

YOUTH JUSTICE

**YOUTH JUSTICE IN
ACTION**



**CAMPAIGN REPORT
SUMMARY**

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the
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VCARE
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SUMMARY

Despite a comprehensive set of international juvenile justice standards promoting rehabilitation over punishment, States all over the world have retained an overwhelmingly punitive response to young offending.

In many countries, youth has become synonymous with crime and anti-social behaviour. Public fear of spiralling youth crime, despite statistics in many countries that show contrary or less dramatic trends, is fuelled by disproportionate and sensationalist media coverage, leading to demands for the State to crack down on juvenile offending.

Playing populist politics, the response of many States has been ‘zero tolerance’, ‘mano dura’, ‘get tough measures’ to fight the ‘yobs’, ‘juvenile delinquents’, and ‘gangs of marauding youths’. Common elements of zero tolerance campaigns include the increased imposition of custodial sentences, longer terms in detention and treating young people as adults, in an attempt to deter and deal with juvenile offending. Calls to respect the rights of children in conflict with the law and to take a welfare approach are often drowned out in the clamouring for tougher and tougher penalties and accusations of being ‘soft’ on crime.

In responding to public demands to ‘get tough’, politicians often overlook the realities of youth crime. Despite the fact that in many countries the under-18 population exceeds 50%, juvenile offending is usually relatively low and it is adults who are responsible for the greatest proportion of crime. Crimes committed by under-18s average at 5-25% of all crime.

In addition, the majority of young offenders (over 90%) commit non-violent, petty offences, even in countries where violent crime is rising. In most countries, property offences (e.g. theft and vandalism) is the most common category of crime committed by children, often followed in frequency by substance abuse and so called ‘status offences’. The rate of murders and rapes committed by under-18s is generally relatively low. Also, it is often ignored that children and young people are the main victims of youth crime.

Every State which has appeared before the Committee on the Rights of the Child, the monitoring body of the UN Convention on the Rights of the Child, has been criticised

for its failure to implement juvenile justice standards. Violations range from a failure to uphold procedural guarantees, such as fair trial rights, to a failure to protect young people from maltreatment, abuse and murder.

The report does not attempt to address this plethora of violations, but explores a number of key issues which have a significant impact on young people in the campaign countries (Honduras, Ireland, Nicaragua, Sierra Leone, South Africa, Togo and the UK):

BLURRING THE LINE BETWEEN CHILD PROTECTION AND JUVENILE JUSTICE

Street children, runaways, children involved in commercial sexual exploitation etc. often come into conflict with the law. Instead of being assisted by child protection bodies, these young people are often dealt with by judicial agencies (the police and the courts) and end up in detention, either because the State’s penal law criminalises their behaviour or because of the inadequacy and under resourcing of child welfare bodies. Young people are therefore punished for being poor and trying to survive.

Further, the very inadequacy of child protection systems and children’s services in many countries to appropriately assist children and families who are experiencing difficulties, contributes to offending by young people and their eventual appearance in the juvenile justice system.

GETTING AWAY WITH MURDER: MALTREATMENT, EXTRAJUDICIAL KILLINGS AND IMPUNITY

Young people who come into conflict with the law are highly vulnerable to maltreatment, abuse and even killing at the hands of the police, the military and prison officers. This is not just a characteristic of developing countries; it is also prevalent in the developed world. In many countries this mistreatment and murder goes unchallenged and unpunished, perpetuating the violence. State tolerated violence is not only confined to its own agents, but has also been carried out by vigilante groups made up of members of the public. Street children have borne the brunt of these attacks.

THE IMPACT OF GANGS ON THE JUVENILE JUSTICE SYSTEM

The prevalence of gangs is an acute problem in a number of the campaign countries. Large numbers of gangs and high rates of juvenile violence and offending often go hand in hand, as the majority of members join when they are under the age of 18.

States have been slow to develop effective prevention, rehabilitation and reintegration programmes, but quick to introduce punitive measures which result in children and young people being locked up for long periods of time. This approach has failed to address the root causes of gang membership or encourage young people to leave their gangs.

