



## Juvenile Justice Newsletter

- March 2012

### Word to the new president of DCI

#### Juvenile Justice as the main concern at the Human Rights Council

The first week of March 2012 will have been of great significance, as much for the debates on juvenile justice at the international level, as for the DCI movement which was present on mass in Geneva. The fact that the United Nations Human Rights Council (HRC) is dedicating its annual debate day to juvenile justice is in itself a remarkable thing. This demonstrates changes in international community awareness, on the importance of deeper reflection upon respect for child human rights, in the very particular area of juvenile justice.

The majority of participants placed juvenile justice in a larger social context and, in one way or another, all insisted on the need to maintain its specialised nature - in this way distinguishing it from adult justice.

If the systems of juvenile justice throughout the world are very diverse, one thing is likely shared by all systems: insufficient attention placed on respecting the rights of young perpetrators (or very often just suspected perpetrators) of crimes.

It is more than 20 years since the international community laid down the principal standards on the subject of juvenile justice: prevention; the specific nature of juvenile justice; deprivation of liberty as a last resort; and, the fundamentally educational approach. One has however, the impression that everything still remains to be done.

The governments must understand that investment in juvenile justice, other than with a purely repressive approach, is not just an obligation according to international law, but more of an imperative necessity for creating a society which provides a good outlook for its youth. One is aware of the lack of social investment in prevention, and it is without any doubt that one must begin there.

In addition, once again, the economic and finan-

cial crisis experienced by the world is putting prevention into the background. In these conditions, the obligation to invest considerably more in the treatment of delinquency and the social reaction to the acts committed by the young, means we are risking a high price in the near future.

This meeting of the HRC will have enabled DCI to organise several "side-events" on particularly important topics.

#### Detention as an alternative

The first topic, in a somewhat provocative manner, placed emphasis on "detention as an alternative". Despite international standards endlessly stating detention to be a last resort used only in exceptional cases and for the shortest possible duration, it is obvious to see that in practice this is not the case; detention is used in a routine manner, often as the very first measure.

By affirming that one needs to place alternatives to detention first, as one generally presents, the suggestion is that the main goal of juvenile justice is, after all, imprisonment - this being the cornerstone of justice systems. By presenting detention as an alternative, we

are saying that we must have tried everything else before arriving at that point, and above all, that one must prove that no other measure can realistically be taken.

This approach obliges governments to put into place various measures which guarantee monitoring the youth in society, and in their family, but with a genuine educational investment. In order to mentor and support youth, let us look to: mediation; community service work; educational monitoring within the family; diversion measures; supporting parents in their educational roles; investment in the community,...

And if detention must happen (in exceptional cases, we should remind ourselves), here too, the conditions of it must continue being humane and the approach must also be above all educational, broadening horizons, aiming at reinsertion.



*Word to the new President of DCI... (continue in page 2)*



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### *Word to the new President of DCI... (continued from page 1)*

#### **Ages thresholds in Juvenile Justice**

The second topic touched upon age limits in juvenile justice. It was a question of debating the different age limits which are often employed: the minimum age of criminal responsibility; age from which a child can be placed in detention; the age of adult criminal responsibility. If debates about juvenile justice have mainly discussed thresholds for quite some time (should the minimum age of criminal responsibility be placed at 7, 10, 12, or 14 years of age? Should there be an age cut-off point for placing a child in detention? What is the upper age limit for juvenile justice?), this time the debate focused much more on what happens at each of these levels.

Indeed it is not enough that the minimum age of criminal responsibility be fixed, for example at 12; more than this, it is necessary to look at what is happening with children younger than 12 who commit crimes - sometimes very serious crimes. It is of course, about guaranteeing that the intervention of public authorities is not worse for these youths than it is in the formal justice system, which actually gives a certain number of guarantees.

As it stands, the child social and administrative protection systems which very often intervene for these children, very often do not offer equivalent guarantees. This means that a child of younger than 12 can be less well treated than if they had been older at the time of their acts.

The real specificity of juvenile justice is the time period between the minimum age of criminal responsibility and the age of adult criminal responsibility; it is during this period that one must develop educational measures and show the fundamental difference of approach to adult justice. To change the reality of

things, it is not sufficient to use names such as “juvenile court” in place of “criminal court”, or “educational centre” in place of “prison”. If what is done on the inside is not fundamentally different, then this change is a scandalous deceit. In other words, what we are touching upon here is the real specificity of juvenile justice which must show a totally different approach to adult justice. The educational support given must be able to provide full impact because the personality of children is still being formed.

