Training Course on Juvenile Justice for Officials from Georgia

Good Practices and Field Visits

July 5th to 10th 2011

Working Report 1-2012
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For the past fifteen years, the nature of juvenile delinquency has significantly changed. Offenders are increasingly younger and we have seen many modifications in the number and types of crimes and acts of violence committed by young offenders. At the same time, the media has become interested in this phenomenon and as a result, the general public has responded with demands for a stricter application of law and order; as have certain political parties. What can be done in light of this shift in social change and behaviour by young offenders? States cannot remain idle and the “vox populi” is demanding changes, assurances and guarantees. This has led many to question the effectiveness of the judicial systems of intervention for juvenile delinquents and projects of legislative reform are consequently blossoming almost everywhere. In Switzerland, we have adopted a new criminal law for young offenders; Georgia is also on the way to adapting its legislative instruments.

But the delicate question is: on what basis should the new legislative provisions be drafted?

- law and order needs that privilege a penal/justice/punitive approach? Or
- giving priority to the individual needs of young delinquents and trying to protect, integrate, rehabilitate, and educate them?

This is an old dilemma which has again been raised in the recent history of juvenile delinquency and is articulated in two distinct models: the protectionist model (Welfare Model), and a more legalist, punitive approach which emphasizes security (Justice Model). We could also summarize these positions with two other terms: penalty or care? And in terms of children’s rights, as the individual interests of the child or the public interest of society. I also like using the formula: inside or outside? (Integrate or exclude).

Alternatives

In numerous countries, we have developed alternatives to the deprivation of liberty because people are increasingly skeptical of the effectiveness and efficiency of imprisonment and prefer to respect the most important international standards which require that the deprivation of liberty should be the solution of last resort. Due to the diversity of forms that these alternatives can take, there is no homogeneous definition.

I think that it would be advantageous if we were to establish a distinction between interventions outside and within judicial frameworks. This distinction could be particularly helpful where there is significant confusion in the use of the terms diversion or alternatives, or when we appeal to the principles of restorative justice without being fully aware of which procedures to which we are referring. Whether or not we are dealing with a judicial framework, there is one constant that must be maintained: procedural guarantees

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1 Director of IDE, former Juvenile Judge and President of the Juvenile Court of the Canton of Valais (from 1980 to 2005).
2 Loi fédérale régissant la condition pénale des mineurs (23.06.2003) entered into force in 2007.
must be respected. Under no circumstances, including under the pretext of operating in an informal “justice” context, can we make anything.

The non-judicial intervention approach can be easily justified for the majority of offenses committed by young offenders, particularly those that involve property, are not grave, and do not pose a threat of collective danger. This approach, however, should not be exclusively limited to these situations because recourse to non-judicial interventions enables young offenders to avoid the stigmatization of the penal system, generally leads to positive results, does not undermine public security, and at the same time, is more cost-efficient!

In addition to the availability of informal interventions, many States have established formal systems which seek alternatives to the deprivation of liberty or the facilitation of its execution, with the possibility of probation and release on parole. New technologies have led to the development of the electronic bracelet which leads to the same result of avoiding the imprisonment of children in conflict with the law.

In my opinion, this important work clearly demonstrates a deep mistrust held by many professionals about prison systems and that few believe there are beneficial effects of depriving children of their liberty. The fact that we have undertaken so many efforts to invent alternatives to sentencing, or a reduction in their length, further shows the extent to which we distrust the deprivation of liberty!

Training

Nevertheless, it is not enough to simply declare our distrust of prison sentences. We must also advance sound and convincing arguments about why they are ineffective, not to mention harmful, to young offenders. In our opinion, this is best achieved through awareness-raising campaigns, sensitizing the media regarding juvenile justice challenges, and especially by training all professionals who work with and for children in conflict with the law.

These professionals are many and include police officers, prosecutors, judges, lawyers, social workers, doctors, psychologists, and penitentiary agents. All relevant professionals must be trained in the specificities of the juvenile justice system, know each other, be aware of each other’s work, and learn to cooperate in an interdisciplinary way.

There is no question that it is a great deal of work to set up these training courses, but it is also the only way to enhance and advance the specialized judicial systems. It is for this reason that the special course was held in Sion for professionals from Georgia which gave them the opportunity to get to know each other, appreciate their respective roles, and learn to work together!

Sion, July 2011
THE SWISS JUVENILE JUSTICE SYSTEM

Mr. Jean ZERMATTEN, Director of IDE

PLAN

ATTENTION : New law
The Models
"welfare-inspired" Law
- The objectives of the law
- Distinction between juvenile
delinquents and endangered youth
- The ages of intervention and the
conditions of place
- Statistics
- Catalogue and characteristics of the
measures and penalties
The models

In the world, there are three models that inspire the juvenile court's systems:

- the Welfare Model,
- the Justice Model, or Control model
- the Restorative Model.

The Welfare Model

The Welfare Model puts the emphasis on the person of the young offender. The latter is seen more as victim than as an offender: victim of his family, of his history, of his environment, of his immaturity, of the hazard of care...

- So, justice does not have to punish him, but to look for the causes of his behaviour and to act on them.
- The principal response to the offence is not a sanction, but a measure. The question of the responsibility is not important.
- The central role of the judge
- The model of this Model was the 1945 French legislation, still in function, but adapted several times since its entry into force.
The Justice Model

The Justice Model, on the contrary, is based on the idea of a young offender responsible of his acts and who has chosen to "malpractice". So he has to pay in the form of a retributive punishment.

