

The Munyonyo Declaration on Child justice in Africa

On 7-8 November 2011 at Munyonyo, in Kampala, Uganda, representatives of governments, CSOs, INGOs, the African Committee of Experts on the Rights and Welfare of the Child, the UN Committee on the Rights of the Child, the African Union, UN agencies, UN experts and other experts, from all over Africa and other parts of the world, met to discuss about deprivation of liberty as a last resort and of children's rights in child justice in Africa also taking into account the children's views, and adopted the following declaration:

PREAMBLE

It is evident that with the advent of the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, most countries in Africa have made progress in passing new child rights laws. However, new child rights policies have not been fully integrated into the general development agenda of governments. Protection structures are largely neglected, and services are mostly ad hoc in nature, fragmented and not achieving the desired impact on children. Definitions of child abuse have not been fully adapted to the African context and some forms of child abuse (for example, harmful traditional practices, corporal punishment and child labour) are still not totally recognised as abuse in Africa.

The implementation of children's rights in child justice remains challenging within the informal and formal justice systems. One of

the concerns is the lack of adequate legal provisions and mechanisms for the protection of child victims and witnesses in most countries. They are often re-victimised during legal proceedings. Furthermore, children with disabilities and children belonging to minority groups are at higher risk of when getting in contact with the justice system.

Despite the fact that deprivation of liberty should be a measure of last resort, many children are still kept behind bars, incarcerated with adults, frequently in horrible conditions and often in pre-trial detention. Detention facilities generally lack proper sanitary facilities, adequate food, educational and recreational programmes. Children in detention are at high risk of violence including sexual abuse. Separating children from their families and communities causes serious damage to their physical, psychological and social development. The consequences of incarceration on children can be lifelong and denting; both prevention and rehabilitation measures are not in place. Though some new policies make provision for diversion and alternatives to detention, the structures and resources required for implementation are normally absent or weak.

Many children in Africa are not registered at birth and cannot benefit from the protection rights that are due to children. They cannot easily prove their ages when legally required. As a result, some States have instituted age verification procedures but some are neither child friendly nor accurate, and the burden of proof of age is often bestowed on the child. In the case of conflict or inconclusive evidence, the child shall have the right to the rule of the benefit of the doubt.

Justice systems in Africa are complex. Most States have dualistic legal and governance systems that combine both the informal justice system, which is administered by traditional authorities using

customary laws, and the formal justice system which is administered by the judiciary using legislations including colonial laws. In some countries in Africa, religious systems, such as *sharia law*, also play a crucial role in the justice system. These systems are sometimes disconnected, polarised and constrain children's access to justice. In Africa, ordinary citizens including children seek justice from a variety of mechanisms. Formal justice systems tend to be the least utilised by the population due to costs, limited accessibility and prolonged proceedings.

It is therefore important that cooperative and mutually supportive relationships are developed across all sectors and disciplines working in the field of child justice.

CALL FOR ACTION

To all actors:

- ***Ensure that all children enjoy their rights in child justice and that deprivation of liberty is used as measure of last resort***

To the African Union:

- Put the issue of child justice on the agenda of the Heads of State Summit, and advance and adopt guidelines on child friendly justice in Africa, which shall guide States to take positive actions for children in the national justice systems;
- Urge States to make children's rights and welfare in justice a priority on their development agenda;

- Urge States to invest in programmes to respect and protect the rights of children in contact with the law;
- Provide the political and technical leadership and guidance to States to guarantee children's rights in child justice in both law and practice.

To the African Committee of Experts on the Rights and Welfare of the Child:

- Put the issue of child justice on its agenda and support the further advancement of the guidelines on child friendly justice in Africa;
- Hold a consultation with NGOs and authorities and a Day of General Discussion on child justice in Africa;
- Establish a working group on child justice mandated to draft a general comment covering all aspects of child justice;
- Systematically raise the issue of child justice, in particular when examining State Party reports and conducting investigating missions.

To the UN Committee on the Rights of the Child:

- Continue the collaboration with the ACERWC and the relevant special procedures mechanisms;
- Ensure that child justice is reflected in the concluding observations to State Parties;

- Consider the possibility of drafting a General Comment on Children of incarcerated parents, as a follow-up to the 2011 Day of General Discussion.