Finally, concerning the age of criminal responsibility, here too, one notices the tendency governments have for wishing to lower it; and thus judge children younger than 18 years of age as adults. Let us state clearly and strongly, this practice is illegal and contrary to the Convention on the Rights of the Child.

The day on the rights of the child of the Human Rights Council was important but its effects will only be seen if the governments take the question very seriously and are ready to fundamentally modify their approach, and place educational focus at the centre of their child justice systems. DCI fully played its part by contributing to the debates (the movement was notably represented in the panel of the Human Rights Council, by Abdul Manaff Kemokai, Vice-President of DCI for Africa,) and by pleading the case for integration of international standards on juvenile justice.

This is an important stage which cannot remain untouched. DCI will continue to cast a critical eye over this matter.

***Benoit Van Keirsbilck, Président of Defence for Children International***





DEFENSA DE NIÑAS Y NIÑOS INTERNACIONAL DNI  
DEFENSE DES ENFANTS INTERNATIONAL DEI  
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### HRC annual full-day meeting on the rights of the child - 19th Session.

ON THURSDAY, 8 MARCH, States, NGOs and independent experts met for the Human Rights Council's 2012 day on the rights of the child under this year's theme of 'children and the administration of justice'. The representative from DCI - Sierra Leone, Abdul Manaff Kemokai was on the expert panel, speaking about the rehabilitation and reintegration of children deprived of their liberty and children of incarcerated parents.

Opening the discussion, the UN High Commissioner for Human Rights, Navi Pillay, referred to how perceptions of worsening public security often justify the detention of children, and are "not grounded on evidence but based on media reports of a few serious cases, influencing political discourse and too often leading to the adoption of legislation on the treatment of young offenders that weaken children's rights."

"Why, how many years on, do we still struggle with having children detained as the first resort rather than the last?" asked panelist Susan Bissel from UNICEF, adding that detained children are "[n]ot only alleged offenders, but those who have been trafficked, those who have HIV/AIDS, those [crossing] a border to join their families or to get better education, those who are suffering from mental health issues. If I think of the principal issue in the area of justice for children, this is it."

The Special Representative of the UN Secretary-General on Violence against Children, Mar-

ta Santos Pais said that violence in the juvenile justice system is a "[v]ery high priority for my mandate. A juvenile justice system framed in human rights is crucial to prevent violence."

The representative from the Consortium for Street Children mentioned disapproval about the recent trend among many States to criminalize poverty by treating street children as criminals for begging or vagrancy, which are survival activities.

Other vulnerable groups mentioned included indigenous children in Australia, who are over-represented in the country's prison system.

The detention of children in some countries is often used as the first measure and not as the last resort, noted Ms. Renate Winter, panelist and judge to the appeals Chamber of the Special Court for Sierra Leone. Justice Winter proceeded to make two of the most significant contributions of the day: Firstly, she reflected on how we use language that stigmatises child offenders. And secondly, she demonstrated that custodial sentences is not only more expensive than diversion measures, but is also considerably less effective, with 80 per cent of children returning to re-offend after their release.



## JUVENILE JUSTICE NEWSLETTER

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### A week of Children's Rights in Juvenile Justice

During the first week of March many of our DCI delegates from all over the world travelled to Geneva to attend the 19th session of the Human Rights Council, which held its annual full day meeting on the rights of children and administration of justice, on Thursday 08 March - said theme is of paramount importance to the entire DCI movement.

During their brief time here in Geneva, DCI delegates also took part in an intensive training course. The training course was specific to this year's theme for the Human Rights Council's annual full day meeting on the 'rights of children and the administration of justice', and thus consisted of 'Children's rights advocacy at the international level: strategies to attaining concrete action from the Human Rights Council and its mechanisms, and the Committee on the Rights of the Child' - aiming to raise awareness on children's rights in juvenile justice systems, for the children's rights advocates coming from DCI sections worldwide.

The agenda for the training consisted of a theory section (5th & 6th March), with the participation of expert professionals; and a practical section (7th & 8th March), including attendance to the 19th session of the Human Rights Council.

