
INTERNATIONAL ASSOCIATION OF YOUTH AND FAMILY JUDGES AND MAGISTRATES
ASSOCIATION INTERNATIONALE DES MAGISTRATS DE LA JEUNESSE ET DE LA FAMILLE
ASOCIACION INTERNACIONAL DE MAGISTRADOS DE LA JUVENTUD Y DE LA FAMILIA

CHRONICLE

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EDITORIAL

HUMAN RIGHTS

AN ELUSIVE IDEAL!

The Universal Declaration of Human Rights, adopted in 1948, grew out of a post-war idealism that is not reflected in many parts of the world today. Article 1 states that “all human beings are born free and equal in dignity and rights”. Article 3 states that “everyone has the right to life, liberty and security of person”.

Tell that to the people whose every possession was washed away by the floods in Mozambique or to the living dead in Ethiopia. Explain that to the women who are unable to get loans for small businesses, are denied an education, or are beaten by their partners.

One cannot talk of a person having human rights if basic necessities are denied. Nearly half of the world’s population of six billion people are living on less than \$2 a day and about 1.2 billion are struggling on less than \$1 a day. This figure includes 500 million in South Asia and 300 million in Africa.

The reality of life for many at the beginning of the 21st century is desperate poverty and lack of material possessions, no schools, no medical facilities, no running water, sitting waiting patiently for the rumoured assistance schemes to arrive.

It is the poor who are most vulnerable to violations of human rights because they are the least informed about them and because they have little opportunity to fight for their rights, even if they are aware of them.

Lifting them out of poverty must be the first priority. Overcoming poverty is not just about economic growth but about the development of people.

Julius Nyerere, former President of Tanzania, pointed out that people cannot be developed, they can only develop themselves.

Therein lies the problem. The right to participation is a fundamental element of the UN

Declaration on the Right to Development of 1986.

Yet, in order for people to develop themselves they must be aware of their fundamental human rights, they must know what these rights are and they must know how to access them.

Development workers often lose sight of the true meaning of development. According to Nyerere: "... Roads, buildings, the increase of crop output and other things of this nature are not development; they are the tools of development. ...".

The role of the development worker is to unlock the existing human potential of people through careful and sensitive leadership and through the acknowledgement of their human dignity and human spirit.

People in power have to relate to poor people in a way that enhances and supports this dignity and spirit and does not treat them as the empty receptacles of social and development largess. This way they become more than throw-away phrases – "the poor", "the marginalised".

This way it would be clearly understood that it is their dignity that is at the centre of the human rights endeavour and that it is the development of their potential that should be at the centre of any development initiative.

The observance of International Human Rights Day on March 21 provided countries with the opportunity to restate the need for a rights-based approach to development and to re-emphasise the interconnection between human rights and development. I was in South Africa at that time and was able to hear some of the discussions.

"Building a human rights culture is really the main point," said David Johnson, head of the Southern African Regional Office of the Office of the High Commission for Human Rights.

"It's a struggle to change a political culture and to make it a human rights aware culture. We're talking about a population understanding what rights are and having mechanisms of participation in the debates and the decisions that are being taken".

In the past, says Johnson, countries referred to two sets of rights – one civic/political, the other economic/social. Today we know we can't have one without the other. He says the growing trend towards a rights-based approach "refines priorities".

"Human rights are for everyone, for all groups - majorities and minorities, rich and poor.

But in a rights-based approach we have to focus on vulnerable groups. These can be women, children, or ethnic and religious groups. There are disadvantaged groups in every society and we have to focus our interventions and monitoring on them".

Charlotte McClain, a human rights commissioner focusing on social and economic rights, calls this a "participatory approach" to human rights which demonstrates an understanding by governments - at least those who are signatories to international treaties - that development includes the right to popular participation.

Development is not only people-centred, therefore, but also people-driven. Governments, McClain says, are the "custodians" of a human rights culture, while civil society drives it.

People's participation in their own development is contingent on their physical and psychological well-being. Fighting for survival negates self-empowerment and development.

Marjorie Jobson of the Human Rights Institute of South Africa comments:

"Certainly no person can effectively exercise their civil and political rights in the absence of their social and economic rights, including

their rights to an adequate standard of living, secure and permanent housing, access to education, an adequate standard of health care and a safe, clean environment.”

“Massive public education campaigns are an option but they’re not enough. We need to engage with traditional and religious leaders who say they promote anti-discrimination and anti-poverty legislation but perpetuate discrimination against women and deny them the right to development”.

“South Africa is trying to deal with human rights at a constitutional and legislative level. That’s one important aspect, but how to implement these laws is also important.”

Local governments, civil society, religious groups and the police are among those on the frontline of building a human rights culture.

Communities and individuals must understand that human rights are integral to democracy and form the cornerstone of their development. For many these concepts remain elusive ideals.

Poverty is the absence of fundamental human rights. The key to eradicating poverty is education. Nyerere once wrote : “Education is not a way of escaping the country’s poverty. It is a way of fighting it”.

Half of the women and one third of the men in sub-Saharan Africa are illiterate, and the numbers are growing.

The solution, according to Oxfam, is a Compact for Africa, under which \$3.5bn a year would be mobilised by national governments and the international community in return for a pledge to cut military spending.

“In the absence of a concerted national and international effort to resolve the crisis in education, the human foundations for Africa’s recovery in the 21st Century will not exist”, says Oxfam.

Without such an effort, today’s lost generation of children in west and central Africa will see a repeat of the civil wars which stole their youth, and may visit the same fate upon their own children.

The illiteracy rate in Sierra Leone and Liberia is 80%. The two rank with Angola at the very bottom of the UN’s human development index, with low life expectancy, high malnutrition and maternal mortality, and little access to safe drinking water or sanitation.

The developed world has a responsibility to these countries, and not just out of enlightened self-interest. There is also a moral dimension. These civil wars exploded out of intolerable iniquity.

Western governments tolerated the corruption, mismanagement and appalling poverty which lay behind the men they did, and continue to do, business with.

The West agonises over Africa’s inability to feed itself, while milking millions in interest from loans made to prop up corrupt regimes and benefiting from the collapse of commodity prices which have destabilised dozens of African economies.

Earlier this year the former head of the IMF, Michael Camdessus, pleaded with the west that the biggest thing it could do for Africa was to stop exporting arms to the continent.

In West Africa the link between the revolts against the ruling elites in Liberia and Sierra Leone and the lack of education appears clear. Only a society with 80% illiteracy could have produced the particular horrors of these wars.

The keys to transforming education are political will and the motivation and training of teachers.

Tanzania under Julius Nyerere achieved 90% primary education in the 20 years after independence.

It is worth noting that the IMF programmes introduced after 1985 brought a 30% decline in school enrolment!

Everyone agrees that the key to the continent's development is primary education. Exhaustive studies have shown that the single most effective development policy is the education of girls.

Primary education increases agricultural productivity, reduces infant mortality and improves the distribution of wealth and political stability.

The sad fact is that illiteracy in Africa is increasing! Enrolment is lower than in 1982 and, if current trends are not reversed, Africa will account for three-quarters of all primary school age children not in school by 2015.

This is not for lack of African investment in education – they spend more in proportion to their GDP than other countries – but because a combination of slow economic growth and expanding populations have crippled their efforts to keep up.

The UN's call in Dakar last April for education for all is the key to ending the poverty and wars bleeding Africa, but only if the promises can be turned into action.

The conference approved a blueprint showing how the target for universal primary education by 2015 might be achieved.

Considering the lack of enthusiasm shown by the developed nations in backing the UN's educational targets, there is increasing danger that the Dakar conference will have achieved nothing but warm words.

Women around the world on average receive vastly inferior education to men and have less access to health services. At the very moment that international institutions are trumpeting the education of women as key to reducing population growth and fostering development, IMF and World Bank imposed structural ad-

justment programmes have led to drastic cuts in health and education budgets.

As I write this editorial (in early June) delegates from 188 nations around the world have gathered in view of the Statue of Liberty at the UN Headquarters in New York to assess how far they have come five years after the Fourth World Conference on Women held in Beijing.

The delegates can rightly claim that they have come a long way since the first world conference on women was held in Mexico in 1975.

However, there is little evidence that an awareness of the right to development, which encompasses fundamental human rights, is filtering down to those most in need.

Five years after the UN adopted an ambitious plan in Beijing to achieve equality for women, Kofi Annan admits that "much remains to be done".

Vivienne Taylor, author of the United Nations Development Programme's human development report on transformation in South Africa says many of the "limited gains women have made remain largely paper gains".

Many of these "paper gains" have not been translated into effective rights that women can claim at national and local level.

"We are increasingly finding that while we have human rights and the right to development entrenched in constitutions, at a social level - between men and women, between rich and poor - there is more and more exclusion and inequality", she says.

Women in many parts of the world are denied access to the means of production – land, credit, jobs and economic wealth.

Globalisation, touted by international institutions as the great opportunity for economic progress, is simply reinforcing the inferior status of women.

While export-processing zones have created more jobs for women, these repetitive and un-rewarding jobs have been calculated to exploit their labour.

In a forward to "*Ours by Right – Women's Rights as Human Rights*": Maureen O'Neill, President of the North-South Institute writes

"Securing rights for women – rights to own property, rights to abortion, rights to vote, rights to move about freely without a husband's or male relative's agreement, rights to pass on citizenship – frequently have not been seen as central to development".

The fear is that this year's agenda in New York may reverse some of the gains made in Beijing, rather than move things forward.

Mary Robinson, the High Commissioner for Human Rights, said at the opening session that she was worried that the current review might weaken the 1995 agenda.

"This review is ... worrying because we have difficulty holding onto the platform of Beijing, never mind moving much, much further, as we need to".

The debate in New York is between the states which don't want progress and those which do. There is a danger that it will not get beyond the level of debate.

As long as human rights remain the domain of international agencies, government officials, academics and NGO workers, they are, to a large extent, irrelevant to people mired in poverty, for whom restoration of their dignity would be the first priority.

