

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

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## CHRONICLE

## CHRONIQUE

## CRÓNICA

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## EDITORIAL

### **The Case of Jodie and Mary**

#### **A Question of Law or a Question of Ethics?**

The story of Jodie and Mary raised acute moral and ethical questions. It put under the spotlight the way such complex cases, which take in ethical and moral as well as legal problems, should be addressed. Most of you will be aware of the case but many of you will not be aware of how or why the judges reached their decision. I try to summarise the arguments for you and ask whether a court of law is the correct tribunal to explore dilemmas such as this.

Editor.

#### **Case Outline**

A woman from the Maltese island of Gozo, pregnant with twins, came to Britain to have her babies. Conjoined twins were born in St Mary's Hospital, Manchester, England, on August 8<sup>th</sup> 2000. Mary was severely disabled. Her heart and lungs did not function and she relied on her sister for oxygenated blood. The twins shared a common aorta. That enabled Jodie's heart to pump the blood she oxygenated through Mary's body as Mary's heart and lungs had no capacity to sustain life. Doctors believed that both would die, perhaps within

six months, if they did not separate them because Jodie's heart could not stand the extra pressure. But if the operation took place Mary would be bound to die within minutes. The parents said they could not give permission for an operation that would lead to the death of one of their babies.

Doctors cannot operate without parental consent, but parental refusal is not always the last word in law - as an adult's refusal would be. If parents refuse and doctors believe an operation is in a child's best interests, they ask the court to decide. The common law has long recog-

nised the right of the State to insist on medical treatment in the face of an objection from a parent. The principle that a parent's objection to a particular form of medical treatment may be overruled by a court has been applied in cases such as those of Jehovah's Witnesses, who are not prepared to accept the transfusion of blood or the use of blood products. On September 22<sup>nd</sup> a court in Northern Ireland intervened to order a blood transfusion for a 15-year-old girl undergoing a transplant after she and her father refused it.

In the case of the conjoined twins the doctors were granted permission at the High Court to carry out the operation but the parents and the official solicitor, who was representing Mary's interests, appealed.

The Children Act, under which the case was brought, makes the interests of the child paramount. The court's decision will normally be based on the interests of the child, as determined by medical opinion. In the case of these conjoined twins, if it had been possible to save the life of both by separating them, then the court would have had very little difficulty in authorising it, even in the face of parental objection. But, in this case, the carrying out of a separation operation would involve the removal from one twin of the respiratory and circulation system that was keeping her alive. The interests of the two children were in conflict. The scales of justice could not balance the interests of both.

### **Balancing The Scales**

The judges asked themselves four questions:

1. Was it in Jodie's best interests that she be separated from Mary?
2. Was it in Mary's best interests that she be separated from Jodie?
3. If those interests were in conflict could the court balance the interests of one against the other and so allow one to prevail against the other and if that was permissible, how could that balancing exercise be undertaken?

4. If the prevailing interest was in favour of the operation being performed, could the operation be performed lawfully?

Before attempting to answer those questions, the judges considered a more fundamental issue, namely whether or not Mary was a live person in her own right. The medical evidence was overwhelmingly to the effect that she was and the judges supported that conclusion.

### **Best interests**

The judges found that it was overwhelmingly in Jodie's interest that she be given the chance to live a normal life with a normal expectation of life. They agreed that it could not be in Mary's best interests to undergo surgery which would terminate her life. That placed the court on the painfully sharp horns of a dilemma. The court could not hold the welfare of each child paramount. It was in the best interests of Jodie that separation took place. It was in the best interests of Mary that it did not. There was an irreconcilable conflict and the court could not fully honour its separate duty to each child to do what was best for that child. The judges concluded that the only solution was to balance the welfare of each child against the other to find the least detrimental alternative.

The judges summed up the case as follows. In their view, the medical evidence was clear. Without the operation both children would die within a matter of months. The operation would save Jodie's life but not Mary's. Jodie was entitled to protest that Mary was killing her. The doctors could save Jodie. Nobody could save Mary. This gave rise to the question: if you can save one life by acting, but lose two by not acting, should you act?

### **To Act or Not to Act**

Lord Justice Ward, the most senior of the three judges who heard the appeal, illustrated the point as follows. Imagine yourself in the basket of a balloon. Two people are dangling from a rope below. You can haul on the rope and save one, but you know that by doing this

the other will fall to his death. If nothing is done, both will fall off the rope. Would you leave them both hanging there and see them both fall to their deaths?

### **A right to life, but not to stay alive**

Lord Justice Ward, went on to say :

“Mary has always been fated for early death. Though Mary has the right to life she has little right to be alive. She is alive only because, to put it bluntly but nonetheless accurately, she sucks the lifeblood of Jodie and her parasitic living will soon be the cause of Jodie ceasing to live. Jodie is entitled to protest that Mary is killing her”.

In the opinion of the three judges, the scales came down heavily in Jodie’s favour. The least detrimental choice was to permit separation to take place. But would the operation be lawful?

### **Would The Operation Be Lawful?**

It would be wrong to label Mary as an “unjust aggressor”, even though she was killing her sister. What she was doing could not be termed ‘unlawful’ because of her age. The question was, could the doctors come to Jodie’s defence and remove the threat of fatal harm to her presented by Mary’s draining her life blood? Could there be a justification which would sanction what is essentially murder: taking one life to save another?

The courts have traditionally been unwilling to allow the taking of human life. Killing in self-defence is allowed, but only when stringent conditions are met and there is no alternative if one is to save one’s own life.

Lawyers could find no precedent for the current case. The only pronouncement they could find came in the dissenting judgment of Justice Bertha Wilson, in a Canadian Supreme Court drug importation case in 1984. She said: “Where necessity is invoked as a justification for violation of the law, the justification must,

in my view, be restricted to situations where the accused’s act constitutes the discharge of a duty recognised by law.

“The rule of proportionality is central to the evaluation of a justification premised on two conflicting duties, since the defence rests on the rightfulness of the accused’s choice of one over the other.” Justice Wilson went on to say that necessity could not justify an act of homicide.

In the current case the doctors had conflicting duties to both twins but Mary, they believed, was “designated to die” no matter what. Lord Justice Ward said “It seems to me the law must allow an escape through choosing the lesser of the two evils.” The law did not allow an innocent person’s death to be caused by act or omission. But Mary, while legally innocent, was harming Jodie by “draining her lifeblood”. If she could speak, Jodie might have told her twin: “Stop it, Mary, you’re killing me.”

It was as if a six-year-old boy, also legally innocent because he would be below the age of criminal responsibility, started indiscriminately shooting in the playground. Lord Justice Ward had no doubt that it would be lawful to kill him in defence of the others. He could see no difference between that scenario and the one in which doctors in effect exercised self-defence on behalf of Jodie in separating her from Mary. “The availability of a plea of quasi self-defence, modified to meet the quite exceptional circumstances nature has inflicted on the twins, makes intervention by doctors lawful.”

Lord Justice Brooke, in an exhaustive review of the criminal law, looked at the 19<sup>th</sup> century case of the two marooned sailors who were convicted of murder for killing and eating their cabin boy. Doing so had kept them alive long enough to be rescued; otherwise they would have died too. But the court ruled this was not enough to exonerate them.

The twins’ case was not so clear-cut, said Lord Justice Brooke. The defence of necessity

would protect doctors if the act was needed to avoid inevitable and irreparable evil, no more was done than was reasonably necessary for the purpose, and the evil inflicted was not disproportionate to the evil avoided. All these requirements were satisfied in this case. The doctors faced an impossible dilemma. To save Jodie they must operate, to save Mary they must not. Lord Justice Ward said:

“The best interests of the twins is to give the chance of life to the child whose actual bodily condition is capable of accepting the chance to her advantage even if that has to be at the cost of the sacrifice of a life. I am left in no doubt at all that the scales come down heavily in Jodie’s favour.”

### **A question of Law or a Question of Ethics?**

At the conclusion of an appeal that gripped the nation and attracted worldwide attention, taking in the most complex legal, moral and religious issues, the three Appeal Court judges overruled the wishes of the parents and granted leave for the operation.

The story of Jodie and Mary raised acute moral and ethical questions. It put under the spotlight the way such complex cases, which take in ethical and moral as well as legal problems, should be addressed.

There is little doubt that the case of Jodie and Mary was unique. But the fast developing field of human genetics is bound to throw up issues which are equally complex, issues which carry moral, ethical and philosophical consequences, issues on which the courts will be asked to adjudicate.

The Annual Conference of the American Society for Reproductive Medicine, in San Diego, California, was told on October 23<sup>rd</sup> of a new technique developed by British fertility experts at University College London Medical School which could help produce the ‘perfect baby’. The technique is aimed at improving the high failure rate of IVF treatment for infertile couples and involves screening out and discarding Down’s Syndrome embryos and others with abnormalities that cause pregnancy failures

and miscarriages. Doctors say that, if approved for use, it could bring a fourfold increase in success rates. Critics accuse the medical profession of ‘playing God’ and indulging in quality control of humanity. Even embryos which could grow into healthy infants may be discarded due to tiny imperfections because of the breakthrough. Few people are born with *no* imperfections in their genetic makeup. Most of us would have failed a quality control check!

Also in October, there were similar accusations against U.S. doctors. Molly Nash was saved from certain death from a rare genetic form of anaemia with a transplant using cells from the umbilical cord of her baby brother. The doctors were accused of playing God because they had used genetic screening and embryo selection techniques to create the baby brother specifically to save his six-year-old sister.

A Spanish couple have become the first to have children ‘designed’ by researchers in the lab to prevent disease in a third, unborn, generation. The father of the children suffers from haemophilia, an inherited illness, tied to a defective gene. Males do not pass the disease on to their children, but, if they have a daughter, the daughter becomes a carrier and can pass the haemophilia on to her sons. Doctors at the Universitat Autònoma de Barcelona and researchers from the Cefer Institute of Reproduction made sure the embryos to be implanted in the mother’s womb would only grow into boys.

In Japan, scientists have succeeded in growing sperm in the laboratory for the first time, paving the way for infertile men to produce their own genetic offspring. The team, from the Machida district of Tokyo, also believe they will be able to reprogramme male cells into producing eggs so that men can both father and ‘mother’ children.

