems which simply fail to account for certain indicators of violence. Similarly, some countries may have reliable juvenile justice statistics already available, whereas other countries may be starting from the beginning (and NGOs may in fact have more data than the State itself).
- Joint comparative research projects between countries in one region can be useful as they allow for comparison across a more unified standard and can be successful lobby instruments, particularly because they show how a certain country is faring compared to others in similar contexts.
- Interviewing children in youth custodial institutions is an important part of conducting research on the subject of children in conflict with the law. In The Netherlands it is possible to get permission to interview children in closed centres; however, in other European countries, it is sometimes a lengthy and difficult process to obtain permission to enter a prison with the purpose of interviewing children. In such cases, interviewing released children can be an alternative.

On enhancing the reception of the results of research:

- DCI national sections in the study emphasised the importance of conducting research for evidence based advocacy and lobby.
- The research results were disseminated in all countries, and internationally. The report was not only distributed. For example, DCI-Netherlands held meetings with prison officials and members of parliament, and worked closely with the media.
- Consider closely which donors to approach to fund the project. For example, DCI national sections found it helpful to be funded by the European Commission because it gave their project more backing and the results were received more positively and taken more seriously than had it been funded only by a single country donor.

DCI's research study on violence against children in conflict with the law identified gaps in children's protection from violence. Combined with consistent lobbying efforts, the study was useful in bringing about commitments from some of the governments involved to improve their data collection about violence. For example, in the Netherlands, prison authorities have agreed to develop additional indicators for violence as a result of the study's conclusions and to regularly publish the resulting data. And the high number of children in detention and the need to reduce the use of detention of children is now an item high on the political agenda.

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V. Technical Assistance (Providing legal and administrative support to governments)

Recommendations No. 14 and 15

A. Why do some governments need legal and administrative support?

The absence of legislation conforming to standards in juvenile justice is the main reason for violence in the justice system to continue. Due to a chronic lack of resources and training in violence prevention, the living conditions in rehabilitation facilities and juvenile detention centres are often unacceptable, leaving the door open to violence and abuses in the justice system.
Some governments lack the resources or expertise within their Ministries to ensure that legislation meets international standards in juvenile justice and responds to the UN Study's recommendations for ending violence against children. While States are ultimately responsible for providing these rights to children, they may seek support and expertise from civil society organisations working in this area – especially in responding to the time-bound recommendations of the Study to prohibit violence within national legislation.

B. What is recommended in the Study? How can civil society organisations follo-up?

The Study shows the need for a "legislative basis to deal with children in care and detention, which is an essential part of eliminating violence against children in institutions and other forms of alternative care." [43] Recommendation no.15 of the 5th chapter invites governments to establish special justice systems for children:"governments should ensure that juvenile justice systems for all children up to age 18 are comprehensive, child-focused, and have rehabilitation and social reintegration as their paramount aims. Such systems should adhere to international standards, ensuring children's right to due process, legal counsel, access to family, and the resolution of cases as quickly as possible" [44].

NGOs can provide legal expertise to governments (for instance by putting their lawyers and specialists at the service of the authorities), for the development of comprehensive legislations which reflect international child rights and juvenile justice standards and guidelines.

C. Case example: Support in justice system reform in Mauritania (by Terre des hommes - Tdh)

Introduction:

The foundation Terre des hommes – aide à l'enfance (Tdh) has been working in Mauritania since 1998, providing legal assistance to children in conflict with the law and their families. [45]

When the Mauritanian government decided to begin drafting a new Juvenile Penal Code in 2003, Tdh was invited to take part in the steering committee

43 World Report on Violence against Children, op. cit, p. 204

44 idem, p. 219

45 The Juvenile Justice program is characterised by direct intervention and focuses on three levels (direct legal assistance to children in conflict with the law and their rehabilitation; support to institutions responsible for taking charge of minors and trainings on juvenile justice for stakeholders and professionals; awareness-raising work with the Mauritanian civil society).

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for the reform of the juvenile justice system. [46] Tdh also participated in the efforts to advocate for the adoption of the Code, which took place in 2005 . [47]

The New Penal Code for the Protection of Children

-Ordinance no 2005 015 of December 5th 2005, carrying the Juvenile Penal Code, harmonises national legislation with the Convention on the Rights of the Child. The second periodic report submitted by the government of Mauritania to its review by the Committee on the Rights of the Child in November 2007 (which still remains to be examined by the Committee) offers precise information with regard to the content and new provisions of the Code [48]:

- The Code guarantees children the right to: the presumption of innocence; information; limited periods of detention (24 hours, renewable 1 time); a thorough investigation of the charges; assisted testimony (with the presence of a social worker, lawyer or tutor); the consideration of alternatives to detention; the assistance of lawyer and the respect for privacy.
- This new Code establishes a sanctioning hierarchy for minors, distinguishing between 3 age categories: 0-7 (the child cannot be charged); 7-15 (the child in conflict with the law can be sentenced to protection measures); 15-18 (the child can be sentenced in the penal system; however the sanction can only represent half of the sentence for adults).
- The Code provides for alternative measures to detention including mediation (at the police level or with the prosecutor or court), the placement of the children within the family; the placement of a child within the care of a child rights NGO; or the placement of the child in a semi-open facility.

Project presentation: The Role of Terre des hommes in the establishment of a new Penal Code:

The juvenile justice situation in Mauritania before the adoption of the Penal Code

The initial report of Mauritania, presented to the Committee on the Rights of the Child in 2001 , indicated that the penal code procedure of 1983 did not distinguish different treatments for adults and children in conflict with the law, but that special courts for children had been established to address this gap. In its concluding observations [49], the Committee expressed concern about the lack of special treatment for children and about the insufficient budget allocated to juvenile justice. The Committee also noted that judges were not well-informed about alternatives to detention, diversionary measures and other procedures aimed at dealing with the child outside of penal procedures.

The Mauritanian delegation of Tdh was equally concerned by the problems in the justice system, in particular the length and conditions of detention: problems which were equally worrying in both pretrial detention and detention after sentencing. They were also concerned by the laxity of the judicial system and the arbitrary nature of some judicial proceedings which exposed children to violence [50].

46 This committee was composed of a representative of the Government of Mauritania, prosecutors of the Republic, directors of detention centres, high magistrates, UNICEF and an women's and children's rights NGO.

47 Ordinance No. 2005-015 on Penal Child Protection, adopted by the Council of Ministers on 5 October 2005

48 Source of information: CRC/C/MRT/2 Second periodic report of Mauritania, 26 November 2007, paragraph 222-226, p. 53-54.

49 CRC/C/15/Add.159, p. 13

50 Programme Terre des Hommes Mauritania, Strategic Plan 2000-2004 (internal document), p. 1

V. Technical Assistance (Providing legal and administrative support to governments)

Support of Tdh in the judicial reform

Convinced that advancements in the justice system had reached an impasse, Tdh accepted to support the Mauritanian government in developing a new legislation. In a communication to the authorities in September 2005 they noted: "juvenile justice in Mauritania should be developed on a legal basis, translated into actions by the adoption of clear and pertinent texts and the employment of qualified staff. This will allow for harmonisation between national and international laws and will assure the longevity of its impact, not only with the intervening forces in juvenile justice but also with the rest of the Mauritanian population" [51].

Within this framework, Tdh and its lawyers participated in ensuring the conformity of the new Code to international standards in juvenile justice and advocated for the adoption of the legislation by parliament.

Since 2007, Tdh and the Ministry of Justice have worked with magistrates in the juvenile justice system to write, translate and ensure the validity of a decree on alternative measures. The decree was ratified by the government in January 2009.

In the future, Tdh envisions continuing its support to the Mauritanian government in the application of new legislations that will give the country a "legislative arsenal" to protect children from all forms of violence. This would include:

- trainings on alternative measures
- capacity building of institutions dealing with children
- implementations of alternative measures
- decentralisation of institutions in charge of children in Nouadhibou and Rosso
- development of a database for the Ministry of Justice (already elaborated by Tdh)

Conclusion / Lessons learned:

The constant presence and intervention of Tdh in Mauritania since the 1980s in favour of children in conflict with the law has allowed the organisation to become a privileged and trustworthy representative vis-a-vis the Mauritanian authorities. The government therefore does not hesitate to go to Tdh for their expertise in the field of legislative reform in juvenile justice.

This knowledge in judicial reform was deepened by an understanding of the specific context of the country, including its judicial system and its actors. In addition, the organisation's proximity to the children involved allowed it to play a major role in the creation of a complete legislation, in line with international standards on juvenile justice and in keeping with the recommendations of the UN Study.