For years to come the image which will define Africa will be one from the Mozambique floods: a woman clinging to a tree, surrounded by muddy water, her arm outstretched for a rescuing helicopter crewman. It graphically illustrates the desperation experienced by millions of Africans in different crises all over the continent.

Unfortunately it also reinforces an erroneous and common impression of the passivity of Africans in such situations and the heroic superman role in which the developed world likes to cast itself.

Fact and fiction are muddled in our perceptions of a vast continent which presents the international community with its biggest test in the 21st century.

The truth is that Africa is struggling to deal with a coincidence of crises.

First, ecological catastrophe means floods, droughts, desertification, falling yields and soil erosion. The latest catastrophe is a massive famine in the Horn of Africa.

Second, Aids has slashed life expectancy in many countries, killing the most economically productive generation and leaving behind millions of orphans and unsupported elderly.

Yet the capacity of many African countries to deal with either of these crises is crippled by war, internal conflict and political corruption.

But what is largely fictional is the notion that the international community is making serious efforts to help Africa. The initial bursts of generosity when we see a distressing image on our television screens is quickly replaced by indifference.

Making human rights real to millions of people who live in poverty in Africa and around the world and who are denied the right to development requires governments and civil society to work with them, to listen to what they have to say and to give them the tools to develop themselves.

Progressive legislation may contain all the right words and concepts about entrenching human rights.

All too often these are little more than paper gains for the world's poor, and particularly for

women and children, for whom human rights remain abstract and distant.

How can we get human rights from the realm of the abstract into the reality of the millions who are most in need of its protection?

How can we provide those living in poverty with a sense of ownership of even the most basic human rights?

It is this large section of society that has the greatest need to realise these rights but is least capable of accessing them.

It is too easy to become enmeshed in a web of confusing discussions and ideological rhetoric and lose sight of the fundamental reason for the existence of human rights: to acknowledge the existence of, nurture and protect human dignity. This must be the starting point for human growth and development.

The UN millennium meeting to be held in New York (September 6-8) could turn out to be the biggest ever meeting of government leaders – between 130 and 150 are expected to attend.

Calling extreme poverty “an affront to our common humanity” the Secretary General will be hoping to get backing for his declared aim of lifting 1 billion people out of extreme poverty by 2015.

He believes that education is the key element in achieving this.

In a recent speech he said “I urge the millennium summit to endorse the objectives of demonstrably narrowing the gender gap in primary and secondary education by 2005 and by

ensuring that by 2015 all children complete a full course of primary education”.

He hoped that by the same date the HIV/Aids epidemic would have halted and the percentage of people without access to safe drinking water would be cut in half.

With the world being transformed by a global economy and instant communications, Mr Annan said, “the central challenge we face today is to ensure that globalisation becomes a positive force for all of the world’s people, instead of leaving billions of them behind in squalor”.

Unless this happens human rights will remain an elusive ideal for the people who are the most vulnerable to the violation of those rights.

A special session of the UN General Assembly has been scheduled for September 2001 and will concentrate exclusively on children and children’s rights issues. The Special Session will include a review of what has been achieved in the ten years since the World Summit for Children organised in 1990. It will also consider what has not been achieved and where the problems lie. The Special Session will attempt to look forward and consider concrete ways in which children and children’s rights can be advanced in the future.

The ideals that underlie the Universal Declaration of Human Rights are noble, but their execution requires stepping out of the “ivory tower” of government speak and into the world of those whose lives would benefit most from their implementation.

Willie McCarney, Editor

SOUTH AFRICA

A promise for a better way of dealing with children accused of crimes

By Ann Skelton

Ann Skelton is the project co-ordinator of the UNDP Child Justice Project, a UN technical assistance project for the Government of South Africa. She has been at the forefront of the campaign to reform the criminal justice system as it pertains to children and was appointed by the Minister of Justice to lead the South African Law Commission Project of Juvenile Justice.

Editor

“ The Government will, as a matter of urgency, attend to the tragic and complex question of children and juveniles in detention and prison. The basic principle from which we will proceed from now onwards is that we must rescue the children of the nation and ensure that the system of criminal justice must be the very last resort in the case of juvenile offenders”

These words were spoken by Nelson Mandela in his opening address to the first democratically elected parliament in South Africa in 1994. The impetus for this important commitment by the ANC-led government was the history of the suffering of children in South Africa’s police cells and prisons. In the 1970s and 1980s many of these children had been political detainees, subject to arbitrary arrests, detention without trial, sometimes to torture. By the late 1980s the political detentions had stopped, but many children continued to be swept up into the criminal justice system because of “ordinary” crimes, the majority of which were non-violent crimes, mostly theft. Non-governmental organisations and human rights lawyers did what they could during the apartheid years; there were detainee’s parents committees and free legal representation during the years of intense political activity, and later there was a concerted campaign by a group of non-governmental organisations to have children released from prisons and police and to call for reform to the way in which the criminal justice system dealt with children. In the early 1990s a strong child rights movement began to develop in South Africa, giving a

firm theoretical framework for the efforts at reform. All of this must have been ringing in Mandela’s ears as he made his first promises of action.

Now, in 2000, into our second government, South Africa needs to appraise whether the promises have been kept. On the face of it, the picture is disappointing. There are over 2000 children in prison awaiting trial, some of whom have been there for over a year. This number is higher than the number of children in prison at the time of the first democratic elections. Since 1994, one child was beaten to death by an adult cell mate¹, whilst awaiting appearance in shoplifting case, and three children have committed suicide whilst awaiting trial in different types of government-run residential settings. The media did not reflect these deaths with the outrage that should be forthcoming in such situations. The public reaction was low-key – the government’s response has been weak.

However, although few children have experienced the advantages yet, a great deal has been happening in South Africa regarding the transformation of the way in which children are dealt with by the criminal justice system. The ratification of the UN Convention on the Rights of the Child by the South African government in 1995 set the scene for broad-reaching policy and legislative change. The new South African Constitution embodies a section protecting children’s rights, which includes the statement that children have the right not to be detained except as a measure of

last resort and then for the shortest appropriate period of time, separate from adults and in conditions which take account of his/her age. One of the earliest cases to come before the newly constituted Constitutional Court led to the court striking down corporal punishment (until then used as a sentence for children by South African courts) as being cruel, inhumane and degrading treatment.ⁱⁱ

The government did act with urgency, as Mandela had promised they would, on the issue of children in prison. In this regard, however, the country experienced that the practice of proceeding with too much haste can create problems of its own. An amendment to an existing law which was intended to entirely outlaw the imprisonment of children during the awaiting trial phase led to chaos when it was suddenly promulgated. Inadequate consultation between the relevant government departments as well as a lack of alternative residential facilities for children caused the application of the new law to be fraught with practical problems. So serious were the consequences of this that within a year the government had to amend the law again, this time allowing children charged with certain offences to be detained in prison awaiting trial. The debacle also had some positive results, however. It led directly to the setting up of a structure called the "Inter-Ministerial Committee on Young People at Risk" (IMC) which became an important agency for policy making in the field of child and youth care, including the management of children who come into conflict with the law. The IMC set up a number of pilot projects to try out new policy recommendations they had made, and some of these were important incubators for the development of new ways of dealing with children. Of particular relevance to children accused of crimes were projects which dealt with the management of children immediately following arrest. One very successful projectⁱⁱⁱ has developed a "one stop centre" to which children accused of crimes can be brought by a police officer and assessed by a probation officer. On the same premises (which is not at a criminal court building) there is a resident magistrate and a

small court room. The staff at the centre have developed a strong inter-disciplinary model of working with the children who they receive. This model has been so successful that other provinces have imitated it and it is set to become a vehicle for the implementation of a proposed new legal system.

In 1997 a project committee under the auspices of the South African Law Commission began its investigation into Juvenile Justice. The project committee was appointed by the Minister of Justice to look into the situation in the country regarding juvenile crime and to draft comprehensive legislation to deal with this issue. The committee was made up of a number of experts from civil society who had both practical and theoretical knowledge about the way in which children are processed through the criminal justice system. The process of law reform has been a consultative one. In 1997 the Commission published an issue paper, setting out the problems in the current system and making broad recommendations for change. After an intensive period of consultation the committee set to work on writing a draft Bill which was entitled the "Child Justice Bill". This was accompanied by a Discussion Paper which set out in great detail the rationale for the recommendations put forward. This was again followed by energetic consultation with police, prosecutors, magistrates, judges, NGOs and academics. There was also a specially designed consultation process undertaken with children themselves.^{iv}

The final report of the Commission's committee on juvenile justice is expected to be handed to the Minister of Justice during July 2000. The general shape of the proposed new system has already been moulded.

The draft Bill begins with a set of principles which frame the paradigm in which the new system will operate. The objectives of the legislation are to

- (a) promote the procedural rights of children who are subject to the provisions of this Act

- (b) promote *ubuntu*^v in the child justice system through -
 - i. fostering of children's sense of dignity and worth;
 - ii. reinforcing children's respect for human rights and the fundamental freedoms of others by holding children accountable for their actions and safeguarding victims' interests and the interests of the community;
 - iii. supporting reconciliation by means of a restorative justice response; and
 - iv. involving parents, families, victims and communities in child justice processes in order to encourage the reintegration of children who are subject to the provisions of this Act; and
- (c) promote co-operation between all government departments, other organisations and agencies involved in implementing an effective child justice system.