- The central role of deprivation of liberty
- In this model, the procedural rights of the young are very developed, but not the possibilities of taking care.
- The question of guilt is the central point of the trial. If this model pursues its last logic, it means the end of the specific courts for juveniles.
- This system is used principally in countries with a long tradition of common law.

The Restorative Model

The Restorative Justice Model is based on the involvement of victim(s) in the process and from the other idea of reparation /restoration. The young offender has to face his/her victim(s) and to do something in order to repair his fault. These two ideas are important and it's a fact that during a long time, the victims have been forgotten.

- Often, the restorative elements are linked with welfare or Justice approaches
- With this model, the Mediation and the Service Community Orders appear and become more and more applied.
- There is no Restorative Justice "only" Model but we can mention the Austrian law for juvenile (1988)
The Swiss blended « Model »

- Fidelity to the **welfare Idea** (art. 2 of the Swiss Law): objectives = Protection and Education

- But with **restorative elements**: important place to Mediation at different stages and Community Services Orders

- ... and **more severity**: deprivation of liberty up to 4 years and possibility to place in closed facilities

The objectives of the Swiss law

**The 5 objectives are:**

- Educational
- Curative/Care
- Preventive
- Social integration / reintegration
- Protection - of victims
  - public security
General ideas of the Swiss system

Distinction
- Minors/endangered juveniles
- Minors delinquents

- Minors endangered

Civil authorities = tutelarian system

Several models: 26 Cantons (counties)
Minor delinquents

Penal authorities = Juvenile Court specialised courts with specialised judges

Conditions of age

0-10 years old : absolute irresponsibility
10-18 years old : relative responsibility
15, 16 years old : age limit for deprivation of liberty
18 years old : penal majority (civil, civic)
18-25 years old : “young adults”
    total responsibility but a watered-down intervention
**Conditions of place**

- Inquiries: place where the act is committed
- Judgment: place where the young lives
- Foreigner: rules may change

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**Statistics**

GENERAL COMMENT

Generally speaking, the situation in Switzerland is characterized by:

- A sharp rise in the number of minors charged and convicted in juvenile courts,
- A shift from “adult” delinquency towards juvenile delinquency,
- A change in the type of offenses committed by minors,
- The question of violence
From “Adult” Delinquency towards Juvenile Delinquency

- For quite a long time most offenses were committed by adults, with an over-representation of young adults (18-25 years old).
- Now however, although the majority of those brought before the law enforcement authorities are adults, the numbers of juveniles subjected to criminal proceedings is becoming proportionately higher.
- Thus, from approximately 15% of all recorded offenses being committed by minors the figures have risen almost to one quarter / one third.

Changes in the Type of Offenses Committed

- a) Offenses against the penal code (general) property!
  - 2001: 7'396 convicted juveniles
  - 2003: 8'217 convicted juveniles
  - 2004: 8'866 convicted juveniles
  - 2008: 9'175 convicted juveniles
- b) Offenses against physical integrity
  - 2001: 1'600 convicted juveniles
  - 2003: 1'755 convicted juveniles
  - 2004: 2'068 convicted juveniles
  - 2008: 2'268 convicted juveniles = 16 % !
- c) drugs-related offenses
  - 2001: 4'957 convicted juveniles
  - 2003: 4'953 convicted juveniles
  - 2004: 5'199 convicted juveniles
  - 2008: 4'535 convicted juveniles
Increasingly Young Offenders

One characteristic of the new data is that offenders are committing their offenses at an increasingly young age. This holds true throughout the Western world.

- In Switzerland juvenile courts have found themselves in the throes of this trend.
- This situation poses additional difficulties since the age of these young offenders often corresponds to a delicate period compounded by the educational status of the young who at times are no longer accepted at normal educational institutions, and have been expelled from them (compulsory education...!).
- The lack of appropriate structures to deal with this type of situation creates difficulties.

POSSIBILITIES OF INTERVENTION

The Judge has many possibilities

- To divert (investigation stage) by non-suit, refusal to take action, dismissal, acquittal, withdrawal of complaint, conciliation
- To renounce to punish = remission
- To mediate = mediation
- To pronounce a measure
- To punish
The restorative aspects

- **Mediation**: at three stages of the intervention: investigation, judgment and implementation of a measure.
- The objective is to confront author and victim with two aspects: reparation (damage) and restoration (social relationships).
- If the young offender and the victim find an agreement, the case is dismissed.
- In the absence of agreement, the case goes to trial.
- **Community service orders** plays an important role in Switzerland (normal or as way not to deprive of liberty).

Characteristics of the Measures

- Idea of protection (offender is a victim); system said dualist: measure or / and punishment.
- Priority of the measure.
- The measure has to be accepted.
- The term of the measure is not fixed.
- The measure can be changed / adapted to the evolving development of the offender.
Protective Measures

- Protective measures
  - Probation (educational assistance)
  - Foster care
  - Residential facilities

  - Welfare institutions (with school)
    - St. Raphael
  - Welfare institutions (with work or activities)
  - Welfare institutions with psychological help
  - Closed institutions (Pramont)

  - Medical treatment
    - Outpatient treatment
    - Institutional treatment

Characteristics of the penalties

- Subsidiary with regard to the measures
- Idea of retribution (the child is guilty), but educational contents
- The term is fixed
- The question of the deprivation of liberty from 15: until 1 year
- From 16 until 4 years for aggravated offences
- Swiss speciality: obligation to renounce (art 21 = remission)
Penalties

- Reprimand
- Community Service Orders
- Fine
- Deprivation of liberty
  - Suspended
  - Without respite
  - Probation
  - Control time
  - Supervision orders
  - Art 21: remission