Tdh also recognises that the project could not have been undertaken without the collaboration of other members of civil society, which gave the project a stronger impact, credibility and base of support.

Despite the presence of a new Penal Code, the elimination of abuse and violence in places of detention is far from attained. As a result, Tdh has not stopped its work with the adoption of the Code; rather it recognises the importance of continued lobbying for the implementation of the new legislation and monitoring of its outcomes. Using the new legislation, Tdh can better target its lobbying efforts to raise awareness about the new Code and its application in Mauritania: "the Code repeals a system of repression and replaces it with one privileging reinsertion and re-education. It differentiates between the responsibilities of children and the responsibilities of adults and defines special sanctioning adapted to children. In contrast to previous years, where Tdh

51 Terre des Hommes Mauritania, "Report for the authorities of the Islamic Republic of Mauritania, Terre des Hommes' Legal Assistance Project (1998-2005) for children in conflict with the law – Advocacy for the adoption of the Juvenile Penal Code", September 2005, p.1.

V. Technical Assistance (Providing legal and administrative support to governments)

was forced to work in a juridical framework that was not adapted to children, their interventions will now be able to support the government in ensuring that the Code is known, understood and integrated into the work of all actors in the justice system" [52].

Sources :

- CRC/C/8/Add.42 Initial report of Mauritania for the Committee on the Rights of the Child, 2001
- CRC/C/15/Add.159 Concluding Observations of the Committee on the Rights of the Child: Mauritania, 2001
- CRC/C/MRT/2 Second periodic report of Mauritania, 26 November 2007
- UN Study on Violence against Children, 2007
- Terre des Hommes : Programme of Terre des Hommes Mauritania : Strategic Plan 2000-2004 (internal document),
- Terre des Hommes, Mauritania Strategic Plan MCL 2006-2008: Promotion and Legal Assistance Project for Children in Conflict with the Law (internal document)
- Terre des Hommes Mauritania, « Report for the authorities of the Islamic Republic of Mauritania, Terre des Hommes Legal Assistance Project (1998-2005) for children in conflict with the law – Advocacy for the adoption of the Juvenile Penal Code", September 2005

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52 Terre des Hommes, Mauritania Strategic Plan MCL 2006-2008: Promotion and Legal Assistance Project for Children in Conflict with the Law (internal document)

VI. Reporting Violence

Recommendation No. 7

A. Why do we need to report acts of violence?

Reporting violations of children's rights is a crucial step in halting the cycle of violence, combating impunity and bringing justice to victims.

Violence can be inflicted upon a child during custody of police and security forces or while in institutional care. In many countries, police officers routinely use violence, including torture, to extract information and confessions from children and to threaten them. In some detention centres staff members resort to violence as a form of control or punishment, even for minor infractions. Other detainees, adults or children also inflict violence upon (other) children. The existence of protocols to respond to violence in a firm and clear way is therefore extremely important.

Children often lack access to methods of recourse to report incidences of violence. Civil society organisations are thus well placed to identify, report and denounce cases of violence, in partnership with children.

B. What is recommended in the Study? How can civil society organisations follow-up?

Recommendation No. 7 of the World Report on Violence against Children addresses the need for effective complaints, investigation and enforcement mechanisms: "Children should have simple, accessible and safe opportunities to raise concerns and complain about the way they are treated without the risk of reprisals, and have access to the courts when necessary. All allegations of violence must be investigated thoroughly and promptly, safeguarding "whistleblowers" from reprisals".

NGOs can contact governments, embassies and other organisations to report cases of violence and urge those bodies to take action on violations of children's rights. Civil society may intervene to report violence at the local, national, regional or international level depending on the case. In so doing, they can make sure States are held accountable for upholding children's rights and are pressured to take action to remedy abuses.

C. Case example: Monitoring and Reporting Cases of Violations through "urgent appeals" (by the World Organisation Against Torture – OMCT)

Introduction:

As a means of mobilising support to denounce torture at the international level, the World Organisation Against Torture (OMCT) has developed an "NGO Urgent Appeals" alert system.

Urgent appeals are particularly relevant means of action in case of serious violations infringing the security, the dignity and the integrity of the individuals – such as those violations against children in conflict with the law.

Based on information from its wide network of local actors, OMCT issues regular urgent appeals to alert the international community to human rights violations and urge action. Many of these cases involve violations of children's rights, and torture and abuse of children in justice systems specifically. Since the start of its child rights activities in 1991, OMCT has

diffused 380 urgent appeals on child rights violations.

Presentation of project: OMCT's experience with urgent appeals:

All OMCT urgent appeals involve denunciation of a grave violation (or the risk of violation) of human rights such as torture and ill-treatment, arbitrary and incommunicado detention and extrajudicial killing. They pursue several objectives simultaneously: to respond as quickly as possible to reports of grave violations of human rights, to protect victims, to act in anticipation for prevention when possible, to exert pressure on governments to respect international human rights and norms and to prosecute the alleged authors of the violations.

Information on the violation must come from a reliable source that has direct contact with the victim or his/her representative and is able to verify the facts. Such sources are usually local or national NGOs and associations from the OMCT/SOS-Torture network. National NGOs can issue their own urgent appeals without going though international human rights NGOs like the OMCT, Amnesty International, etc.

Urgent appeals are presented to the relevant authorities (those who can take decisions in reaction to the urgent appeal) of the country in which the violations occurred.

Urgent appeals are usually also sent to recipients all over the world (interested individuals, groups and organisations) who accept to further disseminate the appeal in the form of a letter to the authorities in the country where the violation has occurred or to their own network. The purpose is to show international concern over the case, which can put pressure on the country in question.

Urgent appeals can also serve as a major source of information for other international monitoring and complaint mechanisms such as the UN Special Procedures. [53]

Three main elements of information are usually contained in each appeal: the identity of the alleged victim; the circumstances surrounding the violation, including information on the perpetrator(s); and remedial actions. More specifically, an urgent appeal should include the following elements:

- identification of the person/organisation submitting the information, unless there are risks for his/her security.
- identity of the alleged victim(s), sex, age (particularly relevant when the victim is under 18), place of residence or origin (or details on the group/community involved). Identity revealing details must be protected when the child is a minor and consent must be obtained.
- date and place of the incident.
- detailed description of the circumstances of the incident in which the alleged violation occurred helps to qualify the act as a violation of human rights.
- identification of the alleged perpetrator(s), including name(s), title(s), functions(s) and suspected motive.
- indications as to whether or not steps have been taken (by the victim's representative

The information should be as objective and neutral as possible and should not contain any political statements.

The urgent appeal may also contain a series of appropriate requests or recommendations calling on the State to stop violence if an action is continuing,

53 "Special procedures" is the general name given to the mechanisms established by the Commission on Human Rights and assumed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. Currently, there are 30 thematic and 8 country mandates.

to prevent violence if it is about to start, to ensure that the victim(s) have access to redress and remedy and to prosecute and punish those responsible after an impartial procedure.

Conclusions / lessons learned: Conditions of Success for Urgent Appeals:

According to OMCT, there are key factors that work towards making an urgent appeal a successful means of action:

- Speedy response is very important, especially when the violence has already occurred and continues or the victim remains in a situation where there are risks of further violations.
- International solidarity creates pressure. Letters from many individuals and organisations or groups of organisations to the authorities increase the chances of action.
- Local action is important (where it is safe to speak out, and there is no risk of reprisal).
- Follow-up is important to keep scrutiny over the case and to get information each time there is a new development – positive or negative.
- The political openness of the responsible country (or its degree of sensitivity to the international community's opinion) also plays a significant role. Indeed, there is a greater chance of the case being solved or at least to see the authorities take some action to stop or prevent the violence if they are concerned by the international community's opinion.

See Annex p.64 for an example of an urgent appeal, issued by OMCT, which was successful in changing the situation of a case involving child victims.

Sources:

- OMCT, Compilation of some "Happy End Cases" (internal document)
- OMCT, Presentation during DCI's International Conference and Training in Brussels, October 2008 (notes of OMCT's representative and conference minutes)

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VII. Providing (direct) legal support to children in conflict with the law

A. Why is there a need to provide legal support to children?

Despite the existence of the Convention on the Rights of the Child, guaranteeing to all children in conflict with the law the right to legal assistance and the support of trained and specialised professionals, many children end up alone and lost in the justice systems without any kind of support or consideration of their young age when it comes to trial and sentencing. Whether as offenders, as witnesses or victims, children need to have advocates to help them seek justice for the violence committed against them and to ensure their rights are upheld by the State.