The proposed new system places a great deal of emphasis on the first 48 hours after the child is apprehended. A number of alternatives to arrest are provided (such as taking a child home and giving a written notice to appear at a subsequent proceeding) and the police officer is enjoined to use one of the alternatives to arrest in all petty offences unless particular reasons exist for not doing so. Where arrest is used it is to be done in a manner which promotes the dignity and well-being of the child. Due to the history of policing in South Africa, as well as a current lack of trained personnel, the Commission has decided not to include a provision for a specialised unit within the police force to deal with arrested children. Instead, the system aims to get the children out of police hands as soon as possible, either into the care of their parents or to a probation officer^{vi} who will undertake an assessment of the child. An individual assessment of each child is an innovation created by the proposed system. The primary purposes of the assessment are to establish the prospects of diversion of the case, and to formulate recommendations regarding release of the child into the care of his or her family or placement of the child into an appropriate residential facility. The proba-

tion officer's assessment report must be given to the magistrate presiding over the next step of the system, the preliminary inquiry. Also an innovation, the preliminary inquiry must take place within 48 hours of the child being apprehended. It is chaired by a magistrate but is very much a "round table" conference, with everyone, including the child, being encouraged to participate. The main objective of the preliminary inquiry is to establish whether the matter can be diverted. After considering the views of all persons present (including the prosecutor, who can override a consensus decision to divert) the magistrate may make an order of diversion. Other decisions regarding release or placement of the child are also dealt with at the preliminary inquiry. Diversion is a central feature of the new system, and the draft Bill sets out a range of diversion options, listed in three levels depending on the intensiveness of the programme. Any case may be considered for diversion. One of the diversion options is a family group conference^{vii}. Those children who are not diverted (either because they indicate that they intend to plead not guilty to the charge, or because the particular circumstances surrounding the child or the case make diversion inappropriate) will proceed to plea and trial in the Child Justice Court. The envisaged Child Justice Court is not a completely specialised or separate court. In urban areas, where there are sufficient cases to warrant it, full time Child Justice Courts with specially selected and trained personnel will be set aside. In rural areas, the court will simply "constitute" itself as a Child Justice Court, following the procedures set out in the legislation. The aim is that the majority of children will be tried in the Child Justice Court (which will operate at District level). However, cases involving murder and rape, or other exceptional circumstances may be referred to the Regional Court or even the High Court. However, it must be stressed that even when this occurs the child is not to be tried as an adult. The superior courts are bound by the special provision for children set out in the draft Child Justice Bill. The Bill includes a wide range of sentencing options, including non residential or community based sentences,

sentencing involving restorative justice concepts such as restitution and compensation to the victim, and finally, sentences involving a residential element. The Draft Bill makes it clear that imprisonment should only be used as a measure of last resort and then for the shortest possible period of time. The use of imprisonment is further limited by an age limit and a list of offences for which children may be imprisoned. Legal representation will be provided for at state expense where a child is deprived of his or her liberty or where the alleged offence is such that he or she is likely to get a sentence involving loss of liberty. The expungement of records is provided for in a unique system whereby the magistrate in the Child Justice Court or other court hearing the matter must, at the time of determining the sentence, also make a decision whether or not the criminal record should be expunged, and if he or she so decides, to set the date on which the record will fall away, and the date should not be less than three months and not more than five years from the date on which sentence is passed. Certain very serious offences^{viii} are, however, excluded from the possibility of expungement. Finally, the Bill provides for a monitoring structure to oversee the efficient running of the new system – made up of inter-sectoral committees at a local level which report to a national office for Child Justice.

Although the Draft Bill is largely procedural it does contain some important substantive law provisions. The most notable of these is the issue of the minimum age of criminal capacity. The current law is based on the old Roman Law concept of *doli incapax*, and rests on two legal presumptions. Children below the age of seven years are irrebuttably presumed to lack criminal capacity. Children who have attained the age of seven years but have not yet turned 14 years of age are also presumed to lack criminal capacity, but this presumption can be rebutted – if the state can prove that the child appreciates the difference between right and wrong, and can act in accordance with that knowledge. This law has been found not to be an effective protection for children, the presumption being far too easy to rebut, and the

courts having focused on the first leg of the inquiry (the child's ability to understand the difference between right and wrong) with scant regard for the importance of the second leg (that the child must be able to act in accordance with that appreciation). After much intensive debate the Commission is proposing that the minimum age should be raised from 7 to 10 years of age. The presumption of lack of criminal capacity of a child who has attained the age of 10 years but has not yet reached the age of 14 years should remain in place, with increased protection for this group of children in the form of a higher requirement of proof that the presumption can be rebutted. The State will be required to provide proof, beyond a reasonable doubt, that the child understood the difference between right and wrong at the time of the commission of the alleged offence. Evidence of the intellectual, emotional, psychological and social development of the child must be provided, and must be supported by a report from a person qualified in child development or child psychology, who must personally testify before the court as to the content and findings of the report. A "child" is a person under the age of 18 years and this accords with the Constitutional definition of a child in South Africa.

Although the Law Commission's draft Child Justice Bill provides a wonderful promise of a new system for dealing with children accused of crimes in South Africa, the draft Bill must still go through the normal parliamentary law making process. This could prove to be a precarious phase. South African politicians are under pressure from the electorate to deliver "tough" solutions on crime. The US inspired crime control approaches embodied in sound bites such as "zero tolerance" and "crack downs" have reached all the way over to South Africa where they have begun to permeate the laws emanating from parliament. It will be a major challenge, therefore, to ensure that the draft Bill remains as intact as possible. Civil society in South Africa plays an important role in the consultative law making process, and it is hoped that the relevant NGOs will throw their weight behind the new law. There is buy-

in from the government departments, and despite the public perception that crime is out of control, there remains some willingness amongst the South African public to try different approaches with young people.

President Thabo Mbeki, in a speech made to launch the “Children’s Promise” in 1999 spoke of a collection of quotations from the townships which was published during the height of Apartheid. The publication was called “Two dogs and freedom”, and its title came from a quotation from a child living in a township who said “when I grow up I want to live in a house with a garden and have a wife and two children, a boy and a girl, and two dogs and freedom”. Mbeki uses this story to make the important point that although South Africa’s children are now politically “free” they remain imprisoned – some literally - by their poverty. And so it must be said that no new criminal justice system can, of itself, cre-

ate social justice for children. South Africa’s efforts for a new child justice system will have to be supported by broad-reaching improvement in the social and economic lives of all its citizens if real change in the lives of children is to be seen.

ⁱ By law, he should not have been held together with an adult.

ⁱⁱ S v Williams 1995 (3) SA 632 (CC).

ⁱⁱⁱ The Stepping Stones One Stop Youth Justice Centre, in Port Elizabeth.

^{iv} See “The draft child justice Bill: What the children said” published by Community Law Centre, University of the Western Cape.

^v “Ubuntu” is an African concept of humanitarian co-existence, which can be roughly translated to mean “a person is a person through other people”.

^{vi} Probation officers in South Africa are social workers who are employed by the Department of Welfare.

^{vii} Based on the New Zealand model.

^{viii} Such as murder, rape and armed robbery.

DATE FOR YOUR DIARY

24-28 October, 2000

THE RIGHTS OF MIGRANT CHILDREN

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BOLIVIA: THE NEW CHILD AND ADOLESCENT CODE

IN THE CONTEXT OF THE CONVENTION

Law No. 2026 of October 27th, 1999, La Paz, Bolivia

**Dr. Sandra Pacheco de Kolle,
Judge for Child and Adolescent Cases, Superior Court, Tarija, Bolivia**

The Convention on the Rights of the Child provides the basic source for the Child and Adolescent Code, a standard inspired by the Convention, which incorporates the rights of Bolivian boys and girls into a common category: Human Rights.

One important aspect worth mentioning and which goes beyond the legal reference text is the belief that children are beings in development who do not have full rights due to their immaturity, and therefore not all human rights are applied to them.

In the face of this erroneous conception, universal human rights have been ratified in favour of children, due to the fact that all human beings enjoy the same rights simply by their humanity, independently of their age. And as Miguel Cillero Bruño put it, "the rights of children do not depend on any special condition and apply equally to everyone; they constitute a body of guaranteed rights before the state and represent a duty of the various arms of the state to participate in the implementation of these rights. In this sense, the human rights approach makes possible the organisation of public policy from a different perspective and the participation of children in society".

In this context, the new Code, in accordance with the Great Charter of the State, establishes that the State has a duty to promote and guarantee the concrete protection of human rights recognised in this century, as children possess the fundamental rights recognised in International Instruments as applying to everyone.

The Child and Adolescent Code, guided by the Convention, recognises all the rights necessary for the full development of the child's personality and dignity. These rights include the right to harmonious development, the right to education, the right to free time and the right not to carry out harmful or dangerous work, the right to a name, to a nationality and a family environment, the right to freedom of expression, the right to receive information and the right to free association. This holistic method guarantees full consideration and interpretation to the new legislation, which leads to a system of implementation which emphasises co-existence and the respect of every single recognised right.

PRINCIPLES BEHIND THE CODE

The Code supersedes the legal remnants of the doctrine of "irregular situations" and fits better into the new doctrine of "full protection" adopted by the International Convention on the Rights of the Child, which in addition is preceded by the United Nations Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the United Nations Minimum Rules for the Protection of Minors Deprived of Liberty and the United Nations Guidelines for the Prevention of Juvenile Delinquency.

Analysis of all these international standards, which have a concrete influence on the aforementioned Code, leads us to a new conception of the child or adolescent, as they are no longer mere subjects of rights which are sus-

pending until they reach majority. Today, like every human being, they possess full rights and can exercise them directly according to their age and development. The only restrictions are those imposed for safety reasons or in order to respect the rights of others.

CHARACTERISTICS OF THE NEW LAW

The Child and Adolescent Code which came into full effect in Bolivia in April 2000, consists of 319 articles, divided into three Books, which in turn are subdivided into Titles, Chapters and Sections.

The three major issues it raises are:

- **Book 1:** Refers to Fundamental Rights and Duties. It contains the basic rights and freedoms of children and adolescents and sets out mechanisms which ensure their full implementation.
- **Book 2:** Regulates Prevention, Care and Protection, establishing a system of prevention, protection and care, which the State guarantees to children to ensure their full development, orienting national policies connected with these ends.
- **Book 3:** Sets standards for Legal Protection, Responsibility, Jurisdiction and Procedure.

This legal text is based on the Doctrine of Full Protection and recognises the rights of all children and adolescents aged 0 to 18, setting standards for the whole world of the child and adolescent.