Often this punitive State reaction is not only confined to gang members, but also shapes the treatment of all children and young people who come into conflict with the law and the attitudes of communities, who are encouraged to marginalise and reject young offenders rather than assist them to reintegrate.

THROWING AWAY THE KEY: THE OVERUSE OF DETENTION

One million young people are being held behind bars at any one time around the world. While detaining young offenders is a legitimate response for serious and violent crimes where there is no other appropriate response, the majority of children and young people are locked up for petty offences and antisocial behaviour.

Children and young people often languish in squalid conditions in institutions which fail to provide effective rehabilitation or reintegration. In some countries, under-18s are held with adults, exposing them to violence, sexual abuse and criminal contamination.

Instead of reducing youth crime, this expensive approach simply delays and exacerbates the problem.

THE ROLE OF PUBLIC PERCEPTION IN SHAPING JUVENILE JUSTICE SYSTEMS

States often cite negative public opinion as an explanation for their failure to implement the international juvenile justice framework. Fear of escalating violent juvenile crime frequently prompts

the public to demand tough action from the State and reject restorative justice approaches as being 'soft on crime'. However, often public perception is an exaggerated and misinformed view of juvenile offending, distorted by disproportionate and sensationalist media coverage.

Rather than challenging misconceptions in order to promote a more balanced debate on responses to youth crime, politicians pander to public demands, introducing punitive measures that are contrary to international standards.

IMPLEMENTING INTERNATIONAL STANDARDS: DEVELOPING POSITIVE LAW, POLICY AND PRACTICE

It is a common misconception that the implementation of the rights of young offenders hampers the effective operation of the juvenile justice system. The aim of all sides of the youth justice debate, including child rights advocates, is to prevent crime, re-offending and children getting involved in more serious offending. The sides diverge on how best to achieve this.

While a system based on retribution and harsh penalties may dispel fears that the State is being 'soft' on criminals, in reality it has little success in preventing further offending, especially among children and young people. International juvenile justice standards seek to create a framework for the most effective responses to youth crime, which focus on prevention, rehabilitation, reintegration and non-institutionalisation while protecting children's rights. It is not about being 'soft' on youth crime or 'child friendly' but about creating a system that works in reducing offending.

The underlying belief is that children and young people can be influenced positively compared to adults. They are at a stage in their life when they are still developing their beliefs, attitudes and personalities, which can be shaped by rehabilitative and educational measures. Conversely, purely punitive measures, which do nothing to address the root causes of offending, can stunt this development and their life chances and lead to an escalation in offending.

International standards promote the use of non-residential, community schemes for diversion, pre-trial and sentencing options. If at all possible, children who commit crimes should not be deprived of their liberty.

By remaining at home, children can maintain their family, social and community networks.

Where it is appropriate to detain children and young people, institutions should provide adequate conditions, education and vocational training, and be staffed by trained personnel. The emphasis must not be on punishing children and young people but rehabilitating and reintegrating them. Once released, children and young people need to be supported to make the transition back into society.

Effective child protection systems and children's services, as well as an inclusive and accessible education system are vital preventive tools. Tackling root causes such as poverty, social exclusion, and family breakdown contribute to crime prevention.

Implementing international standards requires State investment and long-term commitment. However, overall costs are reduced as less crime leads to reduced expenditure on crime control (police, prosecutors, courts and the prison service) and on the effects of crime. Social costs are also reduced with fewer victims of crime, less public insecurity and increased community safety.

Amid the large number of examples of poor practice there has also been a great deal of positive changes and innovative programmes on every continent, even in countries which seem highly punitive at first glance.

Since 1989 and the adoption of the UN Convention on the Rights of the Child, many countries have overhauled their juvenile justice systems, adopting new legislation, policy and practice in an attempt to implement international standards.

NGOs have often been key to the implementation of these standards at a national level, by exposing poor State practice, campaigning for national change through the development of new laws, policies and practices, and developing programmes to plug the gaps in State provision and to demonstrate and promote good practice.

The report draws on innovative initiatives from around the world to demonstrate the positive steps taken by State and non-State bodies to implement international juvenile justice standards.

RECOMMENDATIONS

The final section proposes action that the State and non-State sector should take to address the key issues explored in the report:

- States must ensure that their domestic laws, policies and practices uphold international minimum standards on juvenile justice.
 - States should develop separate laws, procedures and institutions which deal with children in conflict with the law.
- Children in need of protection must not be criminalised but assisted.
 - Status offences and survival behaviour (such as truancy, running away from home, begging, loitering, vagrancy), victims of sexual abuse and exploitation and antisocial behaviour should be decriminalised.
- Prevention is better than cure.
 - Prevention must be a key element of States' strategies on juvenile offending. It is more cost effective and better for society to tackle the root cause of offending rather than to deal with the effects of crime.
- Children and young people must only be deprived of their liberty as a last resort and for the shortest appropriate period.
 - States and NGOs need to work together to develop a wide range of community-based alternatives, in order to keep young people out of custody wherever possible.
- States must take steps to combat impunity for all those who abuse and kill children and young people.
 - In addition to ensuring that disciplinary and criminal action is taken, States need to take preventive action among their officers, such as training and the development of clear codes of practice, in order to stop maltreatment.
- Steps need to be taken by States, the media, NGOs and young people themselves to promote a positive image of young people.
 - Combating negative perceptions of young people and misperceptions of young offending is essential to introducing positive reforms to juvenile justice systems.
- Efforts should be made to apply the principles contained in the relevant international juvenile justice standards to young adults.

The Children's Legal Centre is an independent national charity, which has been promoting the rights of children in the UK and overseas since 1981.

Domestically, the Centre provides legal information, advice and representation to children, young people, parents and guardians. It also provides advocacy services for children and publishes legal guides for professionals.

Overseas, in addition to carrying out research and training, the International Section works to reform and establish child protection and juvenile justice systems to ensure that States' systems are compliant with international standards.

Over the past five years, the Centre has worked in Eastern Europe, Russia, Tajikistan, Turkmenistan, Kyrgyzstan, Moldova, the Palestinian Territories, Sudan and Honduras.

The International Section also comprises the Children and Armed Conflict Unit (a joint project with the Human Rights Centre at the University of Essex). The Unit works around the world to improve the situation for civilian children caught up in armed conflict and civil unrest, and for those emerging from conflict. (www.essex.ac.uk/armedcon)

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Y Care International is the international relief and development agency of the YMCA in the UK and Ireland. It works in partnership with YMCAs in Africa, Asia, Latin America and the Middle East to empower young people and their communities to find alternatives to a future of poverty and disadvantage, and to build lives and communities marked by hope and positive change.

Every day Y Care International's work with young people in the developing world shows that change is urgently needed – so the charity's campaigns go hand in hand with its international development projects.

In the UK and Ireland Y Care International works with young people through the YMCA movement to raise awareness of and interest in international issues, through a creative programme of global youth work and encouraging them to work for change by participating in campaigning and lobbying.

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YOUTH

ACROSS THE WORLD JUSTICE SYSTEMS ARE FAILING YOUNG PEOPLE AND SOCIETY

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This campaign report, written by the Children's Legal Centre for Y Care International, sets out the international youth justice framework, provides a summary of key youth justice issues, and makes recommendations for change.

To bring about change Y Care International and its international partners have launched a campaign calling for governments to:

- stop the killing, torture and maltreatment of children and young people in conflict with the law;
- ensure that the needs and vulnerabilities of children and young people are addressed in accordance with international standards on juvenile justice;
- not break international standards and laws in order to combat gangs, and ensure that children and young people are not discriminated against because they are, or have been, a member of a gang;
- ensure that a full range of alternatives to detention is available for children and young people, with detention only being used as a last resort and in line with international standards;

and calling on the media and politicians to:

- take a responsible approach to the portrayal of young people, reflecting the reality of young people and crime and not exploiting negative stereotypes of young people.

To add your voice to the Youth Justice in Action campaign and take action, visit youthjusticeinaction.org