B. What is recommended in the Study? How can civil society organisations follow-up?

The World Report's Chapter on ending violence in justice systems does not have a specific recommendation on the need to provide support to children in conflict with the law. However, the importance of providing assistance to children is mentioned in the Study's overarching recommendations (see footnote number 12).
NGOs can appoint lawyers to provide legal support to children in conflict with the law before, during and after trial. They can ensure that the child's best interests are taken into account and that their rights are upheld throughout the justice process.

C. Example: Providing Legal Support to Palestinian Children in Conflict with Israeli Military Law.

Introduction:
DCI-Palestine has been providing legal support to Palestinian children detained in Israeli prisons for 17 years. Two full-time lawyers regularly appear on behalf of Palestinian children in the Israeli Military Courts and conduct regular prison visits, during which they take detailed statements from the children.

During 2008 some 600-700 Palestinian children (under 18 years of age) were arrested by Israeli soldiers in the West Bank [54]. Of these, around 14 children were held on administrative detention orders [55], subjected to imprisonment without charge or trial.

Palestinian child prisoners routinely face violations of their human rights during arrest, interrogation and imprisonment. They are often exposed to physical and psychological abuse, amounting to cruel, inhuman and degrading treatment, and sometimes torture. They are denied prompt access to a lawyer and are rarely allowed contact with their families and the outside world whilst awaiting sentencing. They face substandard, often inhumane conditions of detention, both in the facilities where they are initially held and interrogated and in those where they await trial and serve their sentence. Moreover, they are frequently denied access to proper medical care and to proper education services. In many cases, the arrest, interrogation and imprisonment experience has psychological effects that extend far beyond the period of detention. Guided by the definition of torture and degrading treatment contained in Article 1 of the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment

54 Palestinian Child Detainees Report 2007, p. 5.

55 Administrative detention is a procedure by which a person is detained without charge or trial. This form of detention is an instrument of the executive (or military) branch as opposed to the judicial branch of government.

VII. Providing (direct) legal support to children in conflict with the law

or Punishment (CAT) [56], DCI-Palestine estimates that approximately 95% of the Palestinian children who are arrested and interrogated are mistreated, and in some cases tortured, in violation of the Convention.

Presentation of project / activity: DCI-Palestine Legal Support Unit:

Throughout 2008, DCI-Palestine acted on behalf of 265 Palestinian children that appeared before the Israeli Military Courts. This group accounts for approximately 30% of all Palestinian children charged with an offence by the Israeli forces. In 2008, DCI-Palestine acted for 10 children who were held without charge or trial in administrative detention.

In the overwhelming majority of cases brought before the Israeli Military Courts, the child is kept in detention until the conclusion of the proceedings.

DCI-Palestine's lawyers receive information about the cases directly from the children's families, or from other human rights organisations in Palestine.

Once the information is received, the lawyers try to conduct a visit as soon as possible. Nine times out of ten, however, the lawyers are only able to see the child for the first time when he or she appears in court, as the procedure to get permission to visit children in detention or interrogation centres usually takes 3 to 5 days. Unfortunately, this means that children do not have any legal support during the interrogation phase where most sign a confession, sometimes in Hebrew, a language they do not understand.

Four out of the five prisons where Palestinian children are detained are inside Israel, in violation of Article 76 of the Fourth Geneva Convention which provides that 'protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein.' The practical consequence of this is that Palestinian lawyers cannot meet with the children in Israeli prisons as they cannot travel to Israel without special permits which are difficult to obtain. Further, as many as 30% of Palestinian child detainees to do not receive family visits as their family members are denied permits on the grounds of 'security'.

There is a concern among lawyers who appear in the Israeli Military Courts that those they represent will receive harsher punishments if they challenge the charges against them. Accordingly, the overwhelming majority of cases (estimated to be around 95%) are finalised by way of plea bargain, rather than challenging the charge through a full evidentiary hearing where witnesses are examined. Lawyers take each decision on a case by case basis, keeping the best interests of the child at the forefront and trying to ease the stresses of the court process.

An example of how a case was followed by DCI-Palestine's Legal Unit can be found in the annex.

Conclusion / lessons learned:

Though the conditions of work are never easy and many obstacles stand in the way of justice, DCI-Palestine plays a very important role in giving children a voice in a region where the fundamental right to legal support is often ignored.

56 This article reads as follows: "For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

VII. Providing (direct) legal support to children in conflict with the law

Children in Palestine are holding a demonstration against violence.

The Palestinian context is quite particular, and some methods of DCI's work have been adapted to fit the challenges which apply uniquely to the situation in the Occupied Palestinian Territories. That being said, the DCI-Palestine example shows the important position of NGOs in providing legal assistance to children, amidst a myriad of challenges, despite the absence of support or transparency from the government.

DCI-Palestine lawyers are continuously adapting their strategies to fit the current political situation. One concept tested was to cease the process of plea bargaining, with the intention of promoting the child's right to a fair trial. In ceasing to bargain, lawyers aimed to overload the military court system with cases, and thereby forcing the military to arrest less children because of an inability to process so many child cases in the system. This strategy was changed however, as children continued to be arrested at high rates, without being tried, and they often received harsher penalties for challenging the system. These lessons were important in adopting programmes that serve the best interest of the child.

The experiences of DCI-Palestine in counselling children whom they represent are also transferable to other contexts. In countries were social workers are not included as actors in the justice system, the lawyer may be asked to play a dual role of both socially supporting and advocating on behalf of a children. In particular, DCI-Palestine lawyers work to reassure the children who are lost and afraid of their situa-

tion. As one member of DCI's legal unit noted: "As a lawyer you have to play the role of the father and mother, social worker, family friend and at the end as a lawyer".

Sources:

- DCI-Palestine, Palestinian Child Prisoners: The Systematic and Institutionalised Ill-treatment and Torture of Palestinian Children by Israeli Authorities (http://www.dci-pal.org/english/publ/research/CPReport.pdf)
- DCI-Palestine, 2007 Palestinian Child Detainees Report (http://www.dci-pal.org/english/publ/research/2008/PCPReport.pdf)
- Further discussion with DCI-Palestine Legal Unit

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CONCLUSIONS

This report has explored the specific role of civil society organisations in following-up the recommendations of the UN Study on Violence against Children. While the UN Study targets its recommendations towards States (the primary duty bearers in preventing violence), NGOs are in a position to support the actions taken to respond to these recommendations and hold States accountable.

This report uses eight case examples from civil society organisations to illustrate eight different strategies or activities for follow-up intervention, namely, conducting advocacy; providing technical assistance to governments in the form of awareness raising and training, monitoring detention and insisting on adequate, sex disaggregated data collection and registration; providing legal and administrative report; and finally, providing legal support to children in conflict with the law.

The case studies presented in this report intended to analyse and provide examples of strategies in practice to provide guidance to NGOs wishing to undertake similar follow-up actions. While they are categorised separately for ease of reading, many strategies overlap and sustain one another – in fact, these strategies are most effective when conducted jointly as part of a multi-faceted follow-up campaign.

Recommendations and open questions:

1. More coordination and monitoring of follow-up by civil society organisations is needed:

While there were many collaborative efforts by civil society in contributing to the preparation of the UN Study, there have been less systematic efforts to follow-up on the outcomes and recommendations. The DCI conference on ending violence in justice system attempted to set the stage for this and to encourage civil society representatives to engage in the follow-up; however, the collaboration thus started must now be sustained. This report is an attempt to strengthen this process.

Some of the projects, activities and programmes presented as case examples in this report were not specifically developed as follow-up to the Study's recommendations per se . [57] In some cases, activities had already begun before the release of the Study, and were adapted to fit with its recommendations. This must be acknowledged, as it affects the ability to monitor and evaluate its impact on the implementation of the Study's recommendations. It also suggests the need for civil society organisations to integrate the recommendations of the UN Study into the framework of their projects from the beginning and to coordinate with one another as to how to the different issues to be addressed.
There is still ample room for the community of civil society organisations active in justice for children issues for better coordination and collective monitoring of the follow-up to the Study.

This could be achieved by a better dissemination and coordination of follow-up activities and a sharing of results.

The creation of a "virtual community" - "Friends of the Special Representative on Violence Against Children" - composed of organisations contributing to the follow-up to the Study would ensure a better monitoring of follow-up initiatives undertaken by civil society organisations. It would ensure the information flow between organisations active in a specific setting and could encourage further collaboration and complementarity, at the international and also national levels. This community would collaborate in an efficient and coordinated manner

57 Organisations that run programs on issues related to violence against children (in any setting, including justice systems) usually refer to the Convention on the Rights of the Child (CRC) rather than to the Study. This is understandable, as the Convention is a binding instrument for States parties and, therefore, referring to it is more powerful in terms of advocacy.

with the newly appointed Special Representative of the Secretary General On Violence against Children, Ms. Marta Santos País. It is our hope that all stakeholders will collaborate with her to ensure a more systematic follow-up to the study and put all violence against children to an end, whether through this virtual community or individually.

