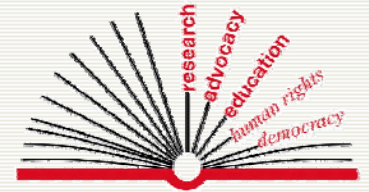


International standards and justice for children: towards an eight step plan

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UWC

1. International standards and justice for children

Backdrop: CRC and trio of rules (Beijing, Riyadh and JDL's)

Significant body of precedent by comparison to (eg) child victims

Child witnesses and victims recently addressed in UN Guidelines - to be discussed later, hence most discussion here about juvenile justice

CRC provisions (a37 and a40) taken together constitute longest substantive articles in entire treaty

Much work done regionally to develop nucleus of diversion programming, alternative sentencing, community service, alternatives to deprivation of liberty, and to incorporate standards in legislation.



1. International standards and justice for children

Harmonisation report (pp 76- 86)
details regional progress in:-

Establishing dedicated children's
courts with IL compliant procedures
(but often limited geographically)

Introduction of commendable
community based diversion initiatives

Encouraging alternative sentencing
options



1. International standards and juvenile justice...cont'd

Numerous examples of new/draft laws relating to juvenile justice: Malawi, Uganda, South Africa, The Gambia, Nigeria, Lesotho, etc

Four recent supplementary international documents to be highlighted here: UNICEF/UNODC indicators, UNODC assessor toolkit, OPCAT, GC 10

See together, they provide a clear map for how juvenile justice development should/could be taken forward



2. UNICEF/UNODC indicators

Endorsed by Inter-Agency Co-ordination Panel on Juvenile Justice, comprising members such as TDH, OHCHR, Save the Children-UK, DCI etc.

Released April 2006

Indicators: provide a common way of measuring and presenting information to reveal whether IL standards are being met

Initially large number of measures suggested

Refined and narrowed to 15 - 11

quantitative and 4 policy indicators

4 of the 15 identified as 'core' indicators



2. UNICEF/UNODC indicators...cont'd

1. Number of children arrested over 12 months per 100 000 children
2. Number of children in detention per 100 000 children [CORE]
3. Number of children in pre-sentence detention per 100 000 children [CORE]
4. Time spent in detention before sentencing
5. Time spent in detention after sentencing



2. UNICEF/UNODC indicators...cont'd

6. Number of deaths of children in detention over 12 months, per 1000 of children detained

7. % of children in detention not wholly separated from adults

8. % of children in detention who have been visited by parents/guardians/an adult family member in the last 3 months



2. UNICEF/UNODC indicators...cont'd

9. % of children receiving a custodial sentence [CORE]

10. % of sentenced/diverted children who enter a pre-sentence diversion scheme [CORE]

11. % children released from detention who receive aftercare



2. UNICEF/UNODC indicators...cont'd

4 Policy indicators:-

12. Existence of a system guaranteeing regular independent inspections of places of detention
13. Existence of a complaints mechanism for children in detention
14. Existence of a specialised juvenile justice system [CORE]
15. Existence of a national plan for the prevention of child involvement in crime



3. UNODC Assessor toolkit (Juvenile Justice)

Part of comprehensive package of criminal justice toolkits

Purpose

2 parts -first contains questions on children in conflict with the law divided into 4 areas/themes

1. Overview to establish availability and reliability of data



3. UNODC Assessor toolkit (Juvenile Justice)...cont'd

2. Legal and regulatory framework (general measures, initial contact, diversion, adjudicatory process, restorative justice, institutional treatment and aftercare and reintegration)

3. Vulnerable groups (children on the street, child soldiers and girls in conflict with the law)

4. Management/coordination (research, policy development, programme development, fiscal control and budgets, donor co-ordination and CS and other partnerships)

2nd part concerns child victims and witnesses, similar division into themes - based on UN Guidelines for child victims and witnesses



4. OPCAT

Adopted in 2002, entered into force June 2006

Widely supported by African states: **ratified** by Benin, Liberia, Mali, Mauritius, Senegal; **signed** by Burkina Faso, Ghana, Guinea, Madagascar, Sierra Leone, South Africa, and Togo

Relevance for juvenile justice: within 12 months of entry into force, States Parties must establish a national visiting mechanism (NVM) to carry out visits to all places where persons are deprived of their liberty

Includes police stations/cells, juvenile institutions (borstals, reformatories, training schools, prisons, mental institutions)



4. OPCAT... cont'd

Also an international visiting mechanism (IVM) to be established by OPCAT to carry out unannounced inspections

Builds on the European Committee against Torture - v successful track record since 1987.

Aim is to prevent torture, but torture is widely construed: eg overcrowding, poor facilities, other forms of cruel, inhuman or degrading treatment can result in improved conditions and treatment of children deprived of their liberty

Benefit too of range of professional inputs (eg medical, educational, psychiatric)



5. GC 10 of the CROC

Released Feb 2007

Significantly expands IL jurisprudence on juvenile justice

Main themes:- requirement of comprehensive policy on juvenile justice which must contain the following: prevention, minimum and upper age, measures outside judicial proceedings, interventions in the context of in judicial proceedings, guarantees relating to a fair trial, policy on pre-trial and post trial deprivation of liberty (Par 4)



GC 10 of the CROC (cont..)

One of the most elaborate and specific of all of the GC's released by the CROC (21 pages)
Clear guidance and substantive contribution to 'soft law' on juvenile justice eg details on records of juvenile offences, minimum age, rebuttable presumptions of incapacity, privacy during judicial proceedings and conditions for non-private proceedings, etc.
Hence valuable additional tool for juvenile justice development



6. Conclusions

1. Focus needs to turn to development of national plans, including prevention masterplans, and co-ordination mechanisms
2. Legislative processes need to be completed where stalled/pending
3. Regional collaboration to promote diversion and alternatives to the criminal justice system must expand
4. Key information collection tools must be put in place, to start implementing the UNICEF indicators, especially the core ones, starting at the local level



6. Conclusions...cont'd

5. NVMs must be established in countries that have ratified/are going to ratify OPCAT, and working methods established (preferably joint govt/ngo membership)

6. Minimum standards for the treatment of children deprived of liberty, suitably tailored for the African context, must be established, with proper consideration of the role of donors, private sector facilities, and appropriate vocational and other programmes

7. Ongoing judicial training/sensitization on IL standards, child friendly processes etc is essential (SA example). Can expand existing initiatives with reference to new juvenile justice materials, and UN guidelines on child victims and witnesses

8. Suitable training materials, including audio visual tools, file packs or manuals, etc with a broad regional focus and not linked to specific legislation should be developed to assist in the above



6. Conclusions...cont'd

Conclusion:-

Many of the above require
time/commitment/co-ordination - not
necessarily money!



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