On December 19<sup>th</sup> British MPs voted to allow ‘therapeutic cloning’ to create new kinds of treatment for now incurable diseases. There were calls for embryos ‘not needed for in vitro fertilisation’ (48,000 in Britain alone between

1991 and 1998) - “unwanted human embryos”, “surplus embryos” - to be made available for research. The intention is to use them for ‘Spare-part cloning’, to create human embryos so as to harvest their cells. As the cells are extracted, the clone is killed, having served the purpose for which it was created. Is this murder? What happens if a clone develops into a human being? Clones have no genetic parents in the normal sense of the term. The person providing the cell from which the nucleus is taken is neither the mother nor the father, but a twin sibling. The woman providing the ovum is the “mother” only in a very partial sense, since the ovum has been gutted of most of her genes.

### **When A Child is Fatherless**

The (UK) 1990 Human Fertilisation and Embryology Act states that when a child is conceived posthumously it is legally fatherless and should be registered as such. After years of campaigning the Government has just conceded that new rights are to be given to babies conceived after their father’s death. The father’s name may be recorded but must be followed by the word ‘deceased’ and the government has refused to extend inheritance or succession rights to the children. The Government is also considering introducing legislation which would allow children born using IVF to find out who their biological parents are. What happens in the case of children who are parentless as outlined in the previous paragraph? Who will protect the best interests of these children? Will the courts be called on to sort out the problems created by what the Pope has called ‘irresponsible’ genetic engineering?

### **Are Our Moral Maps Out Of Date?**

There is little doubt that our ability to deal with these matters lags behind our technical knowledge. The moral maps with which many of us were raised are ill-equipped to negotiate the kinds of dilemmas thrown up by such dramatic developments in medical technology. Blanket principles in this brave new world of contemporary medicine will be no help.

The conjoined twins case was unique and the judges had no precedent to follow. Did the judges misdirect themselves in the questions they set out to answer? The court ruled that Jodie’s life was more important than Mary’s. Was it legitimate to ask “whose life is more important?” Was it fair to balance the welfare of each child against the other to find the least detrimental alternative when clearly Mary was at a disadvantage from the beginning? If the judges had focussed on ‘Human Rights’ instead of ‘Best Interests’ would they have come to a different conclusion?

Were the judges right to place so much reliance on the doctors’ opinion that, without the operation, both would die? How often are doctors wrong? How often do experts disagree? The doctors could not know for sure how long Jodie and Mary might have lived. The judges argued that Mary was “designated to die” no matter what. Was this not a matter of opinion rather than a matter of fact. The judges accepted that what they were proposing was “essentially murder” but ruled that the doctors could plea quasi self-defence. Who could say for certain that both children would not have lived? Would this possibility not invalidate the plea of self-defence? Should a case as important as this – literally a matter of life and death – not have gone to the final UK Appeal Court – The House of Lords?

We might go further and ask should these decisions end up in an adversarial courts system determined by narrow legal definitions as we witnessed in the case of the conjoined twins? Do we need a system similar to that in the Netherlands where local panels draw on legal, medical, ethical and lay opinion to help the morally bewildered and take a case-by-case approach? Some legal and ethics experts argue forcefully that a court of law is not the correct tribunal to explore dilemmas such as this. What is the proper tribunal, if not the court? I invite you, dear colleagues, to answer that question by way of a letter to the editor.

Willie McCarney, Editor

## SINGAPORE

**YOUTH JUSTICE CONFERENCE 2000:  
MANAGING A NEW WORLD IN TRANSIT**

**THE HONOURABLE THE CHIEF JUSTICE'S  
KEYNOTE ADDRESS**

National responses in many countries to youth offending throughout the 20<sup>th</sup> century have fluctuated between the 'welfare' and the 'justice' models: broadly whether young offenders are seen as being primarily in need of care and rehabilitation, or deserving of correction or punishment. Both the approaches have received their share of criticism. Both have had unintended and unwelcomed consequences.

In the 1970's, the research community concerned with the use of prevention and treatment programmes for juveniles concluded that nothing works. This conclusion, together with serious juvenile delinquency, resulted in the confinement of larger numbers of juveniles throughout the 1980's. A recent US nationwide survey of 1,100 programmes and 3,000 juvenile justice professionals, including juvenile and family court judges, court administrators, probation officers and line staff, compiled by the National Centre for Juvenile Justice now says that treatment programmes for juveniles do work and were working all the while. The report described a variety of successful prevention and treatment programmes in the American juvenile justice system.

We studied the juvenile trends in the USA and the UK. In these countries, in the 1990's, fear of juvenile crime rose, fuelled by such things as joy-riding incidents in deprived areas, increased publicity about persistent young offenders e.g. the James Bulger murder in the UK and the school shootings in the USA.

The US Government's Office of Juvenile Justice Delinquency Prevention in its March 1996 Juvenile Justice Action Plan acknowledged that "the problem of violent crime committed

by and against juveniles is a national crisis". It went further to state that:

"In the 1990s, pervasive problems with juvenile violence threaten the safety and security of communities across the country, and projections for the future are cause for nationwide alarm. Demographic experts predict that juvenile arrests for violent crimes will more than double by the year 2010, given population growth projections and trends in juvenile arrests over the past decade. It is clear that our children and the juvenile justice system need immediate help."

The UK saw several juvenile justice legislative changes from the Children Act 1908 to the Children and Young Person Acts of 1933 and 1969, the Criminal Justice Acts of 1982 and 1999 and the Criminal Justice and Public Order Act 1994. The recent British report 'Restoring youth justice: New Directions In Domestic And International Law And Practice' commented thus:

"Given this see-saw between punishment and rehabilitation, justice and care, it is scarcely surprising that the youth justice system is widely perceived as ineffective, and as failing to deliver satisfaction to society, victims or offenders."

A serious situation had arisen. There was a perceived need to get tough on crime. The use of cautions and warnings was heavily criticised as being ineffective and routine, and was actively discouraged. Confidence dropped in the welfare or the justice approaches as ineffective or irrelevant to the needs of both society and young people.

In Singapore, we took stock. We did not want to throw the baby out with the bath water. The founding principles of the Juvenile Court in our Children and Young Person's Act which became law as early as 23 September 1946 are still relevant in present day circumstances. Welfare of the juvenile is a guiding principle of this Act. The juvenile delinquent is not excused of responsibility or accountability for his misconduct. The Act determines the jurisdiction of the Juvenile Court for the 7 to 16 year olds. The Act also spells out clear principles for care orders, fit person orders, social work and supervised treatment, approved school and young offender incarceration. It balances parental authority and State intervention. But we were at the same time concerned with worldwide trends.

The Singapore Government took proactive preventive measures. In 1995 it established the Inter-Ministry Committee on Youth Crime (IMYC). Several studies on our youth were made so that direct beneficial programmes could be put into place. The Judiciary did not stand still.

The Subordinate Courts had, as part of their overall judicial reforms, done a scenario planning analysis of our domestic juvenile demographic and delinquency crime trends. This led to our introduction and implementation in 1995 of the restorative justice model, a model which has now become widely accepted in other countries. This process attempted to break the cycle of the juvenile justice models that had lasted for most of the 20<sup>th</sup> century, and reflected the worldwide momentum for change. We monitored the effectiveness of the restorative justice programmes in five surveys. These were on the effectiveness of family conferencing and community service orders, typology of youth rioters, profile of juveniles before the Juvenile Court who were beyond parental control and on juvenile shoplifters.

We, however, implemented the restorative justice programmes, not as a model of diversion from the Juvenile Court but as an integrated juvenile justice system, essential to the judicial

disposition process. Restorative justice seeks to deal with the underlying causes of offending and to integrate offenders and their families into society. It involves the victim, the parents of the offender and the victim, their school and religious teachers, their extended families and even their peers as essential to the process of seeking a solution and support system for the offenders and their families. It brings within its remit all available community resources and relevant juvenile justice constituents or stakeholders including faith-based organisations. As a critical juvenile justice programme, restorative justice is rightfully driven by the juvenile court judge lending authority and legal credibility to the process.

The restorative justice programmes and the IMYC's measures contributed to the general decline of juvenile crime in Singapore. We supported the Juvenile Court with some of the best practising social workers in the Family Conciliation and Resolution Centre, senior legally qualified court administrators in the Juvenile Justice Centre and a Harvard trained and experienced psychologist as Director of Psychological Services. They are part of the Subordinate Courts, and not mere adjunct bodies. This is to ensure that the juvenile system is sufficiently informed and guided by other relevant disciplinary professions in dealing with juveniles and their behaviours.

The Juvenile Court is not the stepchild of criminal justice, as has happened elsewhere, but rather is a critical institution in its own right. Further, the juvenile justice system must be saved from becoming the "farm system" for adult criminal offenders. Hence, the infusion of these complementary resources. They ensure that early and effective intervention will take place during a juvenile's first contact with the Juvenile Court at the point where, developmentally, the general potential for rehabilitation is greater than for adult criminals.

The general inclination of our judicial disposition of juvenile cases is towards individual rather than crime based sanctions. This is in-

dividualised justice. Personal and specialised attention is paid to each juvenile offender, his character, his family and environment for a holistic approach. Such inclination is tempered by legislative policies, such as in the Children and Young Persons Act and the Probation of Offenders Act. I have referred to the guiding principles of the Children and Young Persons Act. I now refer to the Probation and Offenders Act for completeness as the Conference is deliberating and seeking solutions to juvenile justice. The legislative scheme under our Probation of Offenders Act Chapter 252 requires the Courts to take into account all the circumstances of the case, including the nature of the offence and the character of the offender. Recently, in the course of hearing an appeal from the Subordinate Courts, I stated the following:

“The traditional and broad rationale of probation therefore has always been to wean offenders away from a life-time career in crime and to reform and rehabilitate them into self-reliant and useful citizens. In the case of youthful criminals, the chances of effective rehabilitation are greater than in the case of adults, making the possible use of probation more relevant where young offenders are concerned. Nevertheless, ... 5(1) of the [Probation of Offenders] Act [Chapter 252] makes it clear that probation is never granted as of right, even in the case of juvenile offenders.”

The reality is that no court system by itself can solve the delinquency or juvenile crime problem. The socioeconomic factors in our society, along with cultural and diversity issues and personality of individuals will continue to have a significant impact on juvenile delinquency. Prevention and social control programmes would need to be implemented, particularly those that target risk and protective factors.