2. Child participation in the follow-up to the UN Study

There remains a need to directly involve children and young people in the activities and programmes of civil society organisations who are following up to the Study. The importance of actively engaging with children is put forward in the Study's overarching recommendation No. 7: "I recommend that States actively engage with children and respect their views in all aspects of prevention, response and monitoring of violence against them, taking into account article 12 of the Convention on the Rights of the Child. (…)." [58] The importance of listening to the voices of children and their families is also mentioned in the introductory paragraph to the recommendations on care and justice institutions (see below).

Children have the right to participate in all decisions affecting them: this includes situations where they have infringed the law. While some of the case studies presented involved the participation of children, they were not elaborated on specifically in this report. Child participation is particularly challenging when dealing with justice issues and this is an area in need of further exploration to determine the most ethical means with which to engage children. We also need to explore further what is the most effective way, that is, in the best interest of the child and at the same time respectful of his or her dignity.

DCI has already begun researching this question and encourages broader debate amongst civil society and the international community on strategies for addressing it.

58 World Report on Violence against Children, p. 20

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ANNEXES

I. GENERAL ANNEXES

ANNEX 1: Programme of the DCI International Conference and Training (Brussels, Belgium, 1-3 October 2008)

DEFENSA DE NIÑAS Y NIÑOS INTERNACIONAL DNI
DEFENSE DES ENFANTS INTERNATIONAL DEI
DEFENCE FOR CHILDREN INTERNATIONAL DCI

DCI International Conference - Training
Ending Violence against Children in Juvenile Justice Systems: From Words to Action

Brussels, October 1-3, 2008

Maison Notre-Dame du Chant d'Oiseau
Avenue des Franciscains, 3a
1150 Bruxelles

DAY 1: Wednesday October 1, 2008
"Understanding the Causes and Forms of Violence against Children in Justice Systems"

08:30 – 09:30 Registration
09:30 – 10:10 OPENING CEREMONY

Ms. Virginia Murillo Herrera
President of the Conference, Vice-president of DCI-Americas Region

Newly elected President of Defence for Children International

Mr. Benoit Van Keirsbilck
Director, DCI-Belgium – Conference Host
Mr. Yves Willemot
Director, UNICEF Belgium

10:10 – 12:45 PLENARY 1: Violence against Children in Juvenile Justice Systems: Causes and Current Trends
10:10 – 10:50 Mr. Paulo Sérgio Pinheiro
Independent Expert, UN Study on Violence Against Children
« Causes and sources of violence and recommendations of the UN Study to end violence against children in juvenile justice systems»

Questions and Discussion

10:50 – 11:20 Coffee Break
11:20 – 11:50 Mr. Thierry Moreau
Professor, 'Université de Louvain (U.C.L.), lawyer and co-director of the Centre interdisciplinaire des droits de l'enfant
« Current trends in juvenile justice: at the heart of a paradox »
11:50 – 12:20 Ms. Frances Crook, Howard League for Penal Reform
"Institutional violence against children in juvenile justice"
12:20 – 12:45 Open Discussion
12:45 – 14:15 Lunch
14:15 – 16:00 PLENARY 2:

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The Regional Context of Violence against Children in Juvenile Justice Systems
14:15 – 14:30 Rose Marie Acha
DCI-Bolivia
"The Latin American Context"
14:30 – 14:45 Mr. Ananda Seneviratne
DCI-Sri Lanka
"The Asian Context"
14:45 – 15:00 Mr. Jean Luc Rongé
DCI-France
"The European Context"
15:00 – 15:15 Mr. Innocent Garakumbe
DCI-Uganda
"The African Context"
15:15 – 16:00 Presentation by the Youth Jury of the Belgian "Opinion Tribunal"
Open discussion with youth jury and Prof. Paulo Pinheiro
16:00 – 16:30 Coffee break
16:30 – 18:00 Regional Discussion Groups

Latin American discussion - Spanish / French
Asian discussion – English / Spanish
European discussion – English / French / Spanish
African discussion – French / English

DAY 2: Thursday October 2nd, 2008

"From Findings to Solutions"

09:00 – 10:30 PLENARY 3: International Initiatives to Combat Violence
09:00 – 09:20 Ms. Virginia Murillo Herrera
Member of NGO Advisory Council for Follow-up to the UN Study
"Follow-up activities of the NGO Advisory Council"
09:20 – 09:40 Mr. Marc Nève
European Committee on the Prevention of Torture
"The efficacy of monitoring mechanisms designed to prevent violence"
09:40 – 10:00 Ms. Margaret Wachenfeld
UNICEF Belgium
"Juvenile Justice Indicators"
10:00 – 10:30 Open Discussion
10:30 – 11:00 Coffee Break
11:00 – 12:30 Parallel Workshops

Workshop 1: Preventative Monitoring in Juvenile Detention Centres (Ms. Esther Schaufelberger, Association for the Prevention of Torture)

English / French / Spanish

Workshop 2: Urgent Appeals and Individual Complaints Mechanisms to combat violence against children (Ms. Cécile Trochu-Grasso, OMCT)

English / Spanish

Workshop 3: UN Guidelines on Child Victims and Witnesses (Ms. Nadja Pollaert, International Bureau for Children's Rights)

English / French

Research Discussion: Research approaches to end violence in justice systems (Ms. Isabelle Ravier, INCC, CIDE and UCL and Ben Heylen, researcher, INCC)

French / Spanish

12:30 – 14:00 Lunch
14:00 – 15:30 PLENARY 4: Action to Combat Violence against Children in Juvenile Justice Systems
14:00 – 14:20 Mr. André Dunant
International Association of Youth and Family Judges and Magistrates
"Using alternatives to detention: a judge's perspective"
14:20 – 14:40 Mr. George Abu Al-Zulof
DCI-Palestine
"Combating violence against children within systems of institutionalised discrimination: The Palestinian experience"
14:40 – 15:00 Ms. Sharon Detrick
DCI-The Netherlands
"Lessons from the DCI No Kids Behind Bars Campaign"
15:00 – 15:30 Open Discussion
15:30 – 16:00 Coffee Break
16:00 – 17:30 Parallel Workshops

Workshop 1: International Legal Assistance for Children in Conflict with the Law (Jean-Vincent Couck, Lawyer and researcher at the Centre Interdisciplinaire des Droits de l'Enfant)

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French / Spanish

Workshop 2: National Lobby and Advocacy on Juvenile Justice (Abdul Kemokai, DCI-Sierra Leone)

English / French / Spanish

Workshop 3: Best practices in diversion and alternatives to deprivation of liberty (Alison Hannah and André Dunant, Interagency Panel on Juvenile Justice)

English / French

Workshop 4: The minimum age of criminal responsibility (Hugo Morales Córdova, Pontifical Catholic University of Peru; and Soizig Gourivaux, UCL)

French / Spanish

17:30 - 18:00 Closing Remarks

18:00 - Closing drink

DAY 3: Friday October 3rd, 2008
TRAINING WORKSHOPS

"Advocacy and Lobby on Juvenile Justice: Strengthening the Capacity of Civil Society"

09:30 – 12:30 Parallel Training Workshops

Training 1: Working with Children and Adolescents to Advocate Against Violence (Virginia Murillo Herrera, DCI VP of the Americas)

Spanish / French

Training 2: Follow-up to CRC General Comment No.10 on Children's Rights in Juvenile Justice (Anna Volz, DCI International Secretariat)

English / French

Training 3: Urgent Appeals and Individual Complaints Mechanisms (Cécile Trochu-Grasso, OMCT; Benoit Van Keirsbilck, DCI)

French / English

Training 4: Research and Data Collection on Juvenile Justice (Sharon Detrick, DCI-Netherlands)

English / Spanish

12:30 – 14:00 Lunch

14:00 – 17:00 Parallel Training Workshops

Training 1: Working with Children and Adolescents to Advocate Against Violence (Virginia Murillo Herrera, DCI Vice-President of the Americas)

Spanish / French

Training 2: Follow-up to CRC General Comment No.10 on Children's Rights in Juvenile Justice (Anna Volz, DCI International Secretariat)

English / French

Training 3: Urgent Appeals and Individual Complaints Mechanisms (Cécile Trochu-Grasso, OMCT; Benoit Van Keirsbilck, DCI)

French / English

Training 4: Research and Data Collection on Juvenile Justice (Sharon Detrick, DCI-Netherlands)
English / Spanish
In the period July 2007-October 2008, the following activities/initiatives have been undertaken by the OHCHR in the framework of the follow-up to the Study.