Necessity of collaboration

The Juvenile justice is a system Not only the prosecutor / judge but
- the parents
- the police
- the social services
- the psycho-social services
- the lawyer
Thank you for your attention

www.childsrights.org
RESTORATIVE JUSTICE, THE GUIDING PRINCIPLES

Justice Renate WINTER, Team leader for EU project on Assistance to the Reorganisation of a Penal Justice System in Georgia

Hypothesis

Current System
- A crime is an act against the State, a violation of the law, an abstract idea
- The criminal justice system controls the crime
- The offender must be punished, he is guilty

Restorative Justice
- A crime is an act against another person and against the community
- The control of the crime concerns primarily the community
- The offender: takes responsibility and commits himself to repair the damage
**Current System**
- The threat of punishment deters them of committing a new crime
- Punishment modifies the behaviour
- Victims are at the periphery of the process

**Restorative Justice**
- Recognition of the responsibility deters from committing a crime
- The commitment to repair modifies the behaviour
- The victims are central in the process of finding a solution to a crime

**Current System**
- The offender is defined by his deficiencies
- The stress is put on a relation of opponents
- A pain to punish and prevent
- Goal: to dispense justice
- The community is put aside, it is represented by the State (prosecutor)

**Restorative Justice**
- The offender is defined by his/her capacity to repair
- The stress is put on the dialogue and negotiation between members of the community
- Restitution as a way of redress/restoring the relationship between the two parties
- Goal: reconciliation/healing
- The community as a mediator in the restoration process
We must distinguish

Distinctions must be made between:
- Children in conflict with the law that fall within criminal law,
- The child in danger who falls within the social services and not the justice,
- The child victim or witness who must benefit from protection measures because he/she risks to live again what he has been subjected to.

Principle of proportionality: the answer to the criminal act must be

- Adapted to the circumstances
- Adapted to the child
- Adapted to the facts
- Adapted to the goals pursued
Children deprived of their liberty
37 (b) CRC

No arbitrary or unlawful deprivation of liberty. The arrest, detention or imprisonment of a child shall be in conformity with the law and used only as a measure of last resort, and for the shortest appropriate period of time.

1. First consideration: the best interests of the child (3 CRC)
2. Imprisonment; is it the last resource?
3. How long must the minor be deprived of his/her liberty?
   What is the shortest appropriate period?
The alternative measures (1)

- They are ways of resolution of conflicts, of restoration and of reparation of the damage suffered
- They resolve conflicts when justice only gives a judgment
- They try to restore peace
- They put into question the State’s exclusive right, to denounce, to resolve the conflict
- They are rooted in the tradition of every country

The alternative measures (2)

The alternative measures can take place 3 times in the procedure:

- **Before trial**: it is diversion by extrajudicial resolution means. Depending on the country, the policemen or the prosecutors can have a large latitude to solve the problem without starting the legal process.

- **During trial**: the legal process is then suspended to enable the research of an alternative, and if this succeeds, the judge closes the case.

- **After trial**: the young person is found guilty and either not sentenced, or he/she is sentenced to a penalty that will not be carried out to enable the research of alternative measures.
The alternative measure put into place is chosen according to the gravity of the offence and to the reoffending. It is possible to cumulate various alternative measures.

DIVERSION AND EXTRAJUDICIAL SYSTEM

- The extrajudicial system is largely accepted
- The alternative measures to deprivation of liberty are important to reduce subsequent offence
List of possible alternative measures (1)

- Community service order
- Youth contracts between the judge and the minor
- Community homes for groups to deal with the gang phenomenon
- Group orientation by the Houses of justice
- Exercises in the nature (Confrontation of the minor to a difficult or dangerous situation to make him/her realise that he/she needs the others)

List of alternative measures (2)

- Criminal reprimand or warning
- Fine (to be used only if the minor has an income available)
- Payment of indemnities
- Redress
- Mediation
- Conciliation (author, victim and community)
- Confiscation
- Family conference (traditional alternative measure)
- Group conference
HOW TO DEVELOP THE RESORT TO ALTERNATIVE MEASURES

1. Police, prosecutors, lawyers, judges, social workers, educators and penal establishment employees training separately and then jointly.

2. Institutionalize meetings.

3. Establish detention institutions, open and semi-open, specialised institution for offenders with mental or addiction problems.

4. Create networks with social administrations scattered everywhere for prevention and survival.

We can say that the application of alternative measures is hard to sell but costs less in the end.
CHILDREN IN STREET SITUATIONS
Prof. Daniel STOECKLIN, IDE, Sion

Children in street situations
An approach respectful of their rights

Dr Daniel Stoecklin
International Institut for the Rights of the Child
Training for Representatives of Georgia
Sion, 7 July 2011

Who are they?

- Children with disabilities
- Children traumatized by war or natural disasters
- Child refugees (and unaccompanied child refugees)
- Children permanently or temporarily deprived of their parents
- Children living and/or working in the street ("street children")
- Other children « in especially difficult circumstances »...
How many are they?

- It is very difficult to give an exact figure because people talk of the same children using different categories:
  - “children of the street”,
  - “on the street”,
  - “homeless”,
  - “abandoned”,
  - “in conflict with the law”,
  - “in especially difficult circumstances”, etc.

What is the situation/problem of a «street child»?

- Permanently or temporarily deprived of his family environment ?...

- Dangers of the street: abuse, exploitation, beatings, etc. ?

- Social evils: drugs, alcohol ?