It is a law designed to avoid discrimination and to restate the recognition of children as human beings. For this reason we can say that it is a Code of guarantees, as it establishes the minimum acceptable rights of a large part of the population: children and adolescents, putting them in the category of subjects of rights.

On this subject, in article 5, the Code establishes that this part of the population “as sub-

jects of rights enjoy all fundamental rights and constitutional guarantees which apply to every person, without prejudice to the full protection introduced by this Code”. Further, it determines that the State has an obligation to ensure by legislation or by other means all opportunities and facilities to women as well as men, with the aim of guaranteeing them “full development in conditions of equality and equity”. To this end, the Code requires that its standards “must be interpreted in such a way as to look after the best interests of the child and adolescent in accordance with the Political Constitution of the State, the international Conventions and Treaties in force and the laws of the Republic”.

Thus, Dr. Sonia Soto, a specialist in the field, states: “the new standard rejects repressive court or social measures and sets out global and general care policies, through which the State and society must guarantee full development to the whole of the population, from conception to the age of 18, and in cases specified by law, to people aged between 18 and 21”.

It is a progressive and systematic piece of legislation, as it fixes minimum legal standards for the treatment of children and adolescents. It is progressive because the minimum standards set out must be built upon, and it is systematic because it establishes, for the competent authorities, the actions to be taken to ensure that the rights provided are put into practice.

It dedicates special attention to the right to an identity, establishing the principle that this includes: the right to one’s own and individual name, the right to have two first names, to enjoy the nationality of one’s biological parents and to be informed of one’s family history. If the identity of one of the two parents is not known, the boy or girl will be registered with conventional given names, which will be recorded only in official documents and not on the birth certificate.

The Code re-evaluates jurisdictional functions and grants competence to the judge in affairs of a judicial nature, especially in cases of serious offences, and takes out of the court system many cases which can be handled by social administrators.

It establishes a series of preventive measures, determining that the state body governing policy concerning children is the Ministry of Sustainable Development and Planning, through the Ministry of Family and Generational Affairs.

It creates the National Council for Children and Adolescents with the power to make proposals, to consult and evaluate policies and services for children and adolescents on a national level.

In the context of administrative decentralisation of the country, it sets up a Commission for Children and Adolescents in each Departmental Council of the Prefectures, which also functions as an instance empowered to propose and monitor policies and care services oriented towards children and adolescents in the region. Finally, it determines that Government Technical Instances are administrative services of the prefectures of each administrative division for child and adolescent affairs.

Regarding care programs, the Code stipulates that it is the responsibility of the State to provide, in the General Budget of the Nation, the resources necessary for the functioning of care centres and children's centres, orientation services and social and educational assistance in an open environment, legal, psychological and social care services, services for integration into a foster family, organisations for receiving minors, centres for the orientation and treatment of children and adolescents dependent on drugs and alcohol, centres for the functioning of assisted liberty and semi-liberty, as well as detention facilities.

In accordance with the Agreement ratified by Bolivia with the ILO, the minimum working

age is fixed at 14. However, bearing in mind Bolivian reality, provisional regulations set out that the State will have to implement progressive public policies to eradicate child labour. Meanwhile, the same protection and legal provisions apply as in the case of adolescent workers.

The Code brings up the essential aspect of the family and its relationship with the child, emphasising the right of the child to develop and be brought up in an atmosphere of affection and security in his or her family of origin. Lack of material resources is not grounds for separation of the child from the family. It regulates the institutions responsible for the Suspension, Loss and Termination of Parental Rights when the duties of parental authority are not fulfilled.

It defines the foster family within the context of Custody, Ordinary Guardianship and Superior Guardianship. As for adoption, it legislates national and international adoption, developing its regulations in accordance with the relevant Conventions.

We can say that the system of criminal responsibility it institutes is the most important new aspect of the Code. The new legislation improves the legal framework of protection of young people who break the law. Among the objectives of applying the criminal justice system to young people, we consider it fundamental to verify the truth of the accusations levelled at the offender, respecting the guarantees of international law. We must also respect national law through a specific system of procedural guarantees to make juvenile proceedings more informed, seeking to live up to the true interest of replacing criminal reproach with personalisation and humanisation.

In this sense we aspire to progress to a new juvenile justice model, establishing what rights and guarantees apply to young offenders, introducing educational elements which counterbalance the mere punitive and controlling nature of measures taken, however at the same time respecting the legislation in force.

The Code incorporates verbal procedures for trial proceedings and explicitly sets out guarantees of due process in cases involving juvenile delinquents, allowing them to be heard and also assisted by a defence lawyer.

Further, once the personal, family and social situation of the adolescent has been investigated, strategies are to be applied with the aim of re-educating the juvenile in conflict with the law and to achieve his or her reinsertion into society in order to prevent future misbehaviour.

The Code defines an infraction as “behaviour defined as an offence by criminal law in which an adolescent is the actor or a participant, and which gives rise to a social responsibility”. Proceedings take place according to a clear system of juvenile criminal responsibility, which implies that for adolescents ages 12 to 16 (until their 16th birthday), the consequences of their actions are considered differently when those actions come under offences defined by the Penal Code.

As for children aged under 12, the Code establishes that they are exempt from social responsibility, leaving civil responsibility, which will be pursued before the appropriate courts. However, when a boy or girl breaks the criminal law, after investigation it falls upon Defenders of Children and Adolescents to bring interdisciplinary attention to the child and his or her family for whatever time necessary, insisting that at no time will there be deprivation of liberty.

As regards social and educational measures applicable to teenage offenders, an adequate scale has been set out, which ranges from cautioning to deprivation of liberty, which must be imposed as a last resort.

THE NEW CODE BETWEEN ASPIRATIONS AND REALITY

The new Child and Adolescent Code, recently adopted in Bolivia, is the starting point to-

wards a new concept of care and protection of children and the culmination of a long process of adaptation to the principles emanating from the International Convention on the Rights of the Child.

Note that the legislator, with strict adherence to constitutional guarantees, has proposed and delivered standards which respect fundamental human rights and create a framework of legal protection both for young offenders and the victims of their conduct, as well as looking after public safety, thus adapting to the changing needs of society.

It is worth pointing out that the law has put an end to what remained in our legislation of the Irregular Situations Doctrine and established fundamental principles for the consideration of the child as a true subject of rights.

The Code is oriented towards achieving a justice system which acts promptly and effectively, respecting basic guarantees for children and adolescents and the right to due process, introducing profound changes in the area of adolescents in conflict with the law.

With the new legislation we are looking for a reformed system of justice which responds to the demands of citizens without losing sight of the recognised rights and prerogatives of young offenders. It reaffirms the principle of due process in juvenile criminal proceedings, the legitimacy of the judge, his or her independence, the status of the offender before the law with guarantees, the presumption of innocence, technical defence, the restrictive use of precautionary measures and the primary consideration that deprivation of liberty should be the last resort and be imposed for the shortest possible time.

CONCLUSIONS

Bolivian universities have trained a great many generations of lawyers in the Irregular Situations Doctrine. This system in practice has internalised lack of respect and observance

of the rights and prerogatives of children and adolescents, particularly those minors who find themselves in conflict with the law.

Likewise, we can count in thousands the children and young people subjected to a “care” or “protection” model, suffering the consequences of the perverse brand of justice instituted by the old juvenile law which did nothing but bring social problems into the courtroom and criminalise poverty.

In the same way, we can say that society has assimilated a culture of principles and values based on the concept that the child is an object, obedient and incapable, taking no part whatsoever in society due to his or her immaturity.

Implementing the new Child and Adolescent Code given this reality is no easy task, and is a constant process which requires continuous work, determination and a serious campaign of social awareness. For the new standard to come fully into effect, we will need substantial cultural, social, institutional and economic changes.

Likewise, the task requires training for the court system, prosecutors, police, lawyers, public officials and the community as a whole. However, we are aware that we can truly match these standards with an equitable justice system, respectful of Human Rights with full participation by citizens. We must ensure that the application of the Code to its full capacity does not only reside in the hands of child care professionals, but also in the hands of the State and of society in general.

We know that the law alone does not solve any problems. The law is a route, and in order to implement it, we must have the possibility of putting it into force. Consequently it falls upon the whole community to create the social pressure which imposes obligations and responsibilities on the State and to all civil society to respond and organise public policy in such a way as to promote prevention, as well as the care and protection of children and adolescents.

Producing the change of focus from the Irregular Situations Doctrine to the Doctrine of Full Protection is the mission which Bolivia has already accomplished in sanctioning the Child and Adolescent Code. Although we bear in mind that the extent to which children’s rights are implemented is determined by social, economic, cultural and political conditions, which for some time have been adverse in our country, deep in poverty and structural crises, we know that it will only be possible to implement the rights stipulated in the Code if there are profound changes in the organisation, methods and management of organisations responsible for enforcing the terms of the new law.

This is the challenge. The law is a route and it is significant that its coming into force coincides with the beginning of the new millennium, which brings with it a great deal of hope concerning the recognised rights of this social category, and the hope that these rights will be a reality, making it possible that nowadays, being a boy or girl in Bolivia no longer implies a situation of high risk.

THE VEILLARD-CYBULSKI AWARD 2002

The Veillard-Cybulski Fund Association aims to reward deserving works, particularly those which make a new contribution towards perfecting methods of treatment for children and adolescents in difficulties and their families.

To achieve this objective the Association has established a Veillard-Cybulski Award.

Rules (summary)

- The award is made every four years, on the occasion of the quadrennial Congress of the International Association of Youth and Family Judges and Magistrates (IAYFJM).
- Candidates must submit four copies of their work in English, French or Spanish, together with a summary of not more than ten pages, to the address of the Association.
- The next award will be made in 2002. The deadline for submission of works will be 31 October 2001. Papers will not be returned.
- The prize winner receives an award of 10,000 (ten thousand) Swiss Francs. The amount of the second prize, where appropriate, will be decided by the VCFA Committee. Where two winners are classed *ex aequo*, they share the award. There will be no addition to the total amount of the prize.