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ANNEX 2: Office of the High Commissioner for Human Rights (OHCHR) - Focal point on violence against children: Follow-up Strategy and Activities

In the period July 2007-October 2008, the following activities/initiatives have been undertaken by the OHCHR in the framework of the follow-up to the Study.

Follow-up strategy

A follow-up strategy was developed and posted on the web-site. The strategy builds on OHCHR's mandate and programme, as detailed in the Strategic Management Plan, as they address several aspects related to the eradication of violence against children. Building the Study recommendations into OHCHR's activities so as to ensure a sharpened focus on violence against children is the main objective of the strategy.

Cooperation and coordination with partners

OHCHR has actively participated in meetings of the inter-agency group on violence against children, exchanging extensive information on OHCHR's activities and programmes and providing inputs and advice on issues such as: the content and structure of reports; the establishment of the Special Representative of the Secretary-General on Violence against Children (SRSGVAC); the terms of reference of the group; etc.

OHCHR has also regularly participated in meetings of the Sub-Group on violence against children of the NGO Group for the CRC. In this context OHCHR has shared information on relevant upcoming activities and events (including for example UPR sessions), promoting NGOs involvement and cooperation, and has discussed follow-up strategies.

OHCHR has participated in the annual meeting of the inter-agency panel on juvenile justice, providing information on OHCHR's activities. Internally, a discussion was initiated to ensure greater participation of OHCHR in the Panel and an agreement was reached for the payment of the membership fee to support the panel secretariat.

OHCHR has actively participated in partners' initiatives, including the UNICEF/WHO initiative on indicators on violence against children, the NGO group initiative for the development of guidelines, the ITU initiative on child protection on-line, etc. Furthermore, OHCHR has provided technical advice and inputs to a number of papers/reports and other materials prepared by partners (see below).

Support to the Independent Expert and reporting to UN bodies

OHCHR has assisted the Independent Expert in the preparation and presentation of his progress report to the General-Assembly in 2007. It has also assisted the Independent Expert with the preparation of speeches and statements for various activities, as well as inputs for bilateral meetings.

OHCHR further coordinated the preparation of notes to the HRC and the GA on the process of appointment of the SRSG.

Involvement in discussions concerning the establishment of the SRSG

OHCHR has been closely following the developments related to the establishment of the SRSGVAC. Information and advice has been provided to senior management, resulting in OHCHR's active engagement in the discussions. Public information on the issue has been provided to other stakeholders upon request.

Meetings and Events

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In June 2007, OHCHR participated in a regional meeting in Cairo for the presentation of the Arabic version of the Study on Violence against Children and delivered a message by the High Commissioner.

In October 2007, OHCHR regional office in Panama supported a sub-regional conference for Central America on the prevention of juvenile violence, organized by the Government of Costa Rica. Assistance was provided in the preparation of the concept paper and programme of the Conference. OHCHR further financed the participation of a former member of the Committee on the Rights of the Child in the event.

In November 2007, OHCHR organized a regional workshop for French speaking countries in West Africa on follow-up to the concluding observations of the Committee on the Rights of the Child. One working group focused specifically on violence against children and provided an opportunity for national actors to discuss strategies in this area.

OHCHR participated in a number of relevant parallel events during the various sessions of the Human Rights Council in 2008, including on integrating child rights into the work of the Human Rights Council and Violence against Girls in Schools

The OHCHR was requested to provide technical advice to the development by the Council of Europe of Guidelines for Integrated Strategies on violence against Children, through participation in the work of a technical group including at a meeting that took place in Paris in October 2008. OHCHR was also invited to participate in a technical seminar in Stockholm (8 September 2008) to speak about the Guidelines and to attend the high level Conference "Building a Europe for and With Children- Towards a Strategy for 2009-2011" (9-10 September 2008). The OHCHR will be involved in initiatives aimed at the adoption of guidelines by the CoE Committee of Ministers in 2009.

OHCHR co-organized with the Government of Mexico an international seminar on the protection of children's rights in the context of migration (30 September-1 October 2008) focusing on several relevant aspects.

The OHCHR was also closely involved in the process of preparation of World Congress III on Commercial Sexual Exploitation of Children. In particular OHCHR was part of the Reference Group reviewing all background papers prepared for the Congress; promoted and coordinated the participation of a number of treaty-bodies and special procedures' experts in the Congress and preparatory meetings. OHCHR was also invited to participate in the preparatory meeting for Europe and Central Asia (Geneva, 17-18 September) and to speak at the closing session. OHCHR also participated and addressed the meeting of experts on the legal framework to protect children from sexual exploitation (Bern, 13-14 October 2008). OHCHR will participate in the Congress. It will take be closely involved in the organization of- and participation in- three high level workshops.

Providing technical advice and inputs

OHCHR provided technical advice and substantive inputs to various documents/papers, including: the Council of Europe Guidelines for Integrated Strategies against Violence; all background papers prepared for World Congress III on Sexual Exploitation of Children; concept papers on the development of indicators on violence against children; draft law and project docs on juvenile justice; project documents; SG reports (for example on the girl child); paper on UN common approach to juvenile justice; guidelines for NGOs for reporting violence against children to the CRC; Save the Children fact-sheet on cooperation with special procedures in the area of violence against children; the relevant parts of the Pilot Manual on Human Rights and Natural Disasters; etc. Briefing notes were provided to OHCHR

senior management, the Independent Expert, CRC members and some field presences in connection with relevant meetings. Inputs to statements and presentations were further made.

Integrating VAC into the work of Treaty Bodies and Special Procedures

In an effort to encourage treaty bodies to routinely address violence against children in their work, OHCHR has developed standard list of issues to be raised during the review of States Parties reports under relevant articles of CAT and CMW. The CMW was briefed and ideas were exchanged on how to strengthen the Committee's work in the area of children's rights. The inter-committee meeting of treaty bodies was also briefed in June 2008 on the follow-up to the Study and a note prepared and shared with participants with suggestions on how the work of treaty bodies in the area on violence against children can be strengthened.

Information on violence against children is provided to mandate-holders prior to country visits whenever relevant, including contacts of partners to be met on the spot. A list of visits is shared each month with all relevant external partners who are encouraged to submit information to mandate-holders. Mandate-holders were be briefed at their 15th annual meeting, in June 2008, on how they can strengthen their work in the area of violence against children. A note was prepared for the meeting, based inter alia on an analysis of the extent to which special procedures have covered violence against children in their reports. Personalized notes on the relevant aspects of the different mandates were prepared for new mandate-holders and presented to them during their orientation sessions [59]. During the 15th annual meeting a side-event was further organized with Save the Children on children participation for mandate-holders. Meetings were facilitated between the Secretariat of the inter-agency panel on juvenile justice and staff working with relevant special procedures to discuss cooperation.

OHCHR provided information on the UPR process and encouraged all partners to submit information to be reflected – as appropriate- in the OHCHR's reports for the UPR.

Reaching out to those who have a presence in the field

Heads of field offices were briefed on the Study follow-up at their annual meeting in November 2007. Relevant tools and materials – including a power point presentation on the Study- were shared with all field presences. Based on priorities identified in the SMP 2008-2009, contacts were established with individual field presences to discuss the provision of assistance to their work, including in the development of training modules, collection of relevant tools, expert advice etc. in the area of violence against children. The annual meeting of field presences in 2008 will be provided with further information on follow-up activities and initiatives.

Raising awareness

Efforts to raise awareness about the Study and to encourage follow-up to their recommendations were undertaken. A message with a power point presentation was sent to all national institutions. Constant contact was maintained with the national institution of Sierra Leone and technical advice and information was provided upon request. NGOs were briefed on a regular basis in the context of the various coordination fora and during bilateral meetings. Lectures were delivered in different contexts on the Study and its follow-up. Bilateral meetings were also frequently held with relevant special procedures and treaty bodies' experts. The web-page

59 Freedom of opinion and expression; health; racism; trafficking; water; people of African descent; arbitrary detention, enforced disappearances; food; foreign debt; housing; human rights defenders; indigenous people; poverty; sale of children; slavery; and geographic mandates.

was updated and all the notes/papers and tools produced were posted on the Portal for the use of OHCHR staff

Legal reform

Through the assistance of a consultant OHCHR developed a paper OHCHR to provide guidance in the area of legal reform aimed at prohibiting all forms of violence against children. The paper is pending comments. Once finalized it will be shared with all relevant partners and field presences will be encouraged to use it in their activities.
Example of an urgent appeal issued by OMCT that was successful in changing the situation of a case involving child victims [60]:

CHILD CONCERN
Case PHL 080702. CC
Arbitrary detention
Torture and other forms of ill-treatment

Geneva, 8 July 2002

60 Source : OMCT, Compilation of some « happy end cases » (internal document), pp. 19-24

ANNEXES

II. ANNEX TO CASE EXAMPLES

A. Case example: Monitoring Detention (APT)

International standards on the obligation to maintain systems of preventive monitoring

Convention on the Rights of the Child, Article 20.1:

"A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State."