- Conflict with the law ?...
Macrosocial causes

- Massive urbanisation: overwhelming problems regarding social life, education, sanitation and housing, and slums are expanding without any basic facilities.

- Growing numbers of families at the boarders of the informal sector.

- Economic structures have become transnational (globalisation). The role of the State is challenged.

Citizenship

- Poverty is not the only factor: not all poor children go to live on the street.

- Causes associated to poverty and leading to street life are: family break-up, domestic violence

- Accessibility of basic facilities (Economic, social, cultural rights)

- Accessibility of political representation (Civil and political rights)
Social breakdown

- Under- or unemployment, poor work conditions, mostly aggravated by alcohol and drugs.

- There are numerous examples around the world where the woman is forced to find protection with another man, who most often reacts to his own frustration of having no job with a violent behaviour. Most “street children” are children who have been rejected by a step-father or a step-mother.

- Involvement in drug trafficking or other informal survival strategies.

What people see

- Children working on the streets
- Children begging
- Children stealing
- Children involved in drug trafficking
- Children sniffing glue
- Children roaming around
- Children making noise
- Etc.
How people react

- People usually evaluate the situation using their own values, positions and interests:

- For some, such children are bandits, for others they are victims.

- Some exaggerate statistics (sometimes in order to increase the feeling of insecurity and justify « cleaning-up » the streets).

- Others underestimate the problem or simply censure the topic (in order to preserve the image of the country).

Violent reactions

- Rio de Janeiro 1993: several children killed before the Church « La Candelaria » by deaths squads hired to « clean up the streets ».

- Numerous « cleaning ups » by the police before international events.

- The people the children surviving in the streets fear most: the police...

- Confinement in closed institutions.
Process of labelling

- Having no voice, slum children are mostly considered only once they have become street children, a public and visible issue, depicted as a public nuisance (they mostly commit petty crimes).

- This is how these children “in special need” may be progressively (or all of a sudden) be labelled children “in conflict with the law”.

The label is the problem...

- When declared « in conflict with the law », the child is hardly ever seen in as belonging to children « in special need »...

- So, if one doesn’t take care of vulnerable children, one may eventually have to deal with children « in conflict with the law ». 
Categories of «street children»

(From the point of view of project implementing agencies)

There are categories of street children:

- Children on the street
- Children of the street
- Children of street families

Limits to the definitions of categories of street children

R. Lucchini, 1993

Contact with family (social dimension) vs. Time spent on the street (physical dimension)
Limits to the definitions of categories of street children

- Only two dimensions: time and socialization
- No consideration for shifting situations
- Qualitative assessment based on unquestioned assumptions and representations ("of" the street is worse than "on" the street)
- Statistical and organizational purposes (not child-centred)

Deterministic approach

- Objective factors determine individual life courses
- Intervention on target-populations
Interactionnistic approach

- The situation is constructed through interactions of social actors

- Modification of the situation requires mutual adaptations

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Interactions (Relations)

Street life is a question of the quality of the existing interactions between these children and the people surrounding them.

- It requires that we also cast light on those who are in contact with these children, because they are part of the problem, and hopefully also of the solution.
Children in street situations: emphasis on the set of interactions

Diversity of situations

- Post-war situation
- Bonded labor
- Public violence
- Prostitution and trafficking
- Forced begging
- Unregistered births
- Etc...
« Children in street situations »

- The real problem is not the difficulty to count “street children”, it is the label “street child” itself...

- We prefer to use the expression "Children in Street Situations" (CSS), because the problem is not just with the children, it is with the situations they have to face.

Child-centred approach

Deal with the child’s subjective perception of the situation
The child, a social actor

- The child is not simply a product of circumstances.
- The child is a social actor.
- Necessity to understand the subjective meaning attached by the actor to his acts.

Child-centred (insider’s) point of view

From the point of view of the child:

Street life depends on the quality of the existing interactions within and outside the street.

Implications:

- Listen to what the child says about street life.
- Cast light also on those who are in contact with these children, because they are part of the problem, and hopefully also of the solution.
Collect data along these 8 aspects through interviews.

Analysis of data is made along a systemic approach, considering that a phenomenon is made of elements that linked together and influencing each other in a specific way that has to be discovered. All these aspects form a system because the elements affect each other.

The CSS-Tool helps understand the dynamics behind the child’s biography.
Differenciating dimensions

- Time (spent on the street; age)
- Space (City Center / periphery)
- Social networks (relations)
- Norms & Values
- Activities
- Image of Self
- Motivation (goals)
- Gender

Profiles and career

- Children in street situations may have quite different “profiles”, according to the differential importance these dimensions of street experience may have for them.

- By linking these different dimensions together, one comes to a more accurate image of the way the children actually experience street life.

- It helps identify the child’s life course (street “career”). The child’s life conditions on the streets are the outcome of:
  - The constraints that may affect the child
  - The child’s own survival strategies according to competences he/she has acquired outside and in the street.
Bottom-up model of action

Structures: Use and networking of spaces appropriate for the required activities (or creation of such spaces if lacking)

Options: Profile-wise choice and combination of empowerment and promotion & prevention options, in order to satisfy children’s needs and develop their skills

People: Assessment of needs and abilities and identification of typical profiles thanks to the “Child-Street System”

Resources: Acknowledging children’s skills

- Children’s capacities may be quite diverse, Children in street situations have developed, mostly out of necessity, some social, symbolic and instrumental competences that are quite important and often more developed than with other children of their age.

- Transposition of skills from deviant areas to socially and legally conform behaviour is in fact the main objective of a project addressing the needs and capacities of children in street situations.