These factors and programmes are within the remit of the Government or its executive agencies. Further, individualised justice exerts

a tremendous strain on the juvenile justice system. It necessitates the commitment of a huge amount of resources to deal with each individual case, an amount that may be disproportionate to the entire caseload before the Juvenile Court. This is the reality of distributive justice in which the Juvenile Court is required not only to decide cases according to the law and facts, and then make appropriate disposition orders, but also to ensure that the limited resources of the juvenile justice system are fairly distributed amongst all offenders, juveniles beyond parental control or youth at risk and their families who seek justice and intervention across the system.

We have attempted what we call the citizenship of the juvenile justice system. This is really collaborative justice which brings together all the justice constituents and stakeholders to achieve the practical ideal of individualised justice and the reality of distributive justice. The elements of such collaboration must be well defined to ensure optimal utilisation of limited resources and to prevent any pinches among the juvenile justice constituents. I would suggest the following elements for a working and effective juvenile justice framework:

- (i) The Juvenile Court, as the primary institutional interpreter of the standards of fairness of juvenile justice and of juvenile law under the Children and Young Person's Act, must, for this and the reasons which I have mentioned, play a central role, unlike in other countries where such courts have much more of a background and supervisory role.
- (ii) Judicial disposition would need to be multi-systemic. At its core must be the specific needs and problems of the offender and his integration within his family who must play a critical role, and within his community and peer environment. Yet the interest of society at large must not be prejudiced. In other words, there must be a continuum of graduated yet flexible sanctions that responds to the

needs of each juvenile offender while providing for community safety.

- (iii) Immediate and therapeutic intervention by the Juvenile Court Judge, or the Family Conciliation and Resolution Centre, or the Psychological Services of the Juvenile Justice Centre, MCDS, the police or the correctional agency, whichever is appropriate, at the first sign of delinquent behaviour for a youth at risk or beyond parental control, or for breach of the law or judicial order or institutional discipline.
- (iv) The role of the other core institutions and organisations must be enhanced to manage the diversionary and post-sentence programmes for the delinquent and his family and propagate social values and ensure order in the community. Education and social integration of the delinquent is essential.
- (v) The family of the delinquent must take primary responsibility in the rehabilitation of the delinquent.
- (vi) Delinquency prevention is the most cost effective approach in combating juvenile crime;
- (vii) There must be differential case management and pre and post sentence classification of the juvenile offender, particularly for the segment of serious, violent and chronic juvenile offenders. The classification would need to identify and differentiate between life-course persistent offenders from adolescence-limited offenders. Additionally, there would, from time to time, be offenders who would require special attention such as those who are developmentally retarded, clinically emotionally disturbed or severely suicidal. This element would lead to a juvenile justice process informed by developmental psychology of the juvenile delinquent. This will ensure, as far as is possible, the juvenile's reintegration and the juvenile assuming a constructive role in society.

This would also avoid criminalising the juvenile for behaviour which does not cause serious damage and which is a transient, developmental process.

These elements build on the classic "broken window" doctrine in juvenile justice. This doctrine envisages that a mere broken window in the community which may start off in mischief, if not repaired by all those involved in the juvenile justice system, will escalate into acceptance of unlawfulness by our young and a breakdown in social order. The process of dealing with the broken windows of a juvenile delinquent, his family and in the community is as important as the outcome desired. Equally important is the participation by the relevant constituents. The juvenile's respect for the rights and freedom of others as well as his sense of worth and dignity must be dealt with early.

The Juvenile Court, through its administrative arm, the Juvenile Justice Centre, has been in close partnership with all those involved in the juvenile justice system. Especially in the last five years we have successfully implemented several programmes. I will name a few restorative and diversionary programmes. A fuller list will be discussed at this Conference. These programmes are:

- i) Family Conferencing
- ii) Peer Mediation
- iii) Youth Family Care
- iv) Family Care Conferencing
- v) Streetwise Programme
- vi) Boot Camp
- vii) Educational talks and visits to the Prisons

I should also mention that over the last 30 years, international human rights law and standards on children and young people caught up in the criminal justice process have sought to recognise the specific needs of children, and to develop more flexible and positive ways of dealing with them while retaining the safeguards of due process standards.

The values and philosophy expressed in these conventions, like the UN Guidelines for the Prevention of Juvenile Delinquency (which are known as the Riyadh Guidelines), the UN Rules for The Protection of Juveniles Deprived of Their Liberty, the UN Standard Minimum Rules for the Administration of Juvenile Justice (commonly known as the Beijing Rules), the International Convention on the Rights of The Child, have already transformed practice and procedures in some parts of the world. Their promotion of diversion and restorative measures, as well as their insistence on rights and safeguards, signals a new approach to the treatment of young people that has been increasingly influential. We have kept faith with these international standards. On 7 September 2000, Singapore was among the first countries in the world to sign the Optional Protocol to the Convention on the Rights of the Child.

I leave the issues and comments I have raised for the Conference. The institution of the juvenile court is 100 years old this year. The first juvenile court was established in the State of Illinois. The Singapore Juvenile Court will, on the 23 September 2000 next week, be exactly 54 years old. The juvenile court is a landmark institution of the last century. We now enter the 21<sup>st</sup> century, and the second century of the juvenile court's existence. This Conference is therefore timely. Appropriately, it is co-convened by the Ministry of Community Development and Sports and the Subordinate Courts. I see before me an international gathering of juvenile justice experts and participants from 20 countries. We must all confront the critical issue of how we treat children who become delinquent or offenders. On that note I declare this Conference open.

## **FAMILY LAW AND THE RIGHTS OF CHILDREN AND YOUTH**

**20-23 September 2001**

**Bath, England**

There will be four themes:

- (a) The Protection of the Human Dignity of Children
- (b) International Instruments for Co-operation
- (c) Letting Children and Youth Speak Out for Themselves
- (d) Family Law and Social Change

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## THE NEW REGULATORY LAW IN SPAIN FOR PENAL RESPONSIBILITY FOR JUVENILES.

Julio López Oruezabal

(Honorary Member of IAYFJM)

A new law (number 5/2000) has been proclaimed in Spain to regulate penal responsibility for juveniles between fourteen and eighteen years of age.

### BACKGROUND TO THE REFORM

In 1985 the Organic Law on Judicial Power substituted the Juvenile Tutelary Tribunal with Juvenile Courts set up in each province with headquarters in each capital, as regulated by the decree of the 11<sup>th</sup> of June 1948.

A judgement announced by the Constitutional Tribunal in 1991 had declared that article 15 of Juvenile Tutelary Tribunal Law was unconstitutional, in that the nature of the proceedings followed before the Juvenile Tutelary Tribunal were not treated as true trials. In spite of regulating trial channels for the correction and reform of juveniles it did not foresee any necessary intervention by the Justice Ministry or a defending council and other judicial guarantees which are indispensable for these types of trials in a state within the jurisdiction of the law.

This forced a reform of the Juvenile Tribunal Law of 1948 by one passed in 1992 that modified the procedure with regard to trials with guarantees derived from constitutional decrees. This assigned the initiation and investigation of cases to the Justice Ministry and established that the defence counsel could be chosen by the juvenile or designated by the court. It established time limits for the duration of imprisonment and set out the parameters of a report to be carried out by a technical team to determine the juvenile's psychological state, his family, education and social background. It fixed time limits for the different

stages of trials and the holding of hearings, in which the prosecutor formulated the legal assessment of the offence, presented the evidence and suggested what measures might be adopted.

The reform also affected article 16 of the old 1948 law concerning the form of agreements and appeals before the Provincial Courts and article 17 regarding measures. Amongst the measures to be applied was the introduction of a penalty depriving juveniles of the right to drive motor vehicles and the rendering of services to benefit the community. Other measures that the old law established were left in force, such as warnings, probation, juveniles being taken in by families or educational groups as well as therapeutic treatment and entry into different types of centres.

This reform came to greater fruition eight years later in the 5/2000 law called "Juvenile Penal Responsibility", the principal contents of which are outlined below.

### THE NEW LAW

In 1994 in the Spanish Parliament a law was passed which set 18 as the age of penal majority and article 19 of the penal code of 1995 which incorporated the age of majority into this new law which raises the minimum age at which a juvenile can be tried (the age of criminal responsibility) to fourteen years old. This raising of the minimum age for penal responsibility is based on: "The conviction that misdemeanours committed by children under this age are, on the whole, irrelevant and in the rare event that they may produce social harm, the family or other civil services are suffi-

ciently capable of responding without requiring any intervention from the state judiciary". This is a controversial declaration both from the educational point of view from which the specialist teams must make decisions, as well as from the point of view of the judicial system which must evaluate the interests of the juvenile and the nature of the penalty procedure applicable to under-fourteens.

The principles, criteria and orientations of the law are guided by the formal penal nature of the proceedings and measures taken formally dispense criminal justice but, in practice, impose sanctions of an educational nature, expressly recognising the guarantees of what is in the juvenile's best interests; differentiation of distinct age brackets - fourteen to sixteen and sixteen to eighteen; and flexibility in adopting and exercising the measures that fall within the competencies of the provincial entities related to reform and protection (organisations with regional jurisdiction of competencies ceded by the state). These hand out the sanctions and oversee their implementation.

The law states that paramount in penal law for juveniles must be the adoption of procedures and measures that serve their highest interests as evaluated on a technical, flexible platform by "professional teams specialised in non-judicial sciences". It embraces the unquestionable principles of the right to prosecute, the right to a defence and the assumption of innocence.

It recognises the self-interest of the damaged party or victim of the offence committed by the juvenile, establishing a rapid flexible procedure for compensation. This law also introduces co-responsibility for the juvenile guilty of the misdemeanours with the parents, guardians, teachers and educators.

This law sets out rules for the intervention of the damaged party to safeguard the interests of the victims in the clarification of events, and ensures to the damaged party ample rights to participate in the trial.

This legislative reform attributes competencies to judges in the magistrate category who are preferably specialists, defines the position of the Justice Ministry and the defence council in the trial. The system of ordinary appeals is presided over by the Juvenile Courts of the Superior Justice Tribunal which have to be created with the inclusion of magistrates, preferably specialists, thus guaranteeing the standardisation of procedures - although this is reserved for serious cases.

## EXECUTING MEASURES

This corresponds to the public entities of juvenile protection and reform of the Autonomous Communities under the total control of the Juvenile Judge.

Within the legal parameters of juvenile trials it introduces the repayment of damages caused and the reconciliation of the offender with the victim, which with the mediation of a technical team, may bring about the discharge or the suspension of a case or the ending of a measure which has been imposed.

Community service work, which requires the consent of the juvenile, consists of non-money-making activities, which are of clear social interest or which are undertaken for persons in need.

Article 7 of the new law opens up a wide range of possibilities for imprisonment ranging from, "closed", "semi-closed" and "open" up to "therapeutic", "sanitation", "a day centre" and staying "weekends from Friday afternoons to Sunday nights".

For probation, the juvenile's activities must be tracked, such as attendance at school or other centres of learning and work. In this case there are social-educational guidelines to be followed. These are in line with the educational intervention programme formulated by the public entity or the professional in charge of supervising the young person. These have been approved by the Juvenile Judge who can impose conduct rules such as the following:

- Regular attendance at the local school for the duration of compulsory basic education.
- The following of educational, training, professional, cultural or work programmes as well as those pertaining to learning traffic signs and sexual education, for example.
- Banning attendance at certain places, establishments and sporting or entertainment events.
- Prohibiting absence from the place of residence without the correct legal authorisation.
- Compulsory dwelling in a particular abode or ordering the regular appearance before a juvenile judge or professional to whom the juvenile must report on his/her activities.
- Whatever other consideration the Judge may deem necessary for the correct social reinsertion of the juvenile.

Amongst the measures that the Judge may impose is living together with another person, family or educational group, for a compulsory period of time established by the Judge with a view to assisting in the resocialisation process.

The law foresees measures for the *realisation of social-educational tasks* that consist of the juvenile carrying out specific activities, with an educational content, that facilitate his social reinsertion. It hopes to satisfy specific needs of the juvenile in his integration development. It could mean the juvenile's attendance at and participation in a programme that is already working within the community or one created by professionals with the responsibility to do so. The following are mentioned as social-educational tasks:

- Attending occupational workshops, re-training classes, or job training classes.
- Participation in structured social-cultural activities.

- Attending workshops for learning social skills.

In the execution of the measures outlined here, we should note a new element, namely a time restriction imposed on each one of them.

The maximum period is two years, which can be increased to five years if the juvenile was over sixteen at the time of committing the crime and that crime was a violent one with serious risk to the life and physical well-being of the victim or in the case of serious and persistent offending.

There are also exceptions where the offence is extremely serious and where the sentence is stipulated by law, as, for example, in cases of terrorism and murder.

For the efficient carrying out and application of the new law the following are required:

1. The specialisation of juvenile judges and prosecutors assigned to juvenile courts in the fields of human behaviour (i.e. in addition to judicial expertise). Such specialisation should be required of all professional lawyers who intervene in cases involving juveniles.
2. The creation of specialist teams with the ability to instrument and co-ordinate with other services of state administration. These teams should be regulated by authorities higher than the Autonomous Communities in order to ensure uniformity in the application of this order, since the law appears to link them (the Communities) to reporting to the said teams.
3. A diversification of the centres of administrative bodies in the Autonomous Communities with specialisation and diversification required through education and professional training.

## **THE VEILLARD-CYBULSKI AWARD 2002**

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- 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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## THE COURT SYSTEM IN THE RUSSIAN FEDERATION.

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The organisation principles of the court system in the Russian Federation were established by a law dated November 01, 1981 'Re Judicial Organisation of The Russian Soviet Federative Socialist Republic' (with subsequent amendments and additions) and the Federal Constitutional Law 'Re Court System of the Russian Federation' (October 23 1996).

Thus in Russia, arising from the above laws, the following judicial institutions were put in place:

District (town) courts : according to statistics released by the Ministry of Justice there were 2456 such courts in the Russian Federation on January 1, 1995.

Regional Courts : each autonomous region and autonomous district has a Regional Court (65 courts including Moscow and St. Petersburg City Courts).

Supreme Court : Each of the 21 Republics has a Supreme Court. The senior court is the Supreme Court of the Russian Federation.

In Russia these courts are named 'courts of general jurisdiction'. These courts consider:

criminal cases;  
civil cases, together with all matters concerning the family, housing, labour and other matters which may from time to time be referred; appeals arising from the actions of state bodies, or, so-called, administrative cases.

Besides these courts, there are, in Russia, arbitration courts considering cases involving trade disputes, military courts considering cases arising from military service and the

Constitutional Court of the Russian Federation, which exercises constitutional control.

We shall begin with a description of courts at the bottom tier. These are district and town courts. These courts, like those all over the world, are courts of first instance. In every small town in Russia there is such a court, in every city there are courts in every district of the city. The district (town) courts deal with the overwhelming majority of cases of first instance, with rare exceptions. The exceptions are gross crimes, such as murder, rape, banditry and some others, which are considered by the higher courts. Cases in the district court are considered either by a judge sitting alone or by a judge sitting with two lay judges. A judge sitting alone considers minor offences, administrative cases and the majority of civil cases. A judge sitting alone does not have the right to consider criminal cases against minors. In such cases and in certain civil cases stipulated by law the defence can demand that two lay judges sit with the judge. However in the majority of civil cases, both sides can agree to entrust the hearing of the case to one judge, even if the participation of lay judges is stipulated by law.

In Russia there is no legal demarcation between judges with regard to professional specialisation. For example, judges are not appointed to consider only civil cases or only criminal cases. Similarly there are no specialist judges who consider only family or only labour disputes. Each judge has the right to hear any case falling within the jurisdiction of his/her court.

However, in practice, judges do specialise. For example, some judges consider only criminal cases while other judges consider civil cases. Unfortunately, this specialisation

is not widespread and the majority of courts do not work in this way. In some courts there is demarcation of cases based on a territorial principal - the judge will consider all cases brought within the territory (district) allocated to him/her.

At this point I would like to mention a new institution in the Russian court system. I am referring to the introduction of Justices of the Peace. Justices of the Peace were introduced in Russia under the Law 'Re Justice of the Peace' of November 11, 1998. However, up to now, few, if any, have been appointed except in a small number of the larger cities - Moscow, for example. A Justice of the Peace will be empowered to hear all simple civil cases and criminal cases where punishment does not exceed two years imprisonment. These judges (JPs) will deal with all family cases excluding cases concerning paternity/maternity, filiation, the forfeiting of parental rights and adoption. The law provides that decisions made by a Justice of the Peace can be appealed to the district/town court.

The next category of courts we will look at is the Regional Courts. As already mentioned each autonomous region and autonomous district has a Regional Court. In all there are 65 Regional Courts including the courts in Moscow and St. Petersburg. In almost all cases these courts are courts of second, cassation, instance. Regional Courts are comprised of two divisions: a Civil Division and a Criminal Division and the Presidium of the Court. Under the law, such courts have the following jurisdiction :

A court of first instance in dealing with gross crimes and cases involving state secrets. The court also has the authority to withdraw any case from a town court. However this power is seldom used.

A court of second/cassation instance : these courts must consider all appeals from a decision of a District (town) court. Such appeals must be filed within 10 days for civil cases and 7 days for criminal cases following the

judgement or sentence. Such cases are heard in the appropriate Division. If the court confirms the finding/sentence of the court of first instance, the finding/sentence comes into effect.

A court of supervision instance : The court can be asked to consider a case where the judgement (sentence) is already being enforced. Judicial procedures can be started where the prosecutor or other official person (a list of 'official persons' is established by law) objects to the judgement/sentence. A party to the dispute can only lodge a protest through an official person. These cases are considered by the Presidium of the Court.

Cases where there has to be a retrial : These cases are considered by the Presidium of the Court also.

Cases in Regional Courts are usually heard by three professional judges. When the court sits as a court of first instance it may sit with a jury but this is not common.

I think it is necessary to explain the situation regarding juries in Russia. Juries were introduced in Russia by a law of 1993. The right of a person to have his case heard by a jury is anchored in the above-stated law as well as in the Constitution of the Russian Federation and the Criminal Process Code. An individual has the unconditional right to demand trial by jury if the punishment for the crime can be execution or imprisonment for life. However, in Russia, juries have only been instituted in 9 regions. Consequently, in other regions, a strange situation has arisen. An individual has a right to demand trial by jury but the state doesn't have the possibility of providing a jury. This situation was solved on February 2, 1999 by the Constitutional Court of the Russian Federation. The Constitutional Court made an unprecedented ruling which can be summarised briefly as follows. The Court ruled that, since 1993, the State has had enough time to provide for juries in every region of Russia. The fact that juries are not available everywhere is a problem for the

State and not of the citizen, who has a constitutional right to trial by jury. Thus if a person asks for a jury trial and the region can't provide it the court cannot decide on punishment by execution. Furthermore, the Constitutional Court, recognising the Russian citizen's right to trial by peers, has ruled that, until such times as juries are provided for in all regions, no court can decide on punishment by execution.

Now let us consider the Supreme Court of the Russian Federation.

The Supreme Court of the Russian Federation has the following structure:

Full Commission of the Supreme Court of Russia;  
 Presidium of the Supreme Court of Russia;  
 Appeal Division;  
 Civil Division;  
 Criminal Division;  
 Military Division.

The full commission of the Supreme Court of Russia consists of the Chairman of the Supreme Court, the Deputy Chairmen and the members of the Court. The full commission is the management organ of the Supreme Court. For practising jurists the most important function of the full commission is as follows. The full commission lays down guidance for good practice in the Russian courts and, in spite of the fact that in Russia there is a continental system of law, these guidelines play a major role in the work of judges, lawyers etc. Some Russian legal experts, recognising that guidelines contained in orders of the full commission don't have the force of law, call this 'quasi law'.

The Presidium of the Supreme Court consists of 13 judges. The Presidium considers cases by way of supervision and can hear a case by way of retrial if new circumstances come to light.

The Appeal Division, as the name implies, hears appeals from the Regional Courts. It can

also hold re-hearings of cases where new circumstances have come to light from the time of the original hearing. Usually three judges sit to hear appeals but sometimes five.

The Civil Division and the Criminal Division can act by way of 'supervision instance' (as outlined above). They can act as a court of first instance in cases of great public interest. They can rehear cases where new circumstances have come to light.

The Military Division hears appeals from military courts, which occupy a special place in the Russian court system.

The Courts in the Russian Federation have problems which reflect the reality of life in Russia. First there is a shortage of judges owing to a shortage of finance. For example, the author of this article lives in a small town of about 100,000 inhabitants where he works as a lawyer. In our town there are three judges to deal with civil cases. Certainly, it is not enough. In order to file a case it is necessary to either meet with a judge or send the file by mail. Nowadays to arrange a meeting with a judge is very difficult, even for lawyers, never mind non-legal people, as a judge's meeting schedule will be full for two months ahead. For that reason it is necessary to send the files by mail and this is not always reliable. According to the law the maximal time to process a civil case to first hearing is 1.5 months but because there are not enough judges the norm is more like 2 to 2.5 months. When a judge returns from holiday, he will find 30-40 cases on his desk, waiting to be dealt with. Generally, a judge can hear 1 or 2, maximum 3, serious cases per day. In addition he will deal with 10-15 less serious cases (divorces, debt collection etc). So it will take quite a while to clear the backlog!

Technical support for Russian courts is also in short supply. In our court there are 10 judges (criminal and civil), besides 15-20 secretaries, a few consultants, executors and an archivist. There are four (!) low-power computers which they must all share between them. By

comparison, in my office there are four high-power computers between six lawyers. All lawyers, jurists and legal advisers have been using judicial software for a long time. Judicial software is a database which contains the texts of laws and other normative acts (approximately 25,000!). At the present moment judges do not have access to this database. When computers were first put into courts, CD-ROMs containing the legal database were given to each judge. But the computers supplied did not have CD-ROM drives!

Courts have a shortage of paper, of file covers and of office accessories. Nowadays I provide my own file covers when I submit a claim to have a case listed. I put together all the necessary documents and even ensure the service of summons despite the fact that, in Russia, all of this is the responsibility of the courts.

Apart from the above problems, Russian courts have only recently become free from 'phone law'. 'Phone law' refers to the situation where a judge would not deliver a judgement until he had consulted with some of the 'city fathers' (the important people in the town - members of the town council, directors of companies, and the like). Nowadays courts are independent and judges will no longer consult in this way before coming to a decision. This is not to say that there are not attempts to affect the judge's decision by offering bribes.

In my opinion, the majority of civil cases are considered correctly and honestly. However, in criminal cases, there are a lot of errors. I think it is because Soviet justice traditions are still strong and not because judges are dishonest or lacking in professionalism. In Soviet times the percentage of not-guilty verdicts amounted to 0.4 (!) percent of all verdicts. Not-guilty verdicts are still the exception because it is still the view that the State has a responsibility to make an individual pay for unlawfully engaging in criminal activity. Questions might be asked if a judge has a higher than average number of 'not-guilty' verdicts. If the judge believes that the evi-

dence is weak he/she will refer the case back for further investigation rather than declare a 'not guilty' verdict. The police or prosecutor will then often withdraw the charges.

Russian courts have to try to work within these parameters. Usually courts manage their cases honestly and impartially and justice is guaranteed. Russian judges deserve credit for the quality of justice achieved in difficult circumstances.

How are Russian judges appointed?

Judges in Russia are given legal status under the Federal Law 'Re status of judges'. This law lays down that:

- A judge must be a citizen of the Russian Federation and
- Be at least 25 years old;
- Have the highest judicial education;
- Have experience of judicial work extending over not less than five years;
- Have an unblemished record;
- Have passed the judicial examination;
- Otherwise meet the guidelines laid down from time to time by the body responsible for the appointment of judges.

For appointment to a court of second instance a judge must be at least 30 years old and for appointment to the Supreme Court of the Russian Federation must be at least 35 years old. In either case they must have had experience of judicial work for not less than ten years.

Generally a judge is older than 25 years on first appointment since few people complete their higher education below 22 or 23 years of age and this must be followed by at least five years of judicial work experience. Relevant judicial work covers a range of occupations, for example working as a lawyer, a legal adviser, an inspector, a secretary to the court process etc.

The majority of judges (except judges of the

Supreme Court) are assigned by Decree of the President of the Russian Federation.

After appointment a judge receives a lot of warranties and privileges. First a judge is independent and mustn't discuss a court case or a proposed decision with anyone. A judge is appointed without definition of his/her period of authority. The exceptions are Justices of the Peace who are appointed for five years and judges assigned for the first time who must serve a probationary period before their appointment is confirmed. Nobody can direct a judge to other work or to another court. Suspension or termination of the authority of a judge can only occur in cases stipulated by law. Criminal charges can only be brought against a judge with the consent of the appointing body and a criminal case can be lodged only by the General Prosecutor of the Russian Federation. A judge is not otherwise subject to administrative or disciplinary procedures. A judge has the right to ask for his/her case to be considered only by the Supreme Court.

The rank of judge is assigned for life. Any judge has a right to resign of his/her own free will subject to important conditions. However he does not lose the rank of judge. Certain guidelines are laid down for working judges. A judge has no right to be a deputy or to belong to any political party; to be involved in any financial enterprise; to combine work as a judge with any other paid occupation except for scientific, teaching, literary and other creative activities.

Besides warranties a judge receives certain privileges. The State considers it reasonable that being a judge is a special occupation and deserves some privileges. Naturally, the first is payment for work. A judge is paid according to the level at which he/she sits and the amount of experience. Payment is set at a particular percentage of the payment of the Chairman of the Supreme Court of the Russian Federation. The basic salary works out at about US\$90 per month. There are bonuses according to experience, class and length of

time the judge has been sitting. These are added to the salary. This payment is reasonably good, certainly by Russian standards. The average salary for a judge in a district/town court, with bonuses, is in the region of \$200 to \$220 per month. However, I think judges need to receive more as a protection from enticement to accepting bribes.

The local town council is obliged to provide accommodation within 6 months after the assignment of a judge. A judge is entitled to a 'padded living space' of 20 square metres, i.e. 20 square metres above the norm laid down as a minimum requirement for housing.

Housing is to be given free of charge. It is necessary to point out that this privilege goes by default in the majority of cases because town councils are generally unable to provide free accommodation within their budget.

Judges are entitled to 30 days holiday per year. Every five years the judge is entitled to an extra five days holiday. If a judge has a holiday outside his/her own region, he/she is entitled to free travel.

Judges are entitled to a free health service, including support for pharmaceuticals and free sanatorium treatment for him/herself, marital partner and (minor) children.

I should point out that the majority of judges do not receive *any* of the privileges listed above. This is not an unusual situation in Russia. We have a lot of laws which have been passed with a complete disregard for financial implications and whether, in practice, they can be enforced (for example, Law 'Re Veterans', Law 'Re social protection of invalids'). Let me give you an example. In 1991 a law was passed under which the state took on itself responsibility for the property of citizens. Thus every citizen could require compensation from the state if he/she had an item stolen. With so much criminality in Russia no budget could sustain this level of expenditure. First this law was suspended and then quickly repealed.

Minors and children in Russia are, unfortunately, subject to the same judicial procedure as adults. Let me now describe the place of minors and children in the court system in Russia.

In Russia there are no special youth courts and all cases involving minors or children are considered by the normal court. It is true that, in courts of second instance, special commissions have been appointed to deal with cases involving minors. However, these commissions only deal with criminal cases and there is no law to regulate the activity of such commissions.

First it is necessary to say that, usually, persons under 18 years cannot be the subject in a civil court procedure. Certainly they can be witnesses, but otherwise they are represented in court by parents or those with parental responsibility. Parents can conclude any agreement with a lawyer. There is no provision for young persons to protect their own rights apart from the following exceptions. These are:

- When a young person has been recognised as an adult by the court (procedure of emancipation). This procedure is established by civil legislation and a young person who has reached 16 years can receive full capacity for acting on his/her own behalf.
- When a young person is married. This is sometimes possible after the age of 16 years.
- When a young person has concluded an employment agreement and now wishes to protect his/her employment rights. Again this is possible after 16 years.

As cases involving minors often include employment, family and housing matters I think it is necessary to describe what warranties there are in employment, family and housing legislation for the protection of minors and children and how these rights are protected by the court.

The most important employment law in Russia is the 'Code of Labour Law'. This Code came into force in 1971 - during the Soviet era - and is now obsolete. However, it establishes a number of important safeguards for young people. Briefly, these safeguards include restricted work time for young people, dependent on age but with a maximum of 36 hours per week; prohibition of overtime work and night work; prohibition of working in dangerous, hazardous or otherwise difficult conditions. There are also regulations about work and study which is particularly relevant to young people. All workers are guaranteed a minimum of 24 days holiday per year while, for minors, the minimum is 30. Those who are studying and working are entitled to 'padding' holidays i.e. extra holidays or 'study leave' which may be taken twice per year up to a maximum of (a further) 24 or 30 days (as appropriate). A company must grant study leave even where the worker leaves the company on completion of his/her studies. Thus a company must pay workers for time when they are not bringing any profit to the company. Many of the cases which appear before our courts concern the refusal of a company's management to honour this study leave entitlement.

Civil legislation, on the other hand, does not make special provision, or lay down guarantees, for children and minors, because a child or minor can not be a subject in civil legislation. Uniquely, housing legislation establishes important warranties with regard to the rights of children and young persons to live in a house. For example, where minors live in a house, it is impossible to sell that house without the permission of state bodies responsible for guardianship. Besides, minors have a guaranteed right to a share of any inheritance. I think these are all important guarantees.

While minors are not entitled to be the 'subject' in civil legislation their rights are nonetheless guaranteed in family legislation. Family legislation in Russia does not differ very much from the legislation in other civilised

states. However in Russia there is no possibility for children to claim against their parents (on the grounds of abuse or the absence of care). Russian family legislation does admit such a possibility but this in an area of the law which has not been developed. The problem is not the absence of a legal remedy – in fact the legislation in this area is quite good. The problem is that enforcement is poor. For example, the failure to pay maintenance for a child (25% from all types of earnings for one child, 33% for two children and 50% for three and more) is all too common. This happens because a lot of parents (usually fathers) who have been ordered by the court to pay maintenance simply evade payments. In Russia evasion is easy because it is often impossible to know what a person's real income is. A man can be officially employed in a low-paid job but may have an income from other sources which makes him a rich man. Clearly this man will only be liable for payment on a percentage of his legal income and not on his undisclosed income. Our tax system is not sufficiently robust to deal with this problem and needs revision.