Convention against Torture, Article 2.1

"Each State party shall take all effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction."

CRC General Comment Nr. 10, 2007

"Independent and qualified inspectors should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative; they should place special emphasis on holding conversations with children in the facilities, in a confidential setting."

The UN Secretary General's Study on Violence against children, in its chapter on protection from violence within institutions, recommends:

"All facilities should be independently inspected and monitored by qualified bodies with full access to the facilities and freedom to interview children and staff in private. These bodies should have the power and capacity to monitor conditions and investigate any allegation of violence in a timely manner. Such bodies could include ombudspersons, independent commissions, citizens or police review boards."

The UN Rules for the Protection of Juveniles Deprived of their Liberty

72. Qualified inspectors or an equivalent duly constituted authority not belonging to the administration of the facility should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative, and should enjoy full guarantees of independence in the exercise of this function. Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty, to all juveniles and to all records of such facilities.

73. Qualified medical officers attached to the inspecting authority or the public health service should participate in the inspections, evaluating compliance with the rules concerning the physical environment, hygiene, accommodation, food, exercise and medical services, as well as any other aspect or conditions of institutional life that affect the physical and mental health of juveniles. Every juvenile should have the right to talk in confidence to any inspecting officer.

74. After completing the inspection, the inspector should be required to submit a report on the findings. The report should include an evaluation of the compliance of the detention facilities with the present rules and relevant provisions of national law, and recommendations regarding any steps considered necessary to ensure compliance with them. Any facts discovered by an inspector that appear to indicate that a violation of legal provisions concerning the rights of juveniles or the operation of a

juvenile detention facility has occurred should be communicated to the competent authorities for investigation and prosecution.

B. Case Example: Monitoring and reporting violence, abuses and violations of rights (OMCT)

The International Secretariat of OMCT requests your URGENT intervention regarding the following situation in the Philippines.

Brief description of the situation

The International Secretariat of OMCT has just been informed by a reliable source that four children have been arbitrarily arrested and are detained in conditions incompatible with international juvenile justice law and standards.

According to the information received, Manuel Flores (10), was arrested by the Angeles District police for vagrancy and sniffing glue and has been since detained in the Angeles District Jail, Pampanga Province, for more than a month. According to Manuel, he has not been brought before a judge or other officer authorized by law to exercise judicial power. Felix Cusipag (12), like Manuel, was arrested by the local police for vagrancy and sniffing glue and has been in prison for more than one month. He declared that he has never been brought before a judge or any other judicial authority. He believes that his parents have not been informed of his detention and therefore he has not been visited by any family members. Camaroding Ajisalie (17) has been in prison for five months already. He has been sentenced to six months and one day of imprisonment for sniffing glue. Michael Navarro (17) has been in prison for two months. He has been charged with attempted robbery and he has had four court hearings already. His next hearing is scheduled for October 2002, by which time he will have served six (6) months in Angeles Prison.

Despite existing juvenile detention facilities in the district, such as the care institution of the Department of Social Services and Development, these four children are kept in the same prison block as adult detainees and it has been reported that no effort has been made to treat them differently because of their age.

Allegedly, the four children are detained 23 hours a day in a small dark and very hot cell with no sleeping facilities apart from the concrete floor. There is no electric fan and no ventilation in the cell. All of them are wearing rags. They eat their food with their hands, as there are no utensils provided. They do not have toothbrushes or soap.

According to the information received, the only toilet facility is an unclean hole in the floor of the cell, infested by insects, only a few feet from where the children sleep. In addition, they do not have water for washing in the cell.

Apart from a small television outside their cell, the

children are provided with no educational, mental or physical stimuli.

The international secretariat of OMCT is seriously concerned by the situation of these children and wishes to recall that the Philippines are a party to the Convention on the Rights of the Child, and are accordingly bound to respect Article 37 of the Convention that declares that "States Parties shall ensure that:

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances".

Actions Requested

Please write to the authorities of the Philippines urging them to:

i. immediately put an end to all forms of arbitrary arrests of children (any persons below the age of 18), prohibiting in particular that status offences, such as vagrancy, be considered as legal grounds of arrest;
ii. order the immediate release of the children who are arbitrarily detained;
iii. take all necessary measures to guarantee the physical and psychological integrity of all child detainees, ensuring in particular their rights to adequate food, accommodation and sanitation, to education and leisure, to maintain contact with their families and to sufficient access to open facilities;
iv. ensure that child detainees are kept separately from adults, unless it is in their best interest not to do so;
v. guarantee to each one of the ill-treated children the right to adequate reparation and social reintegration;
vi. guarantee the respect of human rights and fundamental liberties of all children throughout the country, in accordance with national and international law, and particularly with the Convention on the Rights of the Child.

CHILD CONCERN
Case PHL 080702.1 CC
Follow-up to case PHL 080702 CC
Arbitrary detention / Torture and other forms of ill-treatment

Geneva, 11 July 2002

The International Secretariat of OMCT has received new information regarding the following situation in the Philippines.

New information

The International Secretariat of OMCT has been informed by a reliable source that Manuel Flores and Camaroding Ajisalie were transferred to juvenile detention centres by a court order on Friday, 5 July 2002 at 4:00 pm. The same source also reported that Felix Cusipag was released on 29 June 2002.

Michael Navarro allegedly remains in the Angeles District Prison. Although he claimed that his birthday was on 9 November 1984, the court did not

order his transfer to a juvenile detention center because he was not able to produce a birth certificate. Thus, Michael remains in a cell by himself in the Angeles Prison in the same block as adult detainees. The cell next to his is occupied by a convicted drug user and dealer.

Brief reminder of the situation

The International Secretariat of OMCT had been informed by a reliable source that four children had been arbitrarily arrested and were detained in conditions incompatible with international juvenile justice law and standards.

Despite existing juvenile detention facilities in the district, such as the care institution of the Department of Social Services and Development, Manuel Flores (10), Felix Cusipag (12), Camaroding Ajisalie (17) and Michael Navarro (17) were kept in the same prison block as adult detainees and it had been reported that no effort had been made to treat them differently because of their age.

Allegedly, the four children were detained 23 hours a day in a small dark and very hot cell with no sleeping facilities apart from the concrete floor. There was no electric fan and no ventilation in the cell. All of them were wearing rags. They ate their food with their hands, as there were no utensils provided. They did not have toothbrushes or soap.

According to the information received, the only toilet facility was an unclean hole in the floor of the cell, infested by insects, only a few feet from where the children slept. In addition, they did not have water for washing in the cell.

Apart from a small television outside their cell, the children were provided with no educational, mental or physical stimuli.

Actions Requested

While welcoming the release of Felix Cusipag and the transfer of Manuel Flores and Camaroding Ajisalie to juvenile detention facilities, OMCT remains concerned by this situation, and particularly concerned by Michael Navarro's conditions of detention.

Please write to the authorities of the Philippines urging them to:

vii. immediately put an end to all forms of arbitrary arrests of children (any persons below the age of 18), prohibiting, in particular, that status offences, such as vagrancy, be considered as legal grounds of arrest;

viii. take all necessary measures to determine Michael Navarro's age and, in case of doubt, guarantee to him the respect of his rights in accordance with international juvenile justice law and standards;

ix. order the immediate release of the children who are arbitrarily detained;

x. take all necessary measures to guarantee the physical and psychological integrity of all child detainees, ensuring in particular their rights to adequate food, accommodation and sanitation, to education and leisure, to maintain contact with their families, and to sufficient access to open facilities;

xi. ensure that child detainees are kept separately from adults, unless it is in their best interest not to do so;

xii. guarantee the right to adequate reparation and social reintegration to ill-treated children;

xiii. guarantee the respect of human rights and fundamental liberties of all children throughout the country, in accordance with national and international law, and particularly with the Convention on the Rights of the Child.

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CHILD CONCERN
Case PHL 080702.2 CC
Follow-up to Case PHL 080702.1 CC and PHL 080702.CC
Arbitrary Detention / Torture and other forms of ill-treatment

Geneva, 23 July 2002

The International Secretariat of OMCT has received new information regarding the following situation in the Philippines.

New information

The International Secretariat of OMCT has been informed by a reliable source that Michael Navarro Garcia was released from Angeles Adult Jail in Pampanga after awaiting trial for three months on charges of participation in illegal lotteries. He reportedly pled guilty to the offence and was released at an unconfirmed date (sometime after 8 July 2002) after paying a fine equivalent to six US dollars.

The same source also reported that the Family Court in Angeles City had dismissed the case of Camaroding Ajisalie as early as 3 April 2002, after issuing a court order to have him transferred to a drug rehabilitation centre. However, Camaroding was not made aware of this order or of the results of the proceedings, and was held in Angeles Jail for more than three months with convicted adults despite the court order issued in April. He was not transferred to the drug rehabilitation centre until 5 July 2002.

Furthermore, according to the information received, a court order was issued on 14 June 2002 for the immediate release of Felix Cusipag and Manuel Flores to either their respective parents or the Bahay Bata Centre (NGO). However, Felix was detained at Angeles Jail for 15 days beyond the issuance of the court order, and was not released to his parents until 29 June 2002. Similarly, Manuel was detained at Angeles Jail for 21 days beyond the issuance of the court order, and was released to the Bahay Bata Centre on 5 July 2002.

Brief reminder of the situation

The International Secretariat of OMCT had been informed by a reliable source that four children had been arbitrarily arrested and were detained in conditions incompatible with international juvenile justice law and standards.

Despite existing juvenile detention facilities in the district, such as the care institution of the Department of Social Services and Development, Manuel Flores (10), Felix Cusipag (12), Camaroding Ajisalie (17) and Michael Navarro Garcia (17) were kept in the same prison block as adult detainees and it had been reported that no effort had been made to treat them differently because of their age.

Allegedly, the four children were detained 23 hours a day in a small dark and very hot cell with no sleeping facilities apart from the concrete floor. There was no electric fan and no ventilation in the cell. All of them were wearing rags. They ate their food with their hands, as there were no utensils provided. They did not have toothbrushes or soap.

According to the information received, the only toilet facility was an unclean hole in the floor of the cell, infested by insects, only a few feet from where the children slept. In addition, they did not have water for washing in the cell.

Apart from a small television outside their cell, the children were provided with no educational, mental or physical stimuli.

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Action Requested

While welcoming the release of Michael Navarro Garcia as the last of the four children detained, OMCT remains deeply concerned with this situation. OMCT is particularly concerned with the fact that children as young as ten years of age have been detained in an adult prison in unsanitary conditions for extended periods of time despite the prior issuance of court orders demanding their release.

Please write to the authorities in the Philippines urging them to:

xii. immediately put an end to all forms of ar bitrary arrests of children (any persons be low the age of 18), prohibiting, in particu lar, that status offences, such as vagrancy, be considered as legal grounds of arrest;

xiv. take all necessary measures to guarantee the physical and psychological integrity of all child detainees, ensuring in particu lar their rights to adequate food, accom modation and sanitation, to education and leisure, to maintain contact with their families, and to sufficient access to open facilities;

xv. ensure that child detainees are kept sepa rately from adults, unless it is in their best interest not to do so;

xvi. guarantee the right to adequate repara tion and social reintegration to ill-treated children;

xvii. guarantee the respect of human rights and fundamental liberties of all children throughout the country, in accordance with national and international law, and particularly with the Convention on the Rights of the Child.

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C. *Case example: Providing legal support to children (DCI-Palestine)*

Annex C1: Figures

The figures in the tables below represent 206 cases closed by the military court during 2008:

Table 1 – Age groups

Table 1: Breakdown of DCI-Palestine Cases by Age Group - 2008

Age Group	***Number***	***Percentage***
12 and 13 years	3	1.4%
14 and 15 years	45	21.9%
16 and 17 years	158	77.7%
Total	206	100%

Table 2 - Sentences
Out of the 206 cases closed by the military court in 2008, 172 were closed by sentencing (in the other cases, 24 child offenders were released on bail and 10 were given administrative detention).

Table 2: Breakdown of DCI-Palestine Cases by Sentence – 2008

Age Group	***Number***	***Percentage***
Under 6 months	71	41.3%
6-12 months	52	30.2%
1-3 years	24	14%
Over 3 years	25	14.5%

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Total	172	100%

Table 3 - Charges

Table 3: Breakdown of DCI/PS Cases by Charge

Charge	***Number***	***Percentage***
Stone throwing	46	26.8%
Possession of/throwing a Molotov cocktail	25	14.5%
Membership in a banned organization	14	8.1%
Attempting to kill or conspiracy to kill an Israeli	42	24.4%
Possession of explosives	17	9.9%
Weapons possession	11	6.4%
Assisting a wanted person	12	7%
Others	5	2.9%
Total	172	100%

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Annex C2: Personal Story

The following case studies [61] illustrate how DCI-Palestine lawyers act on behalf of Palestinian children. Obaidah A. was released in December 2008 from administrative detention:

Name: Obaidah A.
Place of Residence: Nablus District
Age: 17 years
Date of Arrest: 23 May 2007

At 4:00 in the morning on 23 May 2007, Israeli soldiers surrounded Obaidah's home and told the family to come outside. The soldiers then threw sound bombs into the house, after which they conducted a search. A computer was confiscated and Obaidah was arrested in front of his family. He was handcuffed and blindfolded and placed in an Israeli military jeep for transfer to Huwarra Interrogation and Detention Centre. During the transfer Obaidah was beaten and kicked by the soldiers in the jeep. Obaidah spent 13 days in Huwarra without being questioned. He was then transferred to Petah Tikva Interrogation and Detention Centre (near Tel Aviv) where he spent 9 days in solitary confinement. During this period he was interrogated for 3 hours each day while handcuffed and shackled. During his 2 months there, he was not permitted to see any family members or a lawyer.

On 26 July 2007, Obaidah was brought before the Israeli Military Court at Salem. He was charged with assisting a person suspected of being a member of Islamic Jihad. It was alleged that this person asked Obaidah to contact a member of Islamic Jihad in Syria and request this person to transfer money. Whether or not Obaidah made the telephone call was not relevant to the offence. The offence was that a conversation regarding assistance had taken place. The evidence contained in the file compiled by the chief interrogator was based on an apparent confession made by Obaidah under interrogation, the confession of another child, and the statements of the interrogator and an Israeli police officer in charge of the investigation.

The case again came before the Military Court at Salem on 29 July 2007. The prosecutor asked the judge not to release Obaidah on bail pending the determination of the case. DCI-Palestine lawyer Adnan Al-Rabi requested that bail be granted on the basis that there was insufficient evidence to detain Obaidah. The Military Court agreed with DCI-Palestine's lawyer and ordered that Obaidah be released on bail of 1,000 NIS (US$250).

The prosecutor then applied to the Military Court for an order suspending the granting of bail for 72 hours. The Military Court rejected this application. While Obaidah's parents were arranging for the money to be deposited, the prosecutor lodged an appeal to the Military Court of Appeal asking for bail to be revoked. It was 5.00 pm; the Court of Appeal determined the matter in the absence of Obaidah's lawyer (who was in another Court at the time) and granted the suspension of the bail order, revoked Obaidah's bail, and re-listed the case for the next day, 30 July 2007. On 30 July 2007, the Military Court of Appeal found that there was insufficient evidence against Obaidah and he was granted bail again on the same conditions.

Immediately afterwards, the prosecutor obtained an administrative detention order from the Military Commander of the West Bank. Military Order 1229 gives the Military Commander the power to arrest a person and place them under administrative detention for "security reasons" which he is not obliged to disclose. Obaidah was placed under administrative detention for 6 months, beginning on 30 July 2007. Obaidah's first administrative detention order was set to expire on 29 January 2008. According to Military Order 1229, an administrative detention order made by a Military Commander must be reviewed before a Military Court within a week of the mak-

61 Source : DCI-Palestine, 2007 Palestinian Child Detainees Report, p. 39-42

ing of the order. The Military Court has the power to confirm, amend or cancel the administrative detention order. On 2 August 2007, Obaidah was brought back before the court, this time under administrative detention, for a review of the administrative detention order. The order was confirmed by the court. The two months he had already spent in prison were not taken into account in making the order. It is not known what evidence was presented to the Court on this occasion. The prosecutor may have obtained additional evidence not available to the lower Court when Obaidah was initially charged, or the prosecutor may have relied on the evidence already in the prosecutors file and revealed to the defence.

Obaidah's family approached the lawyers for DCI-Palestine and requested that they attempt to negotiate with the prosecution for a fixed sentence rather than the uncertainty of administrative detention. Accordingly, on 30 October 2007 the case came back before the Military Court at Salem on the family's application. The prosecutor told Obaidah's lawyer that he would cancel the administrative detention order if Obaidah agreed to confess to the list of charges and accept a 7 month prison sentence and a fine of NIS 2,500. Obaidah accepted the prosecution offer, which included time already served, and was due for release on 1 December 2007.

In 1 December 2007 DCI-Palestine lawyers received a telephone call from Obaidah's family saying that he had not been released. On 2 December 2007, DCI-Palestine lawyers searched the records of the Administrative Detention Court and discovered that Obaidah had just been issued with a second administrative detention order for 6 months. DCI-Palestine lawyers contacted the prosecution to complain about the breach of the plea agreement. The prosecutor responded that the second administrative detention order was for "activities within the prison".

On 6 December 2007, Obaidah was brought back before the court for a review of the second administrative detention order. DCI-Palestine lawyers reminded the court of the previous plea agreement. The Military Court confirmed the order but reduced the period of detention from 6 to 4 months.

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Annex C3: Personal Story

Name: Ibrahim S.
Age: 15 years
Date of arrest: 8 November 2007
Location: Beit Omar village, Hebron Governorate
Accusation: Stone-throwing

15-year-old beaten and threatened with sexual abuse by Israeli soldiers [62]

Ibrahim was asleep when Israeli soldiers entered his home at 2.00 am, on 8 November 2007. He was woken up, arrested, blindfolded and his hands were tied behind his back with plastic ties. The soldiers then led Ibrahim outside and put him in the back of a truck. Almost as soon as he sat down, the soldiers took him back out of the truck, untied his blindfold and asked him where one of his friends was living.

"I said I did not know and then four soldiers started beating me with their hands. They slapped me on the face for about a minute and then blindfolded me again and put me on the floor of a vehicle. Then they started beating me again with their hands and feet, whilst pouring cola and spitting on me whilst I was on the floor as we drove along."

Ibrahim was taken to the illegal Israeli settlement of Karmi Zur, in the occupied Palestinian territories (oPt), about a 15-minute drive away from his home. He was beaten for the duration of the trip. At the settlement, he was made to stand up against a wall with other detainees whilst a soldier placed a gun to his head and another photographed him. Ibrahim was then placed in the back of another truck with other detainees, some of whom had to sit on the floor. They were driven for around 20 minutes to the Israeli interrogation and detention centre at Etzion, near Bethlehem in the oPt.
After a brief medical check, Ibrahim was led outside into a yard, and once again, blindfolded and tied by hand and foot. He was then chained to another detainee for 24 hours. During this period soldiers would come out and get detainees one by one for interrogation. Ibrahim was not given any food but was permitted to go to the toilet where he could also drink.

Interrogation

Ibrahim's turn for interrogation arrived in the afternoon of the first day. He was led into a shipping container and told to sit on a small stool:

"You are a member of Islamic Jihad and you used to go out with them at night wearing the keffiyah over your face and write graffitis," said the interrogator.

The interrogator also accused Ibrahim of throwing stones and Molotov cocktails. Ibrahim denied all allegations. He was then led into another room and his blindfold was removed. Ibrahim was able to see two other children and a tall, well-built bald man wearing a t-shirt and army trousers. Ibrahim also saw his interrogator for the first time, but can only recall him being tall and blond. The interrogator told Ibrahim that the other man would beat him if he did not confess.

"That's okay. Let him beat me," said Ibrahim.

The bald man then started to kick Ibrahim and the other two children on their legs. The man was wearing heavy army boots and kicked him for about five minutes.

After the beating Ibrahim was taken by the bald man to another interrogator named Samir, in a different interrogation room. Samir was alone in the room. He started interrogating Ibrahim about Molo-

62 Freedom now campaign, http://www.dci-pal.org/english/camp/freedomnow/display.cfm?DocId=846&CategoryId=28 (accessed 24 April 2009)

tov cocktails, saying:
"You were throwing Molotov cocktails with another person on Route 60 in August." Ibrahim denied the accusation and then the interrogator said: "If you didn't throw the Molotov cocktails then another person with you did."

Samir then started asking Ibrahim questions about stone-throwing. Samir accused Ibrahim of throwing stones at the Israeli army when it invaded Beit Omar village on the previous day. Ibrahim denied the accusation. Then, after about two hours of questioning, Samir said to Ibrahim:

"If you don't confess, I will send you to somebody who will sexually abuse you. He has a huge penis."

Confession

After being threatened with sexual assault, Ibrahim confessed to throwing stones. The interrogator wrote Ibrahim's confession in Hebrew and he was then led away by a soldier to be photographed and fingerprinted. It was now around sunset and up until this point he had not been given anything to eat.

Ibrahim was transported through the night and much of the next day to Ofer prison, near Ramallah in the oPt. During the course of the following weeks he appeared twice before an Israeli Military Court for no more than a few minutes each time. On advice from his lawyer he pleaded guilty to throwing stones and was sentenced to six months imprisonment and ordered to pay a fine of NIS 1,000 (US$300).

Imprisonment in Israel

Ibrahim was incarcerated in Addamoun prison, near Haifa in Israel. He was released one month early on 8 April 2008, five months after being arrested from his home.

DCI/PS strongly condemns Israeli authorities for their continued use of illegal practices adopted during the arrest, interrogation and detention of Palestinian children as young as 12 years. DCI/PS is particularly appalled that Israeli authorities have threatened a child with sexual assault to elicit a confession. In breach of the Universal Declaration of Human Rights, UN Convention against Torture, the International Covenant on Civil and Political Rights, the UN Convention on the Rights of the Child and the Fourth Geneva Convention, Ibrahim was arbitrarily arrested, physically and psychologically abused, denied prompt access to a lawyer, coerced into signing a confession written in Hebrew and detained beyond the borders of the oPt, in Israel.

DCI/PS again calls on Israel to immediately abide by its international legal obligations and to conduct a thorough and impartial investigation into allegations of abuse and torture of Palestinian child detainees by the Israeli army and police, and to bring those found guilty of such abuse, to justice.

Evaluation

« Ending Violence Against Children in Justice Systems »

Defence for Children International welcomes your feedback on this handbook. Please take a moment to tell us what you think by completing this form and returning it to the address below.

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Advocacy Strategies Training Manual General Comment No. 10

Children's Rights in Juvenile Justice, November 2009: This manual aims to provide users with step by step practical advice for advocacy for juvenile justice reform and building up a strategy for children's rights in juvenile justice. It adapts and makes best use of the good practices already developed for the child rights advocacy and illustrates how they can be used to ensure follow-up to the Committee on the Rights of the Child's General Comment No. 10 on Children's rights in Juvenile Justice, THE authoritative guidelines written by the Committee on the Rights of the Child for States parties. This manual provides step by step strategic plans, case studies, and real life examples. It also gives advice on how to assist your organisation in planning and coordinating strategies with other partners at the highest in-country level possible.

Ending Violence Against Children in Justice Systems

Strategies for Civil Society: Engagement in the Follow-up to the UN Study on Violence against Children, October 2009: This report explores the specific role of civil society organisations in following-up the recommendations of the World Report on Violence against Children on ending violence in Justice Systems (chapter 5 of the Study). Eight case examples from civil society organisations illustrate different strategies or activities for follow-up intervention in practice, to provide guidance to NGOs wishing to undertake similar follow-up actions. November 2009

"Education in Chains: Gaps in Education Provision to Children in Detention"

An Overview of the Right to Education of Children in Detention: This report examines the right to education of children in detention in thirteen countries where Defence for Children International (DCI) has a presence. The report stems from DCI's participation in a special paper produced by the UN Special Rapporteur on the Right to Education on the theme of education for persons in detention. The evidence presented in this report highlights that many governments are failing to guarantee the right to education of children held in detention around the world. August 2009.

Fact Sheets on General Comment No. 10.

This collection of tools includes 7 easy to read and use fact sheets. The fact sheets are as follows: General Comment No. 10: Rights in Juvenile Justice, Preventing Juvenile Delinquency, Promoting Diversion, Ensuring Appropriate Age Limits of Criminal Responsibility, Guaranteeing a Fair Trial, Prohibiting the Death Penalty and Life Imprisonment, and Deprivation of Liberty as a Last Resort. April 2008

Annual Activities Report 2008

The 2008 annual report of Defence for Children International gives an overview of the work that has been carried out by DCI's International Secretariat throughout 2008 to promote and protect the rights of children in conflict with the law and to train and lend advocacy support to the national sections. It gives plenty of ideas for advocacy and lobbying and shows how to link advocacy and lobbying at the international level with the local level. (March 2009)

CD with downloadable PDF files of all materials: A compilation of the described titles in PDF.

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