- More sensitive assessment: Acknowledgment of the capacities of children in street situations is a precondition to their participation within the project.
Art. 2: Non-discrimination

1. State Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. State Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.

Implications:

The label “street children” conveys the image of their mother being the street, a space mostly associated to negative images. These children are often discriminated because of the prejudice against their parents.

Art. 3: Best interests of the child

1. In all actions concerning children (...) the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being (...).

3. States Parties shall ensure that institutions, services and facilities responsible for the care or protection of children shall conform with the standards (...) of safety, health, (...) staff (...) supervision.

Implications:

Because of evident diversity of situations, identifying the best interests of children in street situations cannot be done without listening to them (art. 12).

Actions aimed at protection and care shall also help preventing the social dynamics affecting children in street situations.

Because these children more or less actively participate in these dynamics (they are social actors), intervention should also empower children in street situations to modify their own situations in their best interests.
Art. 6: Life, survival, development

- 1. State Parties recognize that every child has the inherent right to life.
- 2. State Parties shall ensure to the maximum extent possible the survival and development of the child.

Implications:
- Children in street situations shall be protected against the current violence they are facing.
- Their development is jeopardized by their life conditions. However, these conditions have also been conducive to early maturity.
- Therefore, their actual skills developed in and outside the street shall be taken due account, as recognition of their competences is a prerequisite to ensure development (empowerment) of these children.

Art. 12: Opinion

- 1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
- 2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Implications:
- It is essential to have appropriate tools and techniques to guarantee that the child will actually be heard.
- To hear children in street situations helps identifying the children’s different situations and appropriate measures to be taken.
Principle: The obligation to hear the child (also those in street situations)

- The obligation to hear the child should cover all settings: home, community level, school, judicial and administrative proceedings.

- Obligation to hear the children = design policies and programmes that actually enable children to have their views taken into account.

- The responsibility of state parties to the CRC, and the concrete organisations taking care and empowering such children is to provide them with sufficient and adequate spaces and opportunities for meaningful child participation.

Methods: the challenge to develop child-friendly tools

- They must be understood by the children.

- They must be tested and developed to guarantee that the child will actually be heard.

- They must allow integration of children’s voices in the definition of situations and not define the situations beforehand.
The CRC helps social integration

Acknowledgement of children’s rights
and competences of children

SOCIETY

The CRC helps regulating social structures
and empowering children

Recommendations

- Consider the child as a “social actor”, having skills and an opinion on his/her situation.

- Strengthen social integrative structures (family, school, work, leisure activities, sports, etc)

- Use the CRC as a framework allowing to work on both (individual and social) levels
PACKAGE OF JUVENILE JUSTICE PROGRAMS

Mr. Tamaz AKHOBDZE, Ministry of Justice

Content

Our Mission

Mechanism of implementation

Program outcome

Other programs . . .
Goal of the program

- Liberalization of the juvenile justice system
- The program provides one change to a juvenile
- Involvement of a victim in the process of restorative justice
- Prevention of juvenile recidivism

Juvenile crime statistics of 2010

A total of 162 cases
What is Juvenile Diversion & Mediation?

... it is an alternative to criminal prosecution
What is Juvenile Diversion & Mediation?

- A direct dialogue between parties
- Seeking for a resolution together
  a juvenile and a victim
- Rehabilitation and social reintegration of a juvenile

Who will be diverted from prosecution?

- Juvenile who committed a less grave crime and has no prior criminal record
- Has not previously participated in the Diversion & Mediation Program
- Acknowledges the commitment of a crime and is ready to ask for forgiveness
- Juvenile and his/her family are ready to compensate the victim
- Consideration is given to the best interests of the child and the public interest
Preparatory work

Professionals were trained in the four piloting cities

- 55 prosecutors
- 12 social workers
- 10 mediators

Mechanism of program implementation

A crime was committed, what happens next???

- Victim has an opportunity to participate in the diversion process
- Social worker is conducting juvenile's bio-psycho-social assessment
- Social worker and prosecutor create main terms of a civil contract (list of obligations & services)
- Parties select a mediator to handle the case
Mediation

mediator meets with the parties separately and ensures an agreement among them regarding terms of a contract.

parties may suggest/modify terms of the contract. The consent of a prosecutor and social workers is necessary for such modifications.

Rules

parties will become familiar with the date, time and location of the conference.

The big meeting ...

Conference

Neutral territory
Training Course on Juvenile Justice for Officials from Georgia

Program outcome

- satisfied (happy !!!) victim
- juvenile with a better future
- community, which is free of crime

We start from four cities ...

The program currently operates in Tbilisi, Rustavi, Kutaisi and Batumi. During 2011, two new cities will be added – Gori and Samtredia.
MoJ’s other programs

- Diversion to Community Activities
- Diversion for Carrying knives
- E-book Program
- Compensate the Damage
- Community Prosecutor’s Program
- My Senior Friend Program
- The Choice is Yours
- Grants Program for NGOs

Diversion through Community Activities

**Diversion** of Juveniles from Criminal Prosecution

Instead of punishment, engaging juveniles in the implementation of community activities

Juvenile will get an opportunity to meet new people, gain experience and do something good
Diversion for Carrying a Knife

- Juvenile is obliged to attend sessions, conducted by an NGO
- A group of juveniles will meet a person (family member) who was harmed
- Juveniles will visit the MoJ and present their thoughts about fighting against juvenile crime
- Juveniles will have to go to three different schools and talk with younger children about healthy lifestyle

E-book Program

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E-book Program

As part of his/her community activity project, the juvenile will have to type up text of a book

Results:
1. good for the community
2. Learns computer skills
3. Reads a book

Compensate the Damage

Law enforcement officers will have an opportunity to offer the parents of juvenile to engage the juvenile into a community activities project.