Criminal justice legislation pays a lot of attention to the special needs of young persons. Unfortunately, criminality among children and teenagers is on the increase and society and the state must react to it. Among minors the most common crimes are larceny, especially from cars and houses, drug offences, hooliganism, robbery and rape. Usually, minors are involved with adult criminal groups, but there are a growing number of cases where teenagers operate independently. More often than not, crimes are committed by groups of teenagers and by teenagers who are drunk.

Nevertheless the legislators understand that young people are not committed to criminal ways and that often they get involved because of peer group pressure or act impulsively. The vast majority of minors who commit criminal acts will go on to become worthy members of society. Therefore young people require special protection under the law.

The age of criminal responsibility in Russia for the majority of crimes is 16 years. There are some 20 crimes (for example, murder, rape, robbery and terrorism) where the age of criminal responsibility is 14 years.

There are special guarantees offered to young persons from the beginning of an investigation.

The Criminal Process Code provides that, besides the normal protection offered to a suspect in a criminal case, the special circumstances of a minor have to be taken into account. These include:

- age of the minor;
- conditions of life and education;
- reasons and circumstances leading to involvement in the crime;
- the extent to which the young person was under the influence of adults and other factors.

Detention before trial is possible but can only be used in exceptional circumstances. The most common approach is to release the minor under the supervision of parents or guardians.

The questioning of minors under the age of 16 years is usually carried out in the presence of a teacher. A teacher may also be asked to be present where a minor who is over the age of 16 but who has special needs is being questioned. Parents or legal representatives also have the right to be present. A minor is entitled to have a lawyer from the beginning of the investigative process. Where the minor/parents cannot afford a lawyer, a lawyer will be appointed by the State.

Under the Criminal Code of the Russian Federation all measures of punishment can be applied to minors, except execution, imprisonment for life, and, for persons under the age of 16 years, arrest. Thus, the following measures of punishment can be applied to minors:

- Fine;
- debarment from occupying particular positions or from engaging in particular activities;

- forfeiture of special military or other title, class grade and state awards etc;
- compulsory labour;
- correctional labour;
- debarment from military service;
- confiscation;
- participation in a disciplinary military activity;
- restriction of freedom;
- deprivation of freedom.

First, it is necessary to say that some of these punishments (e.g. obligatory labour, limitation of freedom) were suspended under the Criminal Code of 1996 until such times as resources can be made available.

Second, not all measures on the list are appropriate in dealing with minors. For example, measures involving the forfeiture of assets (fines, confiscation) cannot be applied since, usually, minors do not have independent assets or money. Involvement in military disciplinary procedures apply only to servicemen and minors can not be servicemen. Debarment from occupying particular positions or engaging in a particular activity are also generally not applicable to minors. The forfeiture of a special military or honorary title or a class grade or state award cannot normally be applied since you cannot forfeit something you do not have! The sad reality is that, in Russia, there is only one unique measure available for minors. That is deprivation of freedom (imprisonment).

But things are not so terrible as they might at first appear. Approximately 85-90 percent of minors can hope to receive a conditional discharge, where this is their first offence or where the offence is not serious. The Court is always obliged to consider the possibility of a conditional discharge in the case of a minor.

A conditional discharge can be given for a maximum of 5 years. Supervision during this period is by a specially appointed state body. In the case of minors this will be the Department for the Prevention of Juvenile Criminality, which is a branch of the Ministry of the Interior. If an individual re-offends during this

period there is an 85-90 percent chance that he/she will be sent to prison.

Besides the above possibilities the court has two special options in dealing with minors in order to avoid punishment.

First the minor can be given some measure of an educational nature. This option is available when the minor is a first time offender and the crime is of small or average gravity. Enforcement measures of an educational nature include a warning, release under the supervision of the parents, measures which will mitigate the harm caused, restrictions on leisure and the laying down of special standards of behaviour.

Second there is the possibility of sending the minor to a special educational or medical-educational establishment. This measure can be applied where the offence is of average gravity. The period of placement cannot be more than the period of punishment laid down for the crime. These establishments are usually professional-technical colleges with very strict discipline. Placement in such an establishment will not be counted as a previous conviction in the event of future offending. I would like to point out that one of the best such establishments in Russia is in my own region in the town of Ocher, about 200 km from the town in which I live.

From this brief sketch you can see that, in Russia, the special needs of young persons are not well catered for.

The author will be pleased to answer any questions you might have. He can be contacted by post, fax or email at the address below.

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### **NOTE FROM THE TREASURER**

On January 1<sup>st</sup>, 1994, the IAYFJM's fortune amounted to more than 63,000 SFr. On January 1<sup>st</sup>, 2000, that amount was approximately 41,500 SFr., thus a diminution of more than 21,000 SFr. in 6 years.

This result raises obvious anxiety for the Treasurer, despite the all-out efforts of the Executive to recruit new members, who are the only financial resource of the Association, and which have been very good during the last few years. In fact, since 1994, the individual and national contributions increased by more than 6,000 SFr. (1994: 8,900 SFr.; 1999: 15,000 SFr.).

In the expenses column, except for the small administrative costs for the Executive Secretary, there are only the mailings of the Chronicle. Preparing and mailing the Chronicle worldwide is very expensive today. In 1994, the bill was 2,000 SFr., in 1999 the price was 19,000 SFr. !!!

Despite this notable increase, the new format of the Chronicle, initiated in 1995 is of undisputed quality. Indeed the Chronicle is the most important source of information of our international association. In addition, readers consider its contents remarkable. Therefore, the Executive willingly continues to diffuse it throughout the world.

Accordingly, other sources of financial resources must be found to ensure our continued information activities. I propose, dear friends of the IAYFJM, that you commence a search for sponsors (for example, one main sponsor of 20,000 Sfr., or 4 or 5 sponsors at 3,000 or 4,000 Sfr. each, for a 2 to 4 years period. In return their name or logo would appear on the Chronicle. You would then inform me of any receptive proposal. You also are aware that our Executive has decided to establish various committees to increase the efficiency of our work. If you have any ideas, if you like contacts and if our Association is dear to your heart you can, among other things, join the Finance and Membership Committee which I have the honour to chair.

Thank you all for your precious collaboration. I look forward to reading your good news.

Fribourg/Switzerland  
November 27 2000

Michel Lachat  
IAYFJM Treasurer

## **TUNIS SEMINAR 2000**

*The IDE, in collaboration with the ATUDE (Tunisian Association for the Rights of the Child) and with the support of UNICEF, the Intergovernmental Agency of French-speaking countries and the International Association of Youth and Family Judges and Magistrates (IAYFJM), organized the second international seminar on African soil in Tunis from November 19-22, 2000.*

*Lucien Beaulieu, President of the IAYFJM, chaired the first session with the theme: "The Convention: Principles and Values to Promote".*

*Hervé Hamon, the General Secretary of the IAYFJM, chaired the workshop on the subject of: "The Family, a Vehicle of National Strategy and Social Harmony".*

*Michel Lachat, the Treasurer of the IAYFJM, introduced the debates giving a lecture on "The Convention, an Instrument for the Realization of Democratic Ideals".*

*Maria Fontemachi from Argentina, a member of the General Committee, presented a communiqué from Latin America on the theme: "Children and Global Solidarity".*

*Thierry Werts from Belgium, a member of the Association, chaired the session on: "The Rights of the Child and the Prevention of Armed, Racial and Ethnic Conflicts".*

*These lectures can all be found on the IDE's website: <http://www.childsrights.com>*

*Editor*

The IDE, in collaboration with the ATUDE and with the support of UNICEF, the Intergovernmental Agency of French-speaking countries and the IAYFJM, organized the second international seminar on African soil, from 19-22 November 2000.

Various well-known personalities discussed the merits of the Convention on the Rights of the Child, many of them in talks given, making a constant appeal for peace, harmony, world solidarity and friendship between peoples. They also brought up the problems raised by armed conflicts and racial conflicts and the struggle against poverty and social exclusion, and thus provided debates for the workshops, which were attended by more than 200 enthu-

siastic and very active participants. The presenters included 6 ministers and former ministers; Bernard Comby, President of the IDE Foundation; Lucien Beaulieu, President of the IAYFJM; Michel Lachat, Treasurer of the IAYFJM and a member of the IDE Foundation, together with several other Swiss specialists; representatives from the Cameroon, Burkina Faso, Belgium, Canada, France, Senegal, Morocco, Libya, Mauritania, Algeria, Ivory Coast, Argentina and Tunisia.

The participants did not miss the opportunity to point out the glaring inequalities in various parts of the world, to send urgent appeals to all those who are in a position to bring the necessary aid to the most deprived and oppressed

children, and to express their desire to see children's rights advance, especially in the area of education, an ideal basis for making children aware of the importance of values such as peace, tolerance, solidarity and friendship between peoples.

Mr. Bernard Comby, in his opening and closing speeches, reminded everyone of the important role played by Tunisia in the defense of children's rights, especially due to its very clear position within the UN calling for a total ban on the recruitment of children into armies. He centered his presentations on the three basic rights of children: the right to health, the right to education and the right to peace and launched an appeal to industrialized countries to take responsibility, not only in declaring the right to peace, but in giving financial help to developing countries, so that they may reach the economic levels necessary to give children every chance possible, thus achieving a more just and ever more equitable balance.

This second seminar will not remain mere words with no follow-up and will not become part of the category of "fine declarations". In fact, in Tunis, the representatives of the IDE

and of the ATUDE made contact with the Ministers from Cameroon and Burkina Faso, who officially offered their services for future seminars, already planned for 2001 and 2002. Tunisia itself also wishes to pursue its efforts, organizing in 2001 the third seminar on the rights of the child, with the aim of honoring the agreement made in January 2001 between the IDE and the ATUDE. Finally, anxious to spread a child rights culture and to make its meaning clear within the family and society, the President of the Republic of Tunisia ordered the creation of a National Monitoring Agency for the Rights of the Child, which will have the task of ensuring that the Child Protection Code is observed.

I will conclude with a few words about the organization of this second seminar, which was remarkable in all respects. May the organizers, who worked under the masterful direction of Mr. Hamada, find in these few words the expression of our recognition and our gratitude.

Michel Lachat,  
Fribourg, November 28<sup>th</sup>, 2000

**DATE FOR YOUR DIARY**  
**CHILDREN AND WAR**  
**SION, SWITZERLAND**  
**16-20 October, 2001**

**CONTACT**

Institut International des Droits de l'Enfant (IDE)  
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**“TODAY’S CHILDREN; TOMORROW’S CITIZENS”****CREATING A FRAMEWORK FOR THE FUTURE.****International Fostering Conference****Cork, Ireland, September 2000****Dr. Juan C. Fugaretta, Argentina**

The mere existence of links between members of a community make possible immediate solutions to everyday conflicts. There are however disputes which come to the surface when internal pressure becomes too much. Treatment then requires intensive and specially tailored work, respecting the “habitat” or the cultural context in which this family has developed.

If we focus these thoughts on children, we can observe that families’ room to manoeuvre is in many cases limited by State intervention. Sometimes the State approaches the conflict with different action models, without pausing to further investigate resources which the same community can create in each case and also personnel who are trained but not recognised (article 4 of the Convention on the Rights of the Child).

Between the solution which the State may attempt through technical, administrative and judicial organisations and the conflict itself, there exists the very important area of community action. Such actions are ideally suited for weeding out problems, leaving only those conflicts which out of necessity require State intervention in whatever form it may take.

In this area families have incomparable resources in common sense and experience of life for the discussion and resolution of their main problems.

The International Convention on the Rights of the Child is structured according to the obligation which States have taken on to guarantee all kinds of care and protection for children who find themselves deprived of their family of origin or who are in conflict with it. In this case foster homes are found. Within this legal context the foster family finds its legitimacy.

Therefore, as the Convention on the Rights of the Child has become the most widely ratified international document in the world up to the present, the insertion of the foster family has its own legal dimension and moreover an international force which requires its recognition, support and inclusion in the legal system of each and every signatory nation.

The most important value of the Convention lies in the admission that the child has dignity as a person with inalienable rights. Consequently, the Convention implies that services set up by the State and other sectors for the protection and benefit of the child are not the result of a gesture of charity and spontaneous active solidarity of some individuals towards others, or an optional alternative to be chosen. Rather they are a legal and social response to the coming into force of standards for which the law provides mechanisms for informing the public and reviewing their implementation.

Dealing with children and families can often cause conflicts in the legal field, especially through lack of recognition of the legal status

which each child possesses. However if we understand that parental authority is an authority which provides a great deal of security when the duties and responsibilities connected with it are carried out, when legal conflicts emerge between the interests of a child or young person and those of parents, it must be recognised as a legal dispute between two subjects of rights.

Parental authority is not an isolated domain where parents can do anything they please at a whim concerning their children. On the contrary, parental authority is exercised with the objective of preparing children to face life and grow in liberty. Therefore they are to be protected, educated and directed, with respect for their physical and psychological integrity. Any attack on the human and legal status of a minor must be interpreted as a violation of his or her human rights which are legally protected by international law.

In Latin America any aid program outside the official system does not receive sufficient recognition for continued attention to be paid to minors at risk. While we may recognise that we are on the right path, according to the mandate of the Convention, it is to be hoped that when certain social sectors are ready, new resources will be created with the rhythm of change natural to any issues dealing with minors.

Working for the social inclusion of children who have been excluded implies an important commitment concerning all the children requiring attention. Believing that in the families involved we can take problems on board and put the children on the right track before it is too late is possible, not only from the point of view of experience, but also legally. For this it is sufficient to adapt the standards in force in the Civil Code.

The starting point is the concept that fostering in a family consists of: providing the space

necessary for a child with problems of abandonment, helping him or her to live in a new family, where preparations must be made to return the child to his or her own family, once the latter has regained stability and recognises the child's status as a "subject of rights".

The Convention on the Rights of the Child contains the following principles in Article 20.

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, ...

When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

This legal framework, set out by the Vienna Convention for Interpreting International Treaties, determines that the Convention on the Rights of the Child, for the last ten years, has been part of the particular legislation of each country. Nevertheless, as in individual nations conventional standards are still in force concerning local law, it is necessary to create a place for the legal institution of foster families in the national legal culture.

It is at this hazardous stage that the Republic of Argentina finds itself as several different bills have been proposed. The last one considered in the National Congress recognises in its first article that Family Fostering is an institution of Family Law, not property law. It is a branch of law concerning the family and each of its members. The foster family offers to another family, who requests it for one of its members, a place in the family for his or her full and dignified development, which is duly decided upon before the "intervening institu-

tion” empowered to do so. We recognise the inalienable, irrevocable and non-transferable right to offer, receive or request Foster Care for any member of the nuclear family or family group or system.

The factors lying behind the exercise of the right to request Foster Care are any circumstances which prevent or impede full, dignified and harmonious development and the exercise of human rights within the child’s own family.

Its duration will be determined through the agreements established between both families; the family requesting foster care and the family offering it. The prolongation of foster care beyond the agreed date will imply its continuation until the causes which motivated its prolongation have disappeared.

Intervening Institutions in the legal institution of foster care and in the process of family fostering are those which have been deliberately equipped for the purpose. The Intervening Institution has the following functions: manag-

ing and administrating the branch of law dealing with foster families, implementing and following up on the process of fostering. They are not costly operations and are not for profit as regards those who have rights under fostering law.

In our country the current civil law framework makes it easy to make such a fostering agreement, however to arrive at an adequate interpretation of the institution, it is necessary to enact particular legislation.

We believe that the coming together of the international IFCO Conference in 2003 in Argentina must provide a constant impetus for the drawing up of specific legislation. It must also contribute to a major reinforcement of the Convention on the Rights of the Child, in particular for Argentina and for Latin America in general.

We hope to see you there.

For further information on IFCO 2001, contact Conference Secretariat, Waldeck Pyrmontkade 872 A, 2518 js The Hague, Netherlands.

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#### LETTER FROM DR. FUGARETTA

Dear Mr. Vice-President,  
Please accept my best wishes for the upcoming New Year celebrations. In addition, I must report on my visit to Cork, Ireland, representing the National Association of Magistrates, to attend the International Fostering Conference (see above).

During this European meeting the city of La Plata, Argentina, was chosen as the venue for the 2003 International Conference of IFCO. It is for this reason that I am bringing the matter to the attention of the International Association in order to gain its participation as a very important resource according to Article 4 of the Convention on the Rights of the Child.

Moreover, in 2001 the 12<sup>th</sup> IFCO Biennial International Conference, the World Conference on Foster Care, will be held in Koningshof, Veldhoven, The Netherlands, from July 15-20, 2001. Some 1200 participants from 52 countries will attend the conference, organised under the auspices of IFCO.

It is of the greatest importance to consider the possibility of having the support of the International Association and if possible having representatives at the Conference. For further information contact the website

[www.ifco2001.nl](http://www.ifco2001.nl)

Accept my warmest greetings.

JUAN CARLOS FUGARETTA

## REPORT FROM DR. FUGARETTA FOR THE ASSOCIATION

Dear Colleagues:

I have returned from Ireland with a few observations I would like to share with you. The main point is that Argentina has been accepted as the venue for the International Foster Care Organisation Conference in 2003, which will take place in La Plata. The organisation of the conference has been entrusted to the Fundación Emmanuel, which has more than fifteen years' experience in this area and can count on the support of various organisations, both inside and outside Argentina. Our presentation before the Commission was impeccable. First of all I would like to inform you that IFCO, the International Foster Care Organisation, is a voluntary organisation established in England in 1979 with the objective of exchanging experiences or new ideas on an international level. For this purpose meetings have been organised every two years in various countries, always in English. On the basis of countries linguistically close to the United Kingdom, the organisation was extended to Canada, the Netherlands, Germany, Australia and the Scandinavian countries, in addition to England and Ireland.

The next venue is determined well in advance, therefore one of the tasks at the meeting in Ireland was to choose the venue for 2003. The next conference will take place in 2001 in Holland, between July 15<sup>th</sup> and July 20<sup>th</sup>. In addition there is a European conference every two years, alternating with the international conference. The 2002 conference will be in Finland. The last meeting unfolded as follows: the entire Directive Commission of IFCO, more than 18 members, listened to the arguments, and on the basis of a progressive policy for organising the conference, revised and qualified with two points each item to be raised. The Argentinean presentation began with a few words from the President of the

Emmanuel Foundation, Mr. Luis María Nicora, who in turn is a member of the Council. Therefore when it was my turn to talk I made a summary of the situation in the country and the upcoming legislation and extended an invitation to the others. Then Marisa Graham spoke, in the name of the national government. The last speaker was the professional psychologist Claudia Fidanza on behalf of the University of Luján. All our speeches were translated by an interpreter provided by the Foundation. Tourist information on the city of La Plata was distributed in English, French and Italian. Thus we held various meetings to refine the proposal, and of course one of the subjects was the financing of the Congress which we tried to solve. It was estimated that around 200 Europeans would attend. In Cork there were approximately 700 people, with families and young guests. People from different nations were organized for the day, without government representatives, or judges.

Apart from the meeting I visited several places in and around the city of Cork, which were very beautiful and interesting, both the countryside itself and from a social point of view. However the most important thing is the feeling on the part of ordinary people that receiving a child into their house for a certain time is absolutely normal, without a need for any mandate. Such was our impression from talking to taxi drivers or restaurant staff. That is to say that ordinary people have the concept of helping one another and are conscious of the social network necessary to root out problems. Only serious and important matters are left to the judicial system.

To sum up, we must now extend the idea that the resolution of family and child problems can easily be tackled by other families. If no possible solution is forthcoming, the judicial

system can be called upon to intervene. This concept is none other than carrying out the mandate of the Convention on the Rights of the Child.

Motivated by the idea of solving social problems, I travelled to Brussels where an interview had been prepared with Claude Lelievre, General Delegate of Child Law. We met with an extremely interesting person playing a very important role. He is an educator, social worker, former Director of the Institute for Juvenile Delinquents and holds a degree in Child and Adolescent Victimology from the International Centre of Criminology in Paris. He is in fact an Ombudsman for juveniles, has carried out this function since 1991 and has been re-appointed for another six years. The concept has spread to other countries and led to the creation of similar institutions in Denmark, Portugal, Sweden, Norway, and in some communities in Spain. With the help of UNICEF, conferences have been held in other countries to further the development of the institution. The Ombudsman is appointed through the agreement of Government Ministers and the state gives him a great deal of independence to intervene in both administrative and judicial affairs. He arranges mediation and intervenes when rights are not respected. Another part of his role is to conduct preventive campaigns, using recommended books, CDs and stories in order to avoid abuse and ill-treatment. The sale of books, together with his budget, goes to fund new publications. The interview lasted more than two hours, and we received some material. The administrative structure with which he carries out the task consists of seven people, all professionals. Everyone asks him to intervene, from the King of Belgium to the smallest child. We know this because he opened the day's correspon-

dence in front of us. When we left we could not believe the enormous tasks he carries out every day. When he comes to our country we will all be able to get to know him and ask him questions.

I came to Ireland on behalf of the Association, which was very interesting in that respect, and in my capacity as a University professor I had discussions with the Belgian Ombudsman, returning very happy with what I learned and would like to share it with you in this report. However my main desire is that we all succeed in coming up with new measures to take in the face of the complex problems from which children suffer. I will discuss them in a future meeting. Finally, I believe that we judges must give impetus to the idea of fostering minors so that society may solve some of its conflicts. I believe that such an action would be a serious commitment to banishing the "irregular situation theory" in order to gradually lead us once and for all towards "full protection" and the Convention. This means following up with social action oriented towards resolving conflicts at a preliminary stage.

I am sending on separately my lecture given at the University of Cork, where the meeting took place.

This is the report from my trip to Ireland. Let us give support and publicity to the 2003 Congress, which I believe is an important instrument to alleviate the burden on judges and elevate the role of the community, in an attempt to demonstrate that "the people" also have remarkable ideas for tackling problems.

Juan Carlos Fugaretta  
September 2000

**INTERNATIONAL FOSTER CARE ORGANISATION,**

**15 - 20 July, 2001**

**KONINGSHOF, VELDHOVEN, HOLLAND**

For further information on IFCO 2001, contact  
Conference Secretariat, Waldeck Pyrmontkade 872 A, 2518 js The Hague, Holland  
Tel : +31 70 311 9090; Fax: +31 70 311 9059; Email: [info@ifco2001.nl](mailto:info@ifco2001.nl)  
Or visit the web site: [www.ifco2001.nl](http://www.ifco2001.nl)

**This conference is the immediate antecedent to the Congress to be held in  
La Plata, Argentina in July 2003**

Tel/Fax: +54 221 491 4555; Email: [Emmanuel@amc.com.ar](mailto:Emmanuel@amc.com.ar)  
[www.ift.com.ar/fundacionemmanuel](http://www.ift.com.ar/fundacionemmanuel)

**WORLD CONFERENCE AGAINST RACISM**

Racial Discrimination, Xenophobia and Related Intolerance

31 August to 7 September 2001

DURBAN, SOUTH AFRICA.

Information about the World Conference can be found on the OHCHR Web site  
[www.unhchr.ch](http://www.unhchr.ch)

Or Contact

Laurie S. Wiseberg

Room 4-025 OHCHR, Palais Wilson, Geneva

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Email : [lwiseberg.hchr@unog.ch](mailto:lwiseberg.hchr@unog.ch)

**DATE FOR YOUR DIARY**

**YOUTH VIOLENCE: NEW PATTERNS AND LOCAL RESPONSES**

**GREIFSWALD, GERMANY**

**June 13-17 2001**

Sponsored by

International Association for Research into Juvenile Criminology  
International Association of Youth and Family Judges and Magistrates

Juvenile violence has become a major problem in many countries. The conference will try to evaluate the different patterns of juvenile violence that have emerged in different regions and local areas. It will concentrate on crime prevention strategies that have been developed at the local level. Special workshops will deal with specific phenomena of youth violence on the one hand and of the answers given by different agencies on the other.

The International Association for Research into Juvenile Criminology is a network of researchers that are working in the field of juvenile delinquency. The purpose of the conference is to exchange research results as well as successful strategies of tackling youth violence.

The conference will be in English and French (with simultaneous translation in the plenary sessions).

The site of the conference is the old Hanseatic city of Greifswald in the North-East of Germany, situated on the Baltic Sea (200 km north of Berlin, 80 km east of Rostock). The university was founded in 1456 and is one of the oldest in Europe. It has about 6000 students, 1000 of them in law.

**For further information contact**

**Professor Dr Frieder Dunkel Tel: +49 3834 862138; Fax: +49 3834 862155.**

**Email: [dunkel@mail.uni-greifswald.de](mailto:dunkel@mail.uni-greifswald.de)**

**Or see <http://www.uni-greifswald.de>**

**DATE FOR YOUR DIARY**

**THE NATIONAL COUNCIL OF JUVENILE and FAMILY COURT JUDGES**

INVITES YOU TO

**MONTEREY, CALIFORNIA**

FOR THEIR

**64th ANNUAL CONFERENCE**

**July 15-18, 2001**

Topics Include:

Restorative Justice: International Considerations

Improving Juvenile Courts Response to Child Abuse & Neglect Cases

Current Issues in Juvenile Justice

Juvenile Drug Courts

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Registration Fee: \$395

(Includes strolling dinner at Monterey Bay Aquarium;  
2 lunches; all coffee breaks; Wednesday evening banquet;  
all training materials).

The Conference will be in the Double Tree Hotel, Monterey, California  
(Single or Double: \$139)

For further information please call Diane Barnette at

Tel : +1 775 784 6012; Fax : +1 775 327 5306

Email: [barnette@ncjfcj.unr.edu](mailto:barnette@ncjfcj.unr.edu)

Web : [www.ncjfcj.unr.edu](http://www.ncjfcj.unr.edu)

**INTERNATIONAL ASSOCIATION OF  
YOUTH AND FAMILY JUDGES AND MAGISTRATES.**

**XVI WORLD CONGRESS**

**Melbourne, 10-16 March, 2002**

**Melbourne: 'The cultural, sporting, culinary and shopping capital of Australia'**

We are delighted that Melbourne has been selected as the destination for the International Association of Youth and Family Judges and Magistrates Congress and General Assembly in 2002 and look forward to having the opportunity to welcoming you there.

Melbourne now Australia's second largest city, is the capital of its most compact mainland state - Victoria. Here it is possible to savour a truly Australian experience within just a few hours of the city centre. You will be amazed by the diversity. You can stroll along a golden beach in the morning, enjoy a close encounter with koalas and kangaroos in the bush in the afternoon and stop off at a winery to enjoy an aperitif before returning to the city in time for the theatre.

Melbourne now a thriving modern metropolis, was settled by Europeans in 1835, but was first a home for the indigenous population (locally known as Kooris) for as many as 50,000 years beforehand. A major gold rush attracted world attention in 1848 and a boom period ensued which lasted nearly 40 years. With the arrival in the city of industrialists, bankers, and some of the leading artists in the country Melbourne soon took on a vibrant and cosmopolitan flavour. Established as the commercial headquarters and seat of government, Melbourne became the birthplace of Australian Federation in 1901. When the forefathers planned the city they felt it was important to ensure breathing space. Today the magnifi-

cence of the 19<sup>th</sup> century parks and gardens – are known the world over. Even the native wildlife has been drawn to their tranquil bounty and all kinds of birds and animals can be readily seen. With its grand boulevards and opulent Victorian mansions and renowned city gardens and covered arcades, the city has a colonial feel. Yet blending with this is a modern cityscape, with its skyscrapers and dazzling modern architecture.

Melbourne proudly showcases the very best in contemporary art, design and theatre. From major festivals and cultural events to the diverse artistic expression found on Melbourne's streets, the City for the Arts is the leader in cultural activity in the Asia Pacific region. The city is also Australia's foremost centre for gastronomy, and shopping. Yes here even shopping is an art! Melbourne offers a shoppers paradise - in its covered shopping arcades, its designer boutiques or the largest and most colourful of its markets the Queen Victoria Market, you can buy just about everything,

Melbourne, is home to 3.2 million people from numerous cultural backgrounds, one quarter of whom were born overseas. Beginning with significant Chinese migration in the 1850s there have been waves of migration ever since so that people from 140 nations now live harmoniously together. The best way to discover their various ethnic communities is by foot or Melbourne's famous trams and along the way sample a few of its 4,000 res-

taurants and cafes – Melburnians have a real love of food!

They also have a real love of sport – Melbourne is world renowned for its world class sporting events such as the Australian Tennis Open, the Australian Motor Grand Prix and the ‘Melbourne Cup’ Horse race – throughout the year there is something going on giving it its name the Events Capital of Australia.

A city of contrasts, Melbourne is sophisticated yet quirky, cosmopolitan yet traditional, historic yet contemporary. It has a unique diversity, vitality and ambience that positions it as one of the world’s greatest cities.

Voted the most Liveable City in the world, Melbourne makes sure it lives up to its name in every possible way.

It is a city for everyone.

Do not miss this unique opportunity to visit.

For a colour brochure and tourist information contact :  
Melbourne Convention and Marketing Bureau, European Office  
42a Packhorse Road, Gerrards Cross, Bucks SL9 8EB, England  
Tel: +44 (0)1753-481 540; Fax: +44 (0)1753-481 600  
Email: [106465.556@compuserve.com](mailto:106465.556@compuserve.com) Website: [www.mcmb.com.au](http://www.mcmb.com.au)

**INTERNATIONAL ASSOCIATION OF  
YOUTH AND FAMILY JUDGES AND MAGISTRATES.**

**XVI WORLD CONGRESS**

**MELBOURNE**

**Mar 10 – 16, 2002**

**Theme : A Unified Family Court**

**For further information contact**

**Danny Sandor**

**[Danny.Sandor@familycourt.gov.au](mailto:Danny.Sandor@familycourt.gov.au)**

**International Association of Youth and Family Judges and Magistrates  
Have you visited our new web site yet?**

**<http://www.iayfjm.nm.ru>**

**Information on the Congress will be posted here when available**

**Articles for the Chronicle should be sent directly to**

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**Editor-in-Chief,**

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**Articles should be typed.**

**Copies in our three working languages  
(English, French and Spanish)  
would be appreciated.**

**Alternatively, articles may be directed to any member of the Editorial Panel.  
Names and addresses are given below, together with telephone and fax numbers,  
where available.**

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