The theory section of the training involved the collaboration of child rights experts, including: Ms. Bernadette Ardit, Assistant Human Rights Officer to the Special Rapporteur on the sale of child prostitution and pornography; Ms. Roisin Fegan, Child Rights Officer of the NGO Group for the CRC; Ms. Anita Goh, Advocacy Officer of the NGO Group for the CRC; Mr. Michele Poretti, senior researcher on children's rights at the IUKB; Mr. Philip Jaffé, responsible of the child's right unit in the IUKB and expert at the Council of Europe; Benoit Van Keirsbilck, DCI Belgium; John Ssenyanga - DCI Uganda; Justice Renate Winter, member of the Appeals Chamber of the Special Court of Sierra Leone; and Ms. Severine Joliat on behalf of the IPJJ;

The practical section of the training included attending the presentation of the Special Representative to the Secretary General on Violence Against

Children's (SRSV/VAC), and the presentation of the Special Rapporteur on the sale of children, child prostitution and child pornography, to the Human Rights Council (07 March). DCI submitted 2 written statements (presented respectively by DCI Palestine and DCI Benin) and 4 oral statements (DCI Costa Rica; DCI Canada; DCI Australia; DCI Sierra Leone) to the Human Rights Council. DCI Australia read a conjoint oral statement on behalf of the DCI sections, the oral statement addressed: public security and deprivation of liberty; pre-trial detention; conditions of detention; detention of migrant children.

The training of DCI representatives also involved the attendance and active participation in various side events held at the UN during the week of the annual full day meeting on the rights of children and the administration of justice: 'Detention as an Alternative Measure (05 March); 'Age Limits in the Juvenile Justice System' (07 March); 'Children's Rights in Latin America' (08 March); 'Presentation of the outcomes of the Kampala Conference' (08 March). A private informal meeting was also held with the Chairperson of the Committee on the Rights of the Child, Mr. Jean Zermatten.

#### Monday 5th March,



On Monday, the 5th all DCI delegates attended a side event on the 'Detention as an alternative measure, restorative justice and diversion as primary resort in juvenile justice', organized by DCI and Terre des Hommes - International Federation.

*A week of Children's right in Juvenile Justice... (continue in page 2)*





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### *A week of Children's right in Juvenile Justice... (continued from page 3)*

The panelists were H.E. Mr. Hugo Brauwerts, Ambassador deputy of the Permanent Mission of Belgium to the UN Expert, Ms Nimia Da Silva Boschert representative of the permanent Mission of Paraguay to the UN; DR. Mario Torres Portillo, child-psychologist and director of DCI-Paraguay, Mr. Marcos Guillen, DCI Latin America, Mr. Bernard Boëton, Fondation Terre des Hommes-Lausanne and Mr. Benoit Van Keirsbilck, President of DCI Belgium as the moderator.

The main topic of discussion was that the deprivation of liberty of children, which should only be used as a measure of last resort and for the shortest period of time possible. The principle of detention of children as a last resort must also be considered systematically with other fundamental principles of the CRC, such as: non-discrimination (art.2), the best interests of the child (art.3), right to life and maximum survival and development (art.6).

Notwithstanding the array of international legal instruments, documents and events proclaiming and re-proclaiming the principle of detention as a last resort, practice on the ground leaves a lot to be desired. As a matter of fact, deprivation of liberty is very often used as a primary resort - as opposed to a secondary one!

In this light, this side event highlighted the issue of children being continuously - notwithstanding the array of formal international documents - incarcerated (and not in the finest of conditions neither), and promoted the concrete implementation and realization of children's rights in practice.

The discussion which took place demonstrated that criminalizing children causes persisting harm, not only to the overall development of many children, but also to human societies. It encourages a spiral downwards for children into further offending, and increasingly violent offending, which often extends into adulthood.

#### Tuesday 6th March,

During the training session held on Tuesday, 6th March, the necessity to establish collective stan-

dards has been highlighted and discussed by various panelists such as: Mr Philippe Jaffé, Ms Severine Joliat, Judge Renate Winter and several DCI section representatives. The importance of providing alternative procedures was underlined. Children's rights are promoted by various specialists but also by children. Parents hold a key role in supporting the child's access to justice.

Four guidelines were established during this training session according to which trials would be more fair and equitable, both for witnesses and victims:

1. A child-friendly justice system
2. The right to a (protected) private life, by protective media
3. Security - inmates can be threatening
4. Training of professionals

It is of uppermost importance to train professionals for the adequate protection of children's rights. Indeed, children are often abused during judicial proceedings due to lack of information of the judges. This lack of knowledge can be curbed by training judges, but also other actors involved in the judicial process (police, lawyers etc.). Moreover, police must be trained too, as they are the initial actors the child encounters when in conflict with the law.

This training session focused on to treat children involved with the justice system, independently of their role: whether witnesses, victims or perpetrators. Children need advice, so the independent lawyers and / or advisers need to speak a language that children can understand. It is necessary to adapt to the child's environment (the example of the Children's House in Scandinavia). In addition, specialized techniques on how to collect evidence in cases of children in conflict with the law were also presented.