This will be a voluntary program, which will be implemented in partnership between various state and non-governmental organizations.
Community Prosecutor’s Program

is being implemented in 14 prosecutorial districts.
Carried out 295 events.
A total of 4,500 people participated.

My Senior Friend

developing friendships between juveniles and young professionals
it is fun and educating for both, the mentor and the mentee
helping juveniles make good life choices and stay away from crime

57
Program: “The Choice is Yours”

- alumni go back to their schools
- share their life experience with students
- answer questions about choice of profession, etc.

Grants for Non-governmental organizations

In order to provide necessary services to juveniles, the MoJ will issue grants to non-governmental and non-for-profit service provider organizations.

In 2011, the total sum of the grant funds will equal to GEL 100,000
Reforms will continue …

Thank You!
L’ENQUÊTE JUDICIAIRE: AUTEURS MINEURS
Mr. Martin LAUBER, Chief of the Minors Squad Section, Cantonal Police / Valais

Thèmes

1. Présentation Section Mineurs & Mœurs de la police judiciaire
2. Rôle de la SMM
3. Missions
4. Les phases de l’enquête
5. Conclusions
Section Mineurs & Moeurs

- Nouvelle Section de la PJ
- En fonction depuis le 01.01.2011
- 12 inspecteurs/trices spécifiquement formés, répartis sur 3 régions (Haut-Valais, Valais Central et Bas-Valais)

- Affaires traitées → Mineurs auteurs – Mineurs victimes – Infractions contre l’intégrité sexuelle – Prostitution – Prévention – etc.
Rôle de la Section Mineurs & Mœurs de la police judiciaire (PJ)

Dans le domaine des mineurs, la police judiciaire exerce un rôle préventif et/ou répressif selon que le mineur respecte ou non de la législation pénale en vigueur.

Pour agir, la PJ se base principalement sur le code pénal et sur la législation régissant la condition pénale des mineurs (DPMIn & PPMIn)

http://www.k.pss.sh/1039

http://www.kl.fremers/unter_jugend/alter/0007/und娛樂/1/0
Rôle de la Section Mineurs & Mœurs de la police judiciaire (PJ)

La PJ effectue des enquêtes notamment sous l’autorité du Juge des mineurs lors :

- d’infractions à des lois fédérales (LF sur les stup, etc.)
- d’atteinte à la liberté ou aux biens d’autrui
- d’atteinte à l’intégrité corporelle ou à l’intégrité sexuelle d’autrui
- d’atteinte à la vie d’autrui

Missions

✓ **rechercher** et **constater** les infractions

✓ **recueillir** les indices et les preuves

✓ **établir l’identité** des auteurs d’infractions

✓ **rechercher** les délinquants et les **déférer** au Juge des mineurs

✓ dans la mesure du possible, **garder** un suivi du mineur au terme de la procédure
Les phases de l’enquête

- **Découvrir**, déterminer l’infraction (flagrant délit, rumeur, dénonciation, plainte)
- **Constater** l’infraction (évt. constat technique)
- **Enregistrer** les dépositions (lésés, victimes, témoins, etc.)
- **Rassembler** les pièces et rapports utiles (pièces comptables, rapports médicaux, etc.)
- **Formuler** et **vérifier** les hypothèses
- **Identifier** et **localiser** l’(les) auteur(s) de l’infraction

Les phases de l’enquête

- **Renseigner** le Juge des mineurs et lui soumettre les éléments d’enquête
- **Procéder** aux investigations complémentaires ordonnées par le magistrat
- **Interpeller** le(les) auteur(s) mineur(s)
- Procéder aux éventuelles **perquisitions** ou autres investigations
- **Inform**er le représentant légal de nos démarches
Les phases de l’enquête

- **Interroger** le (les) auteur(s) mineur(s)
- **Renseigner** le Juge des mineurs
- À la demande du magistrat, **déférer** le mineur devant le Juge
- **Poursuivre** les investigations et/ou auditions sans relâche selon les instructions du Juge des mineurs
- Au moment où le mineur est relaxé, le **remettre** ou tout au moins en informer le représentant légal.

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<thead>
<tr>
<th>MINEURS</th>
<th>AUTEURS</th>
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<tr>
<td><strong>Auteur mineur de moins de 10 ans ayant commis une infraction</strong></td>
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<td><strong>Auteur mineur entre 10 et 15 ans ayant commis l’infraction suivante :</strong></td>
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<td>Brigandage</td>
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<td>Vol, délit de fuite et cambriolage</td>
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<td>Réalisation de traitement</td>
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<td>Febvre et chantage</td>
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<tr>
<td>Vol, larcin, cambriolage, délit de fuite</td>
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<tr>
<td><strong>Contrats</strong></td>
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<tr>
<td>Infraction LF sur les étapes - vente de produits stupéfiants</td>
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<tr>
<td><strong>Auteur mineur 16 et 18 ans ayant commis l’infraction suivante :</strong></td>
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<td>Vols, cambriolage et chantage</td>
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<td>Réalisation de traitement</td>
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<td>Vol, larcin, cambriolage, délit de fuite</td>
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*SMM impairment*
Conclusions

- Enquête judiciaire dans le domaine des mineurs \( \rightarrow \) rapidité
- Collaboration permanente avec le Juge des Mineurs \( \rightarrow \) unité de direction et objectif commun
- Intervention \( \rightarrow \) connotation éducative avant tout et non répressive
- Aspect émotionnel de l’environnement familial \( \rightarrow \) sensibilité, tact