To our Governments and parliamentarians:

- Increase budget allocations for children to the maximum extent of available resources and in particular develop effective child justice systems;
- Harmonise informal and formal justice systems with well defined jurisdictions, working relationships, procedures and linkages;
- Strengthen the capacity of religious and community leaders to promote and respect children's rights in child justice;
- Define child abuse within the national context in accordance with international and regional standards and ensure effective child abuse cases management systems that combine access to services and justice from the lowest to the highest level;
- Guarantee birth registration systems that are free, compulsory and accessible to all. Also design child friendly guidelines for age verification for the benefit of children who cannot submit their birth certificate whenever required and respecting the interests of the concerned children;
- Invest in programmes that prevent children from coming into conflict with the law and in programmes aimed at rehabilitating and reintegrating children in the society, thus avoiding recidivism;

- Strengthen child rights monitoring and accountability systems, and bring to justice those responsible for corruption, and child rights violations including arbitrary arrest and detention, extra-judicial killings, torture and other cruel, inhuman or degrading treatment;
- Establish and/or strengthen child protection systems including alternative family-based care for children deprived of their families;
- Establish independent Human Rights/Child Rights institutions that should consider child justice as a priority;
- Strengthen child protection units within the police;
- Provide institutionalised training on children's rights for all professionals in the field of child justice, including law enforcement officers and judges;
- Include continuous training on children's rights in schools' curricula;
- Invest in community based diversion and alternative dispute resolution initiatives;
- Develop free legal aid and paralegal programmes to enable children's access justice;
- Ensure effective child protection mechanisms for children who come in contact with the law, giving particular attention to children with disabilities and children belonging to minority groups;

- Strengthen opportunities for participation of children in decisions that affect them and their communities and foster their roles as positive social actors;
- Support the mandates and collaborate with the UN Special Representatives of the Secretary General on Violence against Children and on Children and armed conflict, and other relevant international and regional special procedures mechanisms;
- Request technical advice and assistance in child justice provided by the relevant UN agencies and programmes in particular the Interagency Panel on Juvenile Justice (UNICEF, OHCHR, UNODC, DPKO, UN CRC, UNDP);
- Collaborate with the ACERCW in submitting period reports and following up to their recommendations;
- Conduct research and collect data as well as relevant information concerning children within their justice systems with a view to improving the justice system and make them available for relevant stakeholders;
- Cooperate with the CSOs for the implementation of joint programmes on child justice.

To the UN and other international partners:

- Provide resources and technical assistance to key government ministries to develop and implement national policies and plans of action setting up effective child justice systems, establishing data collection and management systems and building capacity of professionals;
- Support , also financially, (I)NGOs in making their voice heard and influential on government policies;
- Make the issue of children's rights in child justice paramount on the international agenda and organise frequent international fora to propagate them;
- Conduct periodic research on child rights in order to examine and confirm the dynamics of issues affecting children.

To (I)NGOs and CSOs:

- Monitor the implementation of children's rights with regard to child justice and provide governments, regional and international bodies with facts and evidence including by submitting complaints, and persistently engage government to take action;
- Assist governments with relevant training on children's rights in child justice and other capacity building initiatives for government officials and community based actors dealing with children;
- Raise public awareness on children's rights in justice and mobilise the public on their role in child justice;

- Sensitise children about their rights in child justice and increase their capacity to claim their rights;
- Engage with children and ensure that their views are brought to the relevant stakeholders and taken into account in the child justice system.

To community and religious leaders:

- Promote and advance good practices that respect and protect the rights of children, in accordance with international and regional standards such as good parenting and family based care and prohibit practices that are harmful to the health, welfare and development of children;
- Strengthen mechanisms for alternative dispute resolution, and ensure children's representation and participation;
- Strengthen collaboration with the police and other formal justice institutions on cases of child abuse and other child rights violations.

To the Media:

- Play a key role in promoting children's rights in child justice;
- Make the issues affecting children in contact with the law visible using accurate and balanced information without stigmatising or further victimising the concerned children;
- Protect the dignity, identity and privacy of children.

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For comments, please send an email to Ileana Bello at:

director@dcis-is.org