FOR FURTHER INFORMATION

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TWINS IN LIMBO

Anthony OHare

Professor of Philosophy at Bradford University, England.

We are the first society in history to sever the connection between sex and procreation.
It is a dangerous path indeed down which we tread ...

Here is a story of our time. A rich Italian businessman and his Portuguese wife wanted a third child. They already had two, produced by surrogacy, and they wanted to repeat the process.

So they went to an agency in Denmark which found them the type of donor they wanted (tall, athletic, blond, but Latin-looking).

The sperm donor came from the U.S. The egg donor lives in Britain, as does the surrogate mother. She is a working-class woman from the West Midlands, and had already acted as a surrogate three times before. One of the earlier surrogate babies had been aborted because of various abnormalities. She also had two children of her own, by two different men.

This new surrogacy operation was performed in Athens. After more than 21 weeks of pregnancy it emerged that, instead of the boy the prospective parents had really wanted, the surrogate mother was carrying twin girls. The would-be parents demanded an abortion, but she refused. Nor did she want the babies to go into care.

So she looked for a couple to adopt the twins. After many difficulties, one was found: a lesbian couple living in Hollywood, Julia Salazar and Tracey Stern. The twins, Emma and Danielle, are now in Hollywood and are being looked after by a nanny from Puerto Rico.

Astonishing

The birth mother is deeply unhappy because there is no real contact between her and the twins who occupied her womb before they were born.

Truly a story of our time - a story of astonishing medical procedures, which could not have been performed at any other time. But a story, also, of astonishing human selfishness, muddle and unhappiness. And a story whose complexities are really only just beginning. A story in which, almost certainly, yet more tragedy and heartache will compound that which has already occurred.

A story in which children are treated as if they were commodities or a sort of fashion statement. A story in which children are produced to satisfy adult vanity and desire. A story in which they are got rid of if they do not come up to scratch.

A story in which natural affections of birth mothers and of children are treated as of no consequence. And all this is before Danielle and Emma have been on Earth for a year.

But just who are Danielle and Emma? Whose children are they? What is their nationality? Who are their parents? Do they have any grandparents?

We could spend months discussing all these questions, so vital to our identity and happiness, without ever coming up with a decisive answer.

And who, at the end of the day, will look after them? Who is ultimately, responsible for them? Who will really care for them? What sort of a life will they have?

In the normal state of affairs there are simple answers to all these questions. Children are the children of their biological parents: that is, those who have conceived them in a normal

sexual relationship, which is normally sanctified and legally recognised by marriage.

The biological parents will bring up the children, love them and care for them, probably with love and help from grandparents. And the children will have a life their parents understand and prepare them for.

As it is fashionable now to scoff at this very normal scenario, let us consider its singular advantage. In it, in the most beautiful way possible, social arrangements follow and enhance nature.

In the traditional family, the biological bonds and natural affections between parents and offspring are cemented in the social bonds which tie the family together and support it in times of trouble. And the family itself reflects the needs of all the parties. It reflects the needs of the child, who requires many years of care and attention.

It reflects the needs of the mother, who requires the support of the father. And it reflects the needs of the father, giving him the social role and standing which follow from his parental responsibilities.

Of course, children can be brought up successfully outside a normal marriage, and not all normal marriages are successful. But that does not imply we should deliberately engineer situations in which the tried and tested norm is flouted.

Selfish

But that is just what we are doing today, with the consequences we see in the case of Danielle and Emma. And, unless we call a halt very soon things are going to get more complicated, with yet more tragedy and uncertainty.

We are told that, within the next 20 or 30 years, it will be commonplace for women to store their eggs before the age of 30, for them to choose sperm from donors who fit their

ideal specifications, for them actually to produce their children - or have them produced by someone else - when they are in their 60s, or later.

There will be clones and vats full of eggs and embryos, waiting on the convenience of selfish adults, to be used or thrown away at will.

Danielle and Emma are simply precursors of this brave new world. We are the first society to attempt to sever the connection between sex and procreation. And we are doing it in both directions, so to speak.

It is exactly 40 years since the contraceptive pill was introduced. In the U.S. it has been used by 80 pc of the women born since 1946. We can all now freely engage in sexual activity in the reasonable certainty that there will be no children.

Sex itself is sold as pure recreation, with women as 'laddish' as men. No doubt, psychologically and emotionally this is damaging, for deep down in our nature the link between sexual desire and the desire for children remains strong.

Importance

But arguably even more damaging is the production of children outside a sexual relationship, as we see in the case of Emma and Danielle. For that strikes at the roots of the most fundamental social bond, that between biological parents and the children of their love.

In this bond, the children then become the recipients not just of the love of their parents, but also of a secure identity, linked to the wider family of grandparents and earlier generations.

All this, whose importance can hardly be overestimated, is simply being thrown away by the new reproductive technologies and the morality which seems to accompany them.

If nothing else, the story of Danielle and Emma has the merit of illustrating the world we are preparing for ourselves and our children.

We are clearly moving to a situation in which children are created to some ideal specification and only loosely connected to those from whom they receive their genes. That is, if the genes are not themselves produced in the laboratory.

The next move will doubtless be not just artificial conception and fertilisation, but the whole of gestation in some clinically controlled situation.

Will the children thus produced belong to anyone? Or will the state, or some private

agency, regulate their creation and upbringing? Will there be baby farms where designer parents can select their readymade designer babies?

All this may seem fantastic now, but 20 years ago could anyone have imagined the story of Danielle and Emma?

Before we proceed further into the world in which Danielle and Emma themselves will grow up, shouldn't we now stop the developments which allowed them to be born?

This story appeared in the Daily Mail, England, 8.5.00.
I am grateful to the editor for permission to reproduce it here.

Editor

HIGH COMMISSIONER FOR HUMAN RIGHTS ANNOUNCES INTERNATIONAL CONFERENCE ON JUVENILE JUSTICE FOR THE YEAR 2002

In a statement delivered by the Deputy High Commissioner for Human Rights, Mr Bertrand Ramcharan, at the 22nd session of the Commission on the Rights of the Child, in September 1999, the High Commissioner for Human Rights, Mrs Mary Robinson, announced that she has initiated the process of organising a major international conference on juvenile justice, which will be held in 2002.

“Juvenile justice constitutes one of the main challenges for the implementation of the Convention on the Rights of the Child. Having taken note of the systematic concerns and recommendations issued by the Committee – as well as other human rights mechanisms – in this area and in view of the numerous requests and appeals for intervention from a wide range of parties, the High Commissioner has decided to focus in the future increasing attention to the issues of juvenile justice, and for this purpose she envisages to initiate the process of organising in 2002 a major international conference on juvenile justice. In sharing this information with members of the Committee, the High Commissioner is seeking the moral and substantive support of the members of this Committee which has since its inception in 1991 played a unique role in making the issue of juvenile justice a crucial one for the implementation of child rights”.

VENEZUELA
LAW FOR THE PROTECTION OF CHILDREN AND ADOLESCENTS
A few Rules from April 1st

Maria Yolanda García
El Universal, 26 de marzo de 2000

Absolute Priority

Children and adolescents are full subjects of law and will be protected by legislation, organisations and special courts, who will respect, guarantee and develop the contents of the Constitution, the Convention on the Rights of the Child and other international treaties signed and ratified by the Republic. The State, the family and society will ensure full protection, giving it top priority, taking into account the best interests of children in decisions and actions concerning them. The State will promote their incorporation into the active citizenry, and a national management agency will direct policy for full protection of children and adolescents. (Art. 78 of the Bolivarian Constitution)

Child workers

All children and adolescents who work have the right to be protected by the State, family and society, especially from economic exploitation and from carrying out any work which is likely to undermine their education, is dangerous or is harmful to their health or full development. (Art. 94 LOPNA)

Minimum age

14 years is fixed as the minimum age for working throughout the territory of the Republic. The National Executive Power can fix, by decree, minimum ages above this limit for dangerous or harmful work. (Art. 96 LOPNA)

Responsibility

No adolescent can be prosecuted or punished for an act or omission which, at the time it occurred, was not already explicitly and unambiguously defined in the criminal law as a crime or offence. (Art. 529 LOPNA)

Forced labour

Whoever forces a child or adolescent to work using threats will be punished with one to three years' imprisonment. (Art. 255 LOPNA)

Sexual abuse

Whoever commits sexual acts with children or adolescents, against their will, or participates in such acts, will be punished with one to three years' imprisonment. (Art. 259-260 LOPNA)

Criminals

Whoever aids, directs, participates in or makes money from associations formed to commit crimes, of which a child or adolescent is a member, or who recruits them with this aim, will be punished by two to six years' imprisonment. (Art. 265 LOPNA)

Funds

In the national, state or local budget, a portion must be set aside for the protection of children and adolescents of the respective jurisdiction, to which must be assigned sufficient resources marked for the care and protection of children and young people. (Art. 336 LOPNA)

Distribution

The distribution of funds for the protection of children and adolescents must be carried out taking into account the following order of priorities: Financing specific schemes of care and protection for children and adolescents; programs of training, research and public information; programs of legal, community and cultural protection, as well as exceptional financing of basic social policy. (Art. 334 LOPNA)

MYG

THERE IS POLITICAL WILL TO IMPLEMENT JUVENILE LAW

State and city governments will have to provide funds to help children and adolescents.

Marisol Moreno Marimón, Senior Juvenile and Family Court Judge, believes that there is the political will to enforce the Law for the Protection of Children and Adolescents (LOPNA).

He will decide whether or not it is effective once it begins to be implemented, as “look what is happening with the COPP. The letter of the law is one thing, the practice is another”.

The LOPNA establishes a budget to create programs to help minors. INAM (National Institute for Minors) will not be able to argue that it has no resources to carry out its functions”.

What marks the difference between LOPNA and the Law for the Protection of Minors?