Conclusions

- Collaboration avec les différents services et milieux éducatifs \( \rightarrow \) partenaires
Sont systématiquement entendus sur un support enregistrant le son et l'image (vidéo), par un enquêteur spécialisé (aud. LAVI) et en présence d'un spécialiste (psychologue) :
- toutes les victimes d'infractions contre l'intégrité sexuelle âgées de moins de 18 ans, au sens des art. 187 à 193 CPS
- les enfants victimes d'infractions graves âgés de moins de 12 ans
- les victimes au sens de l'art. 116 al. 1 du CPP âgées de moins de 18 ans, s'il est à prévoir que l'audition ou la confrontation pourrait entraîner sur elles, une atteinte psychique grave (CPP 154).

Sont entendus de façon traditionnelle, sans spécialiste (psychologue), mais par un enquêteur spécialisé :
- les mineurs faisant l'objet d'un signalement du RSV pour alcoolisation massive
- les enfants âgés de moins de 12 ans victimes d'infractions contre l'intégrité sexuelle telles qu'exhibitionnisme et pornographie.

Merci !
TRENDS IN JUVENILE JUSTICE

Mr. Jean ZERMATTEN, Director of IDE

Objectives of the presentation

- To encourage a State to develop and implement a comprehensive policy
  - Holistic approach
  - Links to 2, 3, 6, 12 CRC
  - Within GMI - 4 CRC
- To provide guidance and recommendations for the content of a comprehensive policy
- To promote integration of international standards
Definitions

- **Juvenile Justice**: refers to legislation, norms and standards, procedures, mechanisms, institutions and groups specifically formed for dealing with juveniles perpetrators of criminal offense.

- **Children in conflict with the law**: a child is considered in conflict with the law when he/she has committed or has been accused of committing an offense = young offenders

- **Children in contact with the law**
  The child as a victim or/and as a witness

Relevant international instruments

- **CRC 40, 37, 39**
- **UN standards:**
  5. The CRC, GC no 10, Feb. 2007
The CRC, content
- A holistic text, with basic principles related to Juvenile Justice:
  - Non-discrimination (art. 2)
  - Best interests of the child (art. 3)
  - The child's views (art. 12)
  - Indivisible and interdependent rights
  - 3 articles: 37, 40 and 39

Core elements of a comprehensive policy

Prevention
- Targeted and systematic measures to prevent a child from becoming an offender
- Prevention is everybody's business and not only a few specialists
- Begins with education, at an early age and support to parents

Intervention 40 para 1 CRC
- Dignity and worth
- Respect for human rights
- Treatment that promotes reintegration
- No resorting to judicial proceedings 40 para 3 CRC
- If yes: fair trial and diversion within dispositions
Concept of DIGNITY

Article 40, par. 1 CRC

States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedoms of others and which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society.

Emphasize by JZ

MACR = minimum age of criminal responsibility

Minimum age of criminal responsibility
CRC 40/3
- a minimum age of criminal responsibility below the age of 12 years is considered not to be internationally acceptable.
- States parties are encouraged to increase their lower MACR to the age of 12 years as the absolute minimum age and to continue to increase it to a higher age level.
- See GC 10, para 32 and 33
Upper limit

The upper age-limit for juvenile justice
- For all children who, at the time of their alleged commission of an offence, have not yet reached the age of **18 years**
- After 18 = adults
- No possibility to consider a 16 old child who has committed severe offences to be treated as an adult
- Birth registration – proof of age

Prevention

- Support of the Riyadh Guidelines for the prevention of juvenile delinquency, but also GC 10, para 16 to 21
- Emphasis on prevention policies
- Support to parents
- Early childhood an important phase
- Broad participation in prevention
Interventions without resorting to judicial proceedings

- 40 para 3, and Beijing Rules, section 11
- For minor offences
- Legal safeguards for diversion:
  - Diversion only if convincing evidence
  - Consent with the alternative (child and parents)
  - Legal specification of cases for diversion
  - Possibility to consult with a lawyer
  - Completion of diversion = closure of the case

Diversion:

- Aim of diversion is to grant minors, at every stage of the procedure, the opportunity of an alternative way, separate from the formal justice system,
- to make the best out of restorative justice experiences, involving community,
- And to address efficiently the root causes of behavior, while identifying strategies to avoid repetition.
Dispositions (measures and sanction/ formal procedure)

- Pre-trial alternatives
- Dispositions by the juvenile court/judge
  - Prohibition of death penalty
  - No life imprisonment without parole
  - Deprivation of liberty

Deprivation of liberty

- Last resort’s principle
- Shortest time possible
- Only for very serious offenses
- With the necessity to have
  - Educational activities
  - Possibilities to maintain relationships with the family, friends
  - Educational, medical and psychological assistance
Guarantees for a fair trial
40 para 2 CRC

Guarantees: minimum standards
- Freedom from compulsory self-incrimination 40, 2(b(IV)), 37
- Decisions without delay and involvement of parents 40, 2(b(iii)), 37
- No retroactive justice, status offences 40, 2(a)
- Presumption of innocence 40, 2(b(i))
- Right to be heard 12
- Prompt information of the charges 40, 2(b(ii))
- Legal and other appropriate assistance 40, 2(b(ii, iii))