To end this day, Ms Séverine Joliat from IPJJ (Coordinator, Interagency Panel on Juvenile Justice) presented her organization and its actions. The IPJJ facilitates country-level coordination and global coordination in terms of juvenile justice. It coordinates actions and develops common tools. All Panel members have the opportunity to contribute by responding to requests, initiatives and conduct joint programs.

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Wednesday 7th March,



During the third day, the thematic side events addressed: 'Age limits in juvenile justice systems, age and determination of criminal responsibility' and 'Violence prevention against children in the juvenile justice'

H.E. Mr. Pedro Oyarce, Ambassador Permanent Mission of Chile to the UN made the introductory remarks on the theme of 'Age limits in Juvenile Justice systems'. Followed by, Mr. Jean Zermatten, Chairperson of the Committee on the Rights of the Child; Mr. Norbert Fanou-Ako, Enfants Solidaires d'Afrique et du Monde ( ESAM); Mr. Fernando Sabogal Baez, DCI Colombia; Mr. Khael Quzmar, DCI Palestine. Ms. Severine Joliat, Inter-agency Panel on Juvenile Justice was the moderator.

The principal concern was how to deal with a child coming in to conflict with the specific domestic legal system, and how his or her age proves to be fundamental when it comes to deciding his or her fate. The issue of children in conflict with the law, and particularly those children who are below the minimum age of criminal responsibility (MACR), is an issue of serious concern and must be brought forward on the agenda.

Some countries tend to lower the minimum age of criminal responsibility (MACR), which is actually "a step back" for children's rights - stated the Chairper-

son of the Committee on the Rights of the Child, Mr Jean Zermatten - "We are dealing with people who are vulnerable on account of their age and level of maturity. Lowering the MACR does not take into account the three stages of criminal responsibility defined as

- 1) total irresponsibility
- 2) partial responsibility
- 3) full responsibility

- all of which determine specific responses for offenders within certain age brackets".

The significance of birth registration was also highlighted as an issue of paramount concern, particularly for African countries. In fact, in some situations the lack of a birth certificate, or a similar identification document, leaves an offending child unable to prove his or her age. It can result in their detention or imprisonment among adults and convicted criminals.

The Convention on the Rights of the Child asserts the rights of every human being below the age of 18 years. It was proclaimed that States defining an age, within the Convention's definition of childhood, at which children can be criminalized, is inevitably discriminatory. It is in conflict with the Convention's requirement that the child's best interests must be a primary consideration and the child's right to maximum possible development.

CRIN wanted to encourage a debate on juvenile justice which goes beyond pragmatism and compromise, stating: "In particular we want to provoke a new debate about the setting of minimum ages of criminal responsibility. We support those who believe the way forward is to separate the concept of responsibility from that of criminalisation - and stop criminalising children. We want to work with other organisations and human rights advocates to encourage States to design systems which keep children out of the criminal justice system altogether, systems which renounce retribution and focus exclusively on children's rehabilitation, always with necessary attention to public safety and security.

For more information on this last point, please visit [CRIN's Website](http://www.crin.org)

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During the second side event, which focused on 'Preventing violence against children deprived of liberty: the case of Benin and Uruguay' the speakers were : Ms Marta Santo Pais , Special Representative to the United Nations Secretary-General on Violence against Children; Mr Juan Pedro Fumeiro Region representative of the Latin America of DCI; Mr Luis Pedernera, Child Rights Coordinator, Instituto de Estudios Legales y Sociales del Uruguay (IELSUR), and Executive Secretary, Uruguayan Coalition for the Follow-up of the Convention on the Rights of the Child; and Mr Norbert Fanou-Ako, Director Enfants Solidaires d'Afrique du Monde (ESAM).

The event explained the partnership of SOS-Torture Network (IELSUR and ESAM) and OMCT. In fact, OMCT has implemented a project in Benin and Uruguay that aims to further protect children deprived of liberty through, among other activities: developing monitoring visits of detention facilities by NGO's, training professionals on specific measures of prevention of violence against children in conflict with the law and deprived of liberty, and advocating State authorities.

In between these two side events, Ms. Najat Maalla M'jid, Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography regarding the sale of children made a presentation to the HRC.

Access to remedies and appeals, and a better legislative framework are key to addressing violence against children during and after humanitarian crises, affirmed the Special Rapporteur.

UNICEF referred to the campaign for universal ratification of the Optional Protocol on the sale of children, child prostitution and child pornography, saying that "whilst the campaign is yielding important results, implementation is of course critical".

### [Thursday 8th March.](#)

On this particular day, the annual full-day meeting on the rights of the child, a side event or-

ganized by Global Movement for Children - Latin America and Caribbean chapter , focused on 'Children Rights in Latin America' took place.



"Children in Latin America are detained indiscriminately, and not because they have committed an offence, but because of their appearance and race", said child rights advocate Luis Pedernera, alluding to the issue of police profiling

On the problem of lengthy pre-trial detention of children, Mr Pedernera also highlighted that the distress produced by spending time in detention is felt much more strongly by children than by adults, alluding to the special emotional needs of children and the need for family support during childhood and adolescence.

Meanwhile on the issue of media portrayal of children and adolescents, "when a crime is committed, children always end up on the front page of newspapers" and are identified as the perpetrators, such as condemned 15-year-old Rocio Peña, youth representative at the event, from El Salvador's National Network of Children and Adolescents ( RENAES). (+)

A second event on ' Child-friendly in Juvenile Justice, Guidelines on action for children in the justice system in Africa' took place at La Pasotrale, a location adherent to the UN.

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The aim of this side event was to present the outcomes of the Kampala conference. Highlighting the prominent issues of children deprived of their liberty within the justice systems in Africa and promoting child friendly justice in the African region as well as worldwide.

Primary issues of discussion included the deprivation of liberty as a last resort, children's rights in child justice in Africa and child participation.

The Guidelines on Child friendly justice were presented, a new tool to help African States to adapt their justice systems to the situation of children, to implement existing standards as well as adapt procedures that exist elsewhere.

To know more see the website of the Kampala Conference, click [here](#)







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### Brief on the General Assembly

We would like to welcome and congratulate the new members of our Executive Committee, made up of President, 2 representatives from the African region, 2 representatives from the Americas and 2 from Europe and the rest of the world.

President	Belgium	Benoit Van Keirsbilck
Councillor	Cameroon	Desire Aroga
Councillor	Sierra Leone	Abdul M. Kemokai
Councillor	Uruguay	Juan Fumeiro
Councillor	Brasil	Perla Ribeiro
Councillor	Palestine	Rifat Kassis
Councillor	The Netherlands	Aloys Van Rest





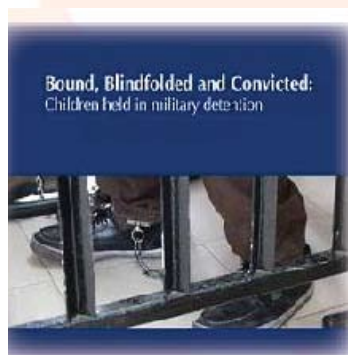
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### News - from the sections

#### DCI- PALESTINE



On 20 March 2012, DCI-Palestine launched a new report: Bound, Blindfolded and Convicted: Children held in military detention. The report is the culmination of four years of hard work by DCI, with the support of the European Union, focusing on verifying reports of ill-treatment and torture of children in the Israeli military detention system.

The findings of the report are based on 311 sworn affidavits taken from children between January 2008 and January 2012.

The full report is available [on line](#) , and hard copies are available upon request

#### DCI- THE NETHERLANDS



The report A “few nights” in the cell’ shows that in many children’s rights areas , the situation of young people with the police should be improved .

Defence for Children International - The Netherlands has done extensive research on this issue. The main conclusion and idea of this report is that each year thousands of minors have to deal with the police, they often remain in a cell for one night or even longer. And in such cases, laws, policies and practices are not much different than those applied to adult suspects. This is contrary to the UN convention on the Rights of the Child. The report makes recommendations on how improvements can be realized. You can read more [on line](#) or order the publication in the webshop. The report is only available in Dutch

### Statements from the sections

#### WRITTEN STATEMENT FROM DCI- PALESTINE

Each year approximately 500-700 Palestinian children from the occupied West Bank are prosecuted in Israeli military courts after being arrested, interrogated and detained by the Israeli army, police and security agents. Since 2000 alone, around 7,500 Palestinian children have been detained and prosecuted in the system, which has now been

operating for over 44 years. Reports of torture and other cruel, inhuman or degrading treatment or punishment are persistent. This statement submitted by DCI-Palestine wants to highlight that there are two legal systems for children in the same territory in Palestine and that rule of international human rights law must be enforced..(+)

#### WRITTEN STATEMENT FROM DCI- BENIN

This statement deals with the necessity of training child rights actors and professionals on the practice of non-violence against children.

DCI- Benin shows how, with the support of UNICEF, they have elaborated specific modules of training.

With this statement, DCI-Benin wishes to create an example of good practice and spread such experience to the entire west-African sub-region, not only in schools but also to the university administrations and other relevant educational institutions..(+)