- There are principles which existed in the Law for the Protection of Minors and in the Constitution of 1961, for example the absolute priority given to the best interests of the child. However, what is the difference which will bring us a practical result? This law requires a percentage of budgets to be set aside to create funds directed towards city and state administrations, as well as the National Council of Law, which are the organisations charged with looking after children in the place of INAM. Whoever does not enforce the law will be fined, and the money raised from such fines will go to the fund. It will not be possible to argue that there are no resources to do this or that. The law sets aside resources to create programs and will make it possible for many things designed to help children and adolescents to become reality. Further, it will be possible to invoke constitutional protection if this duty is not fulfilled. If a city council or a state does not provide its budgetary contribution, legal action can be taken under constitutional law, since according to Article 78 of the Bolivarian Constitution of Venezuela, the child has top priority.

How will they guarantee that the provisions of the LOPNA concerning the use of these funds and its guarantees for children will be made reality?

- Every public service must meet its responsibility. We judges cannot go out into the street looking for street children, or inspect hostels to check that regulations are being observed. We enforce what is set out in the laws. However there is a Finance Inspector for the administrative part; a People’s Defender who guarantees human rights, in this case children’s rights; there is a public ministry which defends the legality of proceedings. These measures taken together to ensure that there are funds to carry out actions are a very good combination which will give effective results. In addition, it is compulsory to provide the necessary resources to give full care, protection and support to children and adolescents.

Is inefficiency in taking care of children entirely due to lack of funds?

- People say that money does not create happiness, but that it helps. Funds are important because with money for training of personnel and plans, there are no excuses for talking about obstacles. With this, whoever is at the head of INAM will not be able to argue that this or that has not been done because of lack of funds, as was heard many times in what was formerly the Congress, when the President of INAM came to say, “I have no money, therefore we cannot work well”. Now this should not happen. And the fact is that everything comes down to the matter of money; it’s a vicious circle. If you have no money, you hire cheap personnel who are badly trained and in-

adequate for dealing with minors with very particular characteristics. If you have no funds you cannot send your personnel to do courses in order to be better prepared.

How will the change in INAM be guaranteed?

- According to Article 673 of the LOPNA, INAM must carry out the appropriate actions to transfer care organisations to state and city administrations, as well as programs and services to assist minors within a period of not more than a year. That is to say that in April 2001, this process of decentralisation should already have been carried out. Nevertheless, the National Institute for Minors will continue to function until this process is complete. In city councils, ordinances are already being passed regulating defence procedures among other things, in accordance with the law. There are town halls such as that of Libertador, which has these ordinances ready; they remain only to be signed. The first Executive Director of the National Institute of Law will be the president of INAM, that is Mrs. Aervedes Angarita. She previously worked for the Single Social Fund.

Is there a sufficient infrastructure to detain adolescents involved in punishable acts?

I am now going to interview you. What do you think is needed to keep a high-risk child in an establishment? Space, as INAM has facilities in all parts of the country. It will be necessary to remodel and equip them, however the physical space exists. The necessary changes will be made because now there will be deprivation of liberty. Formerly there was not. Even when minors could not go out of these places they were detained, but not deprived of liberty in the legal sense. Now they will be deprived of liberty, but in places purposely designed, segregated by age and sex, as things are done or should be done nowadays.

Minors complain that in INAM centres they are mistreated and children who are there to be rehabilitated are detained together with aggressive adolescents. Will this situation change?

That is a question you should put to the president of INAM. The way I see the problem, it must be tackled through training and weeding out of undesirable personnel working there. Dr. Elio Gómez Grillo, a member of the Commission for Restructuring Judicial Power, made the same criticism, and we are inviting him to train judges since he has considerable knowledge of the prison system. We have asked him to train the personnel who are to work in these establishments, and he has offered us his collaboration. We have already analysed both the problems you have raised: physical facilities, which can be sorted out with maintenance and re-adjustment according to needs, and the problem with personnel, which is solvable by a good selection process and providing training to the personnel. In addition there must be good supervision, which there has not been up to now.

Is the LOPNA better than the Law for the Protection of Minors?

I will say it will be better in two or three years, when it is in force, as the laws are very good from a theoretical point of view. However we must see from a practical point of view how much this theory achieves, and how far it meets our expectations. I agree with the law, I appreciate its content and it seems excellent to me. We must hope; look at the COPP and the problems which have emerged in trying to implement it. Let us wait for it to be applied before we determine how good it is.

Is there the political will to enforce this law?

Yes, or at least I have had that impression until now. We will see to what extent this political will turns out to be effective.

Are juvenile court judges prepared?

Yes, I have been involved for 29 years, and so are many of us who interpret the Judicial Power in this area. New employees are now attending workshops.

mgarcia@eud.com

The City of Chacao is rescuing street children

Caracas. – “Officer, can you lend us money to go home? If we spend what we earn from selling, my sister will beat us up with a stick and we don’t have the money to go home... Will you lend us the money?”.

This is how they approached the officer in the post which the Chacao police have near the Chacaíto shopping mall. There were two young girls. They said they were sisters and were aged 13 and 14.

From their accent, they came from the Andes.

Their situation caught the attention of the policeman, who reported the news to his superiors. The case passed into the hands of the Chacao Foundation for Children, directed by Maria Adoración Orcoyen de Popesco.

The girls reported that they had come from the Andes and that they lived with a sister, but that she mistreated them, and used them as all-purpose maids, forcing them not only to do the housework during the day, but also to work during the night, selling bric-a-brac.

When she was called, the sister came looking for the girls. She was elegantly dressed and denied the accusations. When she was confronted with the two minors, both refused to go back with the woman.

The case passed to the First Juvenile Court and the young girls found themselves placed in the José Ignacio Velasco boarding school, where they were transferred through the intervention of the Mayor of Chacao’s wife.

Recovering of children

The Chacao Foundation for Children was set up on the 12th July 1999 with the aim of placing and taking care of street children in the City of Chacao.

This institution enjoys the support and collaboration of the Circle of Diplomatic Ladies. The Chacao Foundation for Children is carrying out night-time operations, through which it finds placements for street children with the aim of taking care of them and removing them from this situation.

Up to now fifteen operations have taken place, an activity which has the participation of juvenile prosecutors, members of the Social Development Department of the Town Hall, Chacao Police officers and the City Motor Vehicles Department, as well as Carolina García Morillo, assistant to the Town Hall administration, and Janet Pacheco, director of Institutional Relations.

Once the children are taken off the streets, they are given medical and psychological examinations and according to their situation, they are transferred to a clinic or to a children’s refuge. Up until now, thirty street children have been placed, aged between 11 and 16.

The foundation follows up on cases involving transfers to hostels and on the investigations started in juvenile courts.

MYG.

A token buys innocence When night falls

Street children are victims of the baseness of those who play on hunger and innocence. A minor aged 11 recently suffered sexual abuse, and like him many of those who wander around during the night are victims of aggression. They state that they do not want to stay in the street, "but not in hostels either, because more nasty things happen there than in the street".

How many of these minors are there?

There is a population of approximately 11 million Venezuelans aged under 18. Until the age of 12 they are considered children, and from then on they are considered adolescents. This group is equivalent to 54% of the population.

Caracas - He only wanted to play slot machines. He had to enjoy himself to forget, without sniffing glue, that he had not eaten for three days. He had previously gone to that place with other children. The owner, whom they knew as the "old man" or the "porter" had given them a few tokens. That night he had told him to go to his apartment "so as not to get cold sleeping in the street". During the early hours of the morning he woke the child and intimidated him into having sex. "He wanted me to do it with him. I couldn't get away... He told me everything I had to do to him..."

He says he is 11 years old, though his stature, face and expression made him look about 9. Since that day he has been suffering from a venereal disease.

Pelo Lindo, as he is known by nickname, is one of the many street children for whom the night is like a mother who shelters them.

Sundown is when young people come out of the underworld, when they are offered protection and food. Pointing out a young woman who is looking at us with suspicion, he says: "She treats me like her own child".

It is in darkness that they rummage through the trash, a place where restaurants dump waste. And even though they sleep on

benches, they feel safer than inside their own homes, from where many have run away to escape the mistreatment they receives from their parents or guardians, or inside refuges for minors, where they say that "nastier things happen than in the street".

Pelo Lindo's real name is written in a file known in the prosecutor's office, in the charge of Elis de Penzo, as well as in the First Juvenile Court, instances where representatives of the Chacao Town Hall have gone, therefore they knew of this situation.

During a night operation, carried out by the Chacao Foundation for Children, Pelo Lindo had been rescued from the streets together with other minors. On this occasion they all underwent a medical evaluation. In his case they were more thorough because he indicated that urinating was painful for him and that "something nasty came out which hurt". The diagnosis was definite: gonorrhoea.

He was treated and moved to the hostel Gustavo Machado, however he ran away. "There the bigger ones dominate us and beat us. In Group II there are bigger and smaller children. They also send us to clean the bathrooms. We don't do anything wrong, except sometimes annoying the crazy ones... you know, the mentally retarded boys".

Pelo Lindo, again in the street, went to see the "old man". He told him about the illness he had suffered and he gave him 60,000 Bolivars (US\$88). "It was to have me treated, but the Rat Kid, another street child, took them off me. For this he didn't do anything to me".

The Chacao authorities met Pelo Lindo again and took him to the city hall. "I don't want to be in the street, but I don't want to be in a hostel either".

It is expected that the prosecutor's office will initiate criminal proceedings and the police of Libertador, the city where the game hall is located, in Chacaíto, will take the appropriate actions. The mayor, Antonio Ledezma, knows the situation.

“They beat me if I didn’t buy liquor”

Caracas. - He was rummaging through the trash when a young man approached him and whispered something in his ear. The boy turned round and without another word followed him. They walked up to the motorway and went into a thicket. When they were approached, the young man said he was 17 and that he didn’t know what the boy with him was doing. José Luis, another street boy, agreed to tell his story.

- How long have you been living in the street?
- Since I was 8. Now I’m 11.
- Why did you run away?
- Because my stepfather beat me. If I didn’t go out to buy drink in the early hours of the morning he beat me up.
- Do you sniff glue?
- No, I just smoke cigarettes.
- Do people treat you well or badly?
- Some people are nice and others are not, like the police.

- What do the police do?
- They beat us. One day I was sleeping in the street and a local resident arrived. He told me to get up and I didn’t want to. A policeman arrived, hit me several times and pulled my arm. Look, he says, pointing out the round bruise. Then he went away.
- Would you not prefer to be in a hostel where you have a bed and food?
- Yes, but not in the miniplantas.
- What are miniplantas?
- The houses where they take us. There you have to fight a lot so that they don’t rape or kill you. More than one kid has come out of there dead. The bigger ones have weapons which they make with teaspoons or whatever they find.
- And do the authorities know this?
- The authorities know what happens there and so do the police, but no-one does anything.

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JUVENILE JUSTICE AFTER 10 YEARS CRC SOME REFLECTIONS FOR HOPEFUL PERSPECTIVES

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This article appeared in *Juvenile Justice World Wide*
Spring 2000

Introduction

Juvenile delinquency is, again, a hot issue nowadays. The press is an important vehicle for factual information. Let me therefore introduce this article with a short overview of what I found very recently (during one and the same week in November 1999) as cover page news in the US press. The text in *italics* are some of my immediate reflections while reading.

1. A process starts against a 13 year old boy, accused of murder. He was 11 at the time. The case will be considered by an ordinary criminal court. 'It was an accident...' The only words the boy keeps repeating in the courtroom. *Large media coverage. No protection of the boy's privacy at all.*

The public prosecutor, in an interview, calls the boy a lucky guy. He is prosecuted in a State where 'unfortunately' (the prosecutor's words), the death penalty has been abolished. What is the applicable punishment, if the boy is found guilty? Life imprisonment with no possibility of early release. *A violation of the International Convention on the Rights of the Child, particularly of its article 37.a...*

2. Human Rights Watch, an international non-governmental organisation, published a new report entitled "No minor matter: children in Maryland's jails." It describes the living conditions of children in adult jails in the State of Maryland. Maryland is one of the 40 American States where recently 'new' policy has been adopted to get more tough on juvenile offenders. Referral to adult criminal courts and sentencing to imprisonment are only two expres-

sions of the policy. As a result, more and more children can be found in adult prisons. The living conditions of these youngsters are often appalling and in breach of national and international human rights standards.

Children are most often not separated from adults. A violation of article 37.b of the ICRC. But even basic human rights are little or not respected, as for example the right to education (ICRC, article 28) or the right to an adequate standard of living (sanitation is deficient; children have insufficient food; etc.) (ICRC, articles 24 and 27). Disciplinary sanctions are degrading and inhuman. Children can be locked up naked, in isolation, sometimes for several weeks. Violence amongst inmates is an overwhelming problem. Children are abused/exploited by adults and have to suffer all kinds of humiliations (ICRC, articles 34-37). Some children prefer living in isolation as a way out¹.

3. The United States is one of the six countries that in the past 10 years (since the adoption of the Convention on the Rights of the Child) have applied the death penalty to children. The USA is accompanied in this 'performance' by Saudi Arabia, Nigeria, Iran, Pakistan and Yemen.

A young boy sentenced to death decided to bring his case to the American Supreme Court. He was 16 at the time, he pleads guilty but he argues that sentencing him to death is a violation of the International Convention on the Rights of the Child. The ICRC has been

¹ The full report is available on the internet: <http://www.hrw.org/reports/1999/maryland/>

signed but not yet ratified by the United States. *The US is indeed, should it be repeated, one of the 2 remaining Member States to the United Nations waiting for ratification of the ICRC.*

However, so argue the youngster's lawyers, signing an international treaty implies that the authorities engage themselves already in respecting the different provisions of the treaty concerned. Any act opposed to the spirit and the letter of the provisions of the convention should therefore be considered illegal.

These 3 cover stories may show the long way still to go in respecting fully the different articles of the Convention on the Rights of the Child within the context of criminal and juvenile justice. But the last example also expresses hope. The Convention itself can be a tool for the needed improvements in view of full respect for the rights of the child while dealing with, but also in preventing, juvenile delinquency!

1. Juvenile/criminal justice: a very important area of concern for the CRC

Please, let us not think that the realities mentioned above are only true for the country of 'stars and stripes'. The challenges related to juvenile justice seen from a human/children's rights perspective are really universal. In some countries they might be more outspoken or more discussed on the public scene. In others, hidden behind a curtain of silence and ignorance.

However, attempts to raise awareness, to discuss and to look for human, constructive and respectful solutions can be found world wide as well.

The Committee on the Rights of the Child (CRC) has expressed for most of the countries whose initial/periodic reports it has been studying till now, its concern for the way States are dealing with juvenile delinquency.

It is impossible, in the context of this short article, to summarise and analyse entirely the question of how the adoption of the ICRC has affected, over the last 10 years, the way in which our societies have been dealing with juvenile delinquency.

Rather, I have chosen to give some few reflections based on experiences in the past 10 years in the area of juvenile justice world wide. My experiences at least taught me that a little has been done already to increase respect for children, in this area. A lot is still to be done however. But I am hopeful. The many committed people met, on a national as well as on an international level, provide me with solid foundations for this hope. The reflections below however are the many conditions necessary for the hope becoming reality.

2. Juvenile delinquency: a 'hot' item also in the children's rights debate.

The prevalence of juvenile delinquency is for some people a sufficient reason for questioning the entire concept of children as bearers of human rights. It is said by those people that duties and responsibilities should come first.

The alleged increase, sometimes said to be alarming, of children committing crimes can for this reason be an important obstacle for children's rights advocates in their campaigning for a more respectful approach to children.

Maybe, it is useful to take the 10th anniversary of the adoption of the ICRC as another excellent opportunity to assist one another towards a better understanding of what children's rights stand for and the implications of a children's rights approach. Let's give 3 examples of areas/issues where clarification might be needed.

a. children's rights are no excuse for juvenile delinquents

The appeal for respect for the human rights of children is in no way an excuse (or can in no way be used as an excuse) for the delinquent acts children are committing. The last example cited in the introduction proves that children can be responsible even for extreme forms of criminality such as murder. Although non-respect for children and their rights might often help to explain why children commit crimes, there is no excuse for criminality. Norms accepted by society should also be respected by children.

Children and young people could of course have a point in claiming that they are hardly consulted or effectively involved in the norm setting and therefore not feeling themselves necessarily bound by these norms. But there again, this can not be an excuse for not being respectful towards others. The appeal however for involving children fully should be heard and realised simultaneously, not least with a view to crime prevention. We will come back on this later on.

b. accurate information on juvenile crime: a condition for a serene debate

It is very important to understand that a serene debate on the rights, responsibilities and obligations of children as a group is only possible when we have sufficient, comprehensive, systematic, accurate and correct information on the lives and living conditions of children. This information should of course include thorough knowledge of juvenile offenders and juvenile criminality, as well as the amount and nature of crime.

Unfortunately however, systematic and comprehensive juvenile crime statistics are too often non-existent in most countries, industrialised as well as developing. Alarming reports

of increasing juvenile delinquency, and thus for some people, possible obstacles for a full recognition of children as bearers of human rights, are not always based on sound information but are maybe much more often emotional expressions related to isolated, although none the less shocking, events, such as homicide or murder committed by young children. Or they may be related to repeated events widely covered by the media. Or based on 'true' stories of terrible events which happened to 'a friend of a friend'...

Again, promoting children's rights does not mean that juvenile delinquency should be ignored or that we should not be concerned about observations that delinquents are getting younger and delinquency more violent. But clearly policy can only be effective and society served as a whole when we start our debate from accurate information.

c. respect for human rights is to be unconditional

A third and last element that should be raised, has to do with a possible misunderstanding that respect for human rights can be conditional. There is indeed a misunderstanding if one thinks, for example, that some children, because they are delinquent, can be excluded from the respect we owe to children in general. Article 2 of the ICRC confirms that human rights shall be ensured to each child, without discrimination of any kind.

The prevalence of juvenile delinquency therefore can never be a reason to question respect for human rights, not even for the children directly concerned, irrespective of what crime they have committed. This human rights approach in response to juvenile delinquency should contribute to interrupting the cycle of violence. It is only through constructive reactions to juvenile delinquency that a child can

be encouraged to play a more constructive role in society.

A hopeful perspective is only possible if we agree to discuss world-wide, in an open and serene way, the issue of juvenile delinquency from a children's rights perspective. Of course there may be disagreements on many topics. The issue is complex and very sensitive but disagreement is not per se bad. Of course, the discussion may take time.

But nobody is helped by either exaggerating or underestimating the problem. Nobody is helped with unfounded assumptions and with only insisting on solutions, such as imprisonment, proven to be of little or no effect in the past. Let us be open for the possible new approaches within a human rights perspective.

2. Respect for all children's rights: the best prevention of juvenile delinquency

10 years of ICRC can only but help us in emphasizing over and over again the need for a full and world wide implementation of all its provisions. It is the best guarantee to realise a society respectful for children. And only a society respectful for all its children will bring about children respectful of society.

As mentioned above already, fully fledged involvement of children in society is part of the endeavour. If children are part of the problem, make them also part of the solution.

The Convention as well as the United Nations Guidelines for the Prevention of Juvenile Delinquency support very strongly this approach.

The international framework has been an inspiration in some countries for attempts at introducing human rights in crime prevention policies. In these countries, prevention of juvenile delinquency is part of the overall development policies rather than a very specialised and isolated activity. Maybe the current efforts

in South Africa can be cited as an example of such an attempt.

Prevention of delinquency should indeed be considered as a very important outcome of increasing the level of social development, for example by increasing the means for education, by making schools more attractive and accessible for all children, by giving special assistance to children with learning difficulties in order to reduce the number of school drop-outs, etc.

3. Law reform: the basis for a humane and constructive policy.

The area where maybe most has been accomplished over the last decade is law reform. Indeed the Convention on the Rights of the Child, especially in its article 40 par. 2 and 3, contains very precise requirements for national legislation regarding criminal justice for children. More requirements and recommendations can be found in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, adopted in 1985. And an important number of States have indeed started a process of law reform, in order to comply with these provisions. For some countries the reforms have been rather limited, for example, the introduction of more legal guarantees for children in criminal proceedings. In other countries, the drafting of a complete new Juvenile Justice Act got under way.

Interesting, too, is the observation that in some countries, legal reforms have been imposed after a decision by Supreme or Constitutional Courts, which found that certain existing legal provisions were in breach with the International Convention. The decision by the American Supreme Court in the example cited in the introduction should in this respect demand our particular attention. The Supreme Court could indeed urge the politicians to bring legislation

in line with the ICRC, and therefore abolish the death penalty for minors.

It may be useful to remind readers here that the international community does not make a real choice in what the most appropriate model is for dealing with juvenile delinquency. However, specialisation is a requirement and ICRC, article 40.1, is firm on the purpose: respecting the right of the child “to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedoms of others and which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society”.

Law reform should be further encouraged, in industrialised as well as in developing countries. And indeed, we have all to be very much aware that the basic discussion has in fact little to do with the choice of a model (the rehabilitation oriented model – the restitution oriented model – the retribution oriented model – etc.). It has much more to do with finding the most appropriate way, considering culture and resources, to achieve the requirements summarised in article 40.1 ICRC. Let us be open also to traditional ways of doing justice. We might discover that they may be much more respectful for children’s rights and much more effective than modern, mainly Western practices. Family Group Conferencing in New Zealand and the Palaber-culture in Central Africa are maybe good examples.

4. Training

Permanent and comprehensive training on children’s rights for all law enforcement personnel and other professionals working in the field of juvenile/criminal justice is a very concrete and important tool for an immediate increase in respect for children’s rights. Many countries have organised such training courses

and they are very often recommended in the concluding observations of the United Nations Children’s Rights Committee.

It is important however to guarantee that children’s rights become also an integrated part of the basic training curriculum in highschoools and universities in general, and especially for curricula leading to professions involving contact with children.

Training is also the object of most of the technical assistance programs organised at the request of States by international governmental organisations, such as UNICEF, the Office of the High Commissioner for Human Rights and the UN Centre for International Crime Prevention, as well as international non-governmental organisations, such as Save the Children, the International Association of Youth and Family Judges and Magistrates and Defence for Children International – International Network on Juvenile Justice.

Such technical assistance programs can be the result of a recommendation by the Committee on the Rights of the Child. A Juvenile Justice Panel has been set up by the international community in order to better respond to requests for assistance from States parties to the CRC. One of the objectives of the Panel should be the effective, co-ordinated and immediate matching of the demands with existing expertise and constructive experiences world wide. Unfortunately, the Panel is not yet fully operational. Definitely, it bears in it the potential of (and could serve as an example for organising) the so much needed co-ordinated international co-operation as a positive way of encouraging all States parties to fully comply with the ICRC.

5. Deprivation of liberty

Deprivation of liberty of children was one of the main reasons for the establishment of specialised juvenile justice systems in many countries. Concern may not necessarily have focus-

sed on deprivation of liberty as such but rather on the conditions in which children were living in detention centres and prisons.

The establishment of special institutions however did not reduce the number of children deprived of their liberty. Deprivation of liberty is still today an often applied measure or sanction against children, also within the context of juvenile justice. Moreover, juvenile justice as such has not been a sufficient guarantee for eliminating all the worst forms of detention and imprisonment. Despite the existence of specialised facilities, in many countries children can still be found in adult jails for example (see the HRW report mentioned in the introduction). And so-called re-education/rehabilitation centres for children offer from time to time little more than another name. And there is more.

During recent years, most often on the occasion of extreme but exceptional outbursts of juvenile delinquency, a call for more repression and getting tough on youth includes public requests for more closed and secure institutional settings.

On the other hand, however, partly as a result of the adoption of the ICRC, more and more people advocate a reduction in the use of all forms of deprivation of liberty and institutional care. Non-residential measures are promoted and more and more priority is given to support and assistance within the child's family environment.

Institutional treatment, including deprivation of liberty, is still too frequently used as a first and sometimes exclusive measure for coping with juvenile delinquency. Today the total number of delinquent or alleged delinquent children world wide deprived of their liberty is estimated at over 1 million. This is unfortunately only an estimate as in most countries, developing as well as industrialised, there are no accurate figures available.

In a recent study carried out for UNICEF¹, a very important number of situations are described, in developing as well as in industrialised countries, where deprivation of liberty implies sometimes very serious violations of human rights and little or no promotion of human rights. Deprivation of liberty as such is also too often an obstacle to full respect of human rights.

Of course, these conclusions can in no way be understood as an underestimation or even a total disapproval of the many efforts that a very important number of committed people realise on a daily basis and sometimes under very difficult circumstances, in order to guarantee children deprived of their liberty a decent life.

The Convention as well as the United Nations Minimum Standards for the Protection of Juveniles Deprived of their Liberty (1990) are offering concrete proposals for a more constructive and humane approach to children in residential institutions. But we have to be aware that, unfortunately, these efforts are realised in a context which is not furthering human rights in general.

Complying fully with the provisions of the ICRC as a whole therefore means first and foremost taking more time and spending more energy on the promotion and development of non-residential alternatives, including prevention policies based on the objective of realising a respectful society for children and families as a whole.

Therein lies for us the first and real challenge. Not in attempts to make closed institutions more human rights friendly.

¹ See CAPPELAERE, G.; GRANDJEAN, A.; *Les enfants privés de liberté. Droits et réalités.*, Liege, Jeunesse et Droit, 1999. An English and a Spanish version will be published during Spring 2000.

YOUTH JUSTICE 2000 - MANAGING A NEW WORLD IN TRANSIT

The Subordinate Courts of Singapore and the Ministry of Community Development, an agency mandated by statute to implement and maintain a continuum of services for juvenile offenders, are organising an international conference on juvenile justice from 13th to 15th of September 2000.

Our youth are our future and in order to maximise people's potential to contribute to the continued growth and stability of a country, it is imperative that juvenile offenders and troubled youth be brought back as much as possible into the human resource mainstream of society. The strategy for youth justice requires a holistic approach in pursuing solutions to problems of troubled youth and juvenile offenders as such problems are multi-faceted in nature.

The Juvenile Justice System in Singapore has, in recent years, moved away from the traditional treatment or criminalised retributive models in the treatment of juvenile delinquents to a restorative model which emphasises a community-victim-offender orientation that engages not only the offender as a participant of the process but the victim and society as well. The model adopted builds on several innovative measures that have taken place within our juvenile justice system during the past six (6) years or so, such as family conferencing, family care conferencing, mentoring, peer mediation etc. The innovation of restorative justice lies in its agenda for restructuring the juvenile justice system to make it community-focused rather than bureaucracy-driven.

The Conference hopes to bring together leading experts on juvenile justice who can share their expertise and experience from their respective fields and help meet the challenges ahead. The aims of the Conference are to

- a. draw lessons from the past on age-old problems which continue to plague the present and perhaps the future;
- b. take a snap shot of the current systems, their efficacies and their failings; and
- c. identify changes in society that may have great impact on youth in the 21st century and make plans for possible scenarios.

The 21st century will no doubt bring forth new and profound challenges for the treatment of juveniles not only in Singapore, but all over the world and we must be prepared to meet the challenges.

Participants

Our target audience will be about 500 participants, comprising judges, court administrators, penal and rehabilitative agencies, social workers, academics, 'futurists', teachers and school administrators.

Conference Dates

The Conference will be held from 13 to 15 September 2000.

DATE FOR YOUR DIARY**SINGAPORE : 13TH TO 15TH SEPTEMBER 2000****“Youth Justice 2000 – Managing a New World in Transit”****CONFERENCE BRIEF**

The Ministry of Community Development and the Subordinate Courts of Singapore will be jointly organising a 3-day International Conference entitled “Youth Justice 2000: Managing a New World in Transit” from Wednesday, 13 September 2000 to Friday 15 September 2000. The conference will be held in a leading convention centre in Singapore.

The conference, which will focus on youth justice and the treatment of young offenders, seeks to raise awareness among professionals and the public on issues in combating juvenile delinquency. This international event will also showcase many innovative programmes that have been developed and implemented successfully to deal with the world-wide concern of the rising trend in juvenile delinquency.

The conference hopes to bring together leading experts on juvenile justice who can share their expertise and experience in their respective fields to meet the challenges ahead. The participants will comprise judges, court administrators, those in penal and rehabilitative agencies, social workers, academics, teachers, school administrators and other people dealing with young people in the juvenile justice system.

The tentative conference plenary and workshop topics are:

- A Youth Justice System for the 21st Century
- Strategies for Developing Innovative Approaches to Dealing with Emerging Juvenile Justice Issues
- Balancing the Opposing Paradigms of Retributive and Restorative Youth Justice
- The Relevance of Restorative Justice in the New Millennium
- Sentencing Trends and Options
- Effective Programmes to Counter Juvenile Delinquency: What’s Works? What’s Promising? What’s Next?
- Community Justice Initiatives: Co-opting Community Resources into Juvenile Justice Programme
- Successful Rehabilitation and Reintegration of Juvenile Offenders
- Risk Assessment and Predicting Juvenile Recidivism
- Youth Gangs in the Community and Schools
- Preventive Work in Youth Crime

FOR MORE INFORMATION, PLEASE CONTACT:

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13 - 15 September 2000
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Following the resignation last June of our esteemed colleague Mónica Vazquez Larsson from the position of Secretary General due to ill health the Council, at its meeting in Sion in October, approved the appointment of Judge Hervé Hamon, France, as Secretary General and Judge Renate Winter, Austria, to replace Judge Hamon as Deputy Secretary General. Below you will find the names, addresses, telephone numbers etc. of current Executive.

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