Guarantees for a fair trial
40 para 2 CRC

Guarantees: minimum standards (follows)
- Presence and examination of witnesses 40, 2(b(iv))
- The right to appeal 40, 2(b(v)), as unconditional
- Free assistance of an interpreter 40, 2(b(vi))
- Full respect of privacy 40, 2(b(vii))
The organization of juvenile justice

The system: 40 para 3 CRC
- Establishment of laws, procedures, authorities and institutions
- Form of laws and procedures
- Specialised units within the police
- Specialized services: probation, counselling or supervision
- Special facilities: day treatment centres
- Effective coordination of all activities

Awareness, training and research

CRC art. 40 para 4
- Awareness raising among public at large
- The role of media
- The need for on-going training/content of this training
- Systematic data collection, evaluation of policies and programs
ECOSOC Guidelines 2005

Basic principles
- Dignity: every child is a unique human being and should be protected,
- Non-discrimination (see art. 2 CRC)
- Best interests of the child (see art.3 CRC)
- Protection (life, survival and development see art. 6 = protection against abuse, neglect and hardship)
- Harmonious development: if traumatized, take every step to treat him/her
- Right to be heard (see art.12 CRC)

Guidelines (follows)

Rights recognized by the Guidelines (part B art.1 to 10)
- The right to be treated with dignity and compassion;
- The right to be protected against discrimination;
- The right to be informed;
- The right to express views and to be heard;
- The right to effective assistance;
- The right to privacy;
- The right to be protected from justice process hardship;
- The right to safety;
- The right to reparation;
- The right to special preventive measures.
Concluding comments

- Juvenile Justice is a system
- Interdisciplinary work
- The training of the professionals
- Necessity of financial resources
- Juvenile Justice makes part of the global protection with Welfare services, Police, Facilities. Prosecutors, Lawyers, Social workers, psychologists...

Thank you for your attention
www.childsrights.org
JUSTICE REPARATRICE EN DROIT PENAL DES MINEURS
SUISSE : LE TRAVAIL COMMUNAUTAIRE ET AUTRES MOYENS

Mr. Xavier LAVANCHY, President of the Juvenile Court, Sion

Justice réparatrice en droit pénal des mineurs suisse:
le travail communautaire et autres moyens

IDE, 7 juillet 2011

Le plan

- Intro: les décisions des juges en Suisse
- Un cas pratique: Jonathan
- Les moyens pendant l’instruction:
  différentes formes de conciliation et la médiation
- Les prestations personnelles et leur exécution dans le canton du Valais
Les décisions

Jugements pénaux des mineurs
Sanction, en 2009

- Prestation personnelle
- Réprimande
- Amende
- Privation de liberté
- Exemption de peine
- Assistance personnelle
- Traitement ambulatoire
- Surveillance
- Placement en maison d’éducation
- Placement en maisons de traitement
- Placement familial

Jonathan

- 15 ans, pas de problème socio-éducatif
- une infraction avérée et un dommage existant et déterminé
- une conciliation ordonnée
- pas d’issue trouvée
- le travail communautaire
Pendant l’instruction

- La conciliation:
  - en audience du juge
  - par délégation à un autre organisme du tribunal
  - depuis le bureau du juge

- La médiation:
  - un service spécialisé
  - des médiateurs privés

La prestation personnelle

- ordonnée par Ordonnance pénale ou par jugement
- par le juge ou par le tribunal des mineurs (3 juges)
- de 1 jours à 10 jours de 10 à 15 ans
- de 1 jours à 3 mois de 15 ans à 3 mois
- conversion possible en amende ou en privation de liberté
La prestation personnelle: exécution en Valais

- Exécutée sous la surveillance directe du Service social: travail au profit d’une commune
- Exécutée sous la surveillance du Service social mais déléguée à un organisme privé ou paraétatique (hôpitaux, homes de personne âgée, Caritas…etc.)

Conclusion

Les buts du droit pénal des mineurs sont la protection et l’éducation:
Lorsque le jeune n’a pas de problème personnel de type socio-éducatif (20% des cas), la médiation, la conciliation et les prestations personnelles sont les outils les plus efficaces dont le juge dispose pour remplir la mission donnée par la loi (avec d’excellents résultats – moins de 20% de récidive)
CHILDREN IN DIFFICULT CIRCUMSTANCES AND THE CRC
NEW PRINCIPLES
Justice Renate WINTER, Team leader for EU project on Assistance to the Reorganisation
of a Penal Justice System in Georgia

Children in difficult circumstances
and the CRC new principles

- Right to rehabilitation of children who have
  suffered various forms of cruelty and exploitation
- Obligation of Governments to take measures to
  abolish traditional practices harmful to children’s
  health
- Parents (or others responsible for the child)
  should provide guidance to the child in
  exercising his/her rights in accordance with the
  child’s “evolving capacities”

Art. 19
Protection against abuse and neglect
- Physical or mental violence
- Injury or abuse
- Neglect or negligent treatment
- Maltreatment or exploitation (sexual
  abuse)
Recommended:

**Protective measures**

- Establishment of social programmes (support for children and caretakers)
- Other forms of prevention (community programmes)
- Identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment (judicial involvement)

---

**Art. 20**

**Protection of children without families**

- Children deprived temporarily or permanently of family environment

- Children removed in their best interest from family environment
Recommended:

**Alternative care**

- Foster placement (host families)
- Kafalah (Islamic law)
- Adoption
- Placement in suitable institutions

Art. 22

**Refugee children**

(Children seeking refugee status or considered a refugee unaccompanied or accompanied) shall get

- Appropriate protection
- Humanitarian assistance

In accordance with the CRC and all other international humanitarian instruments
Recommended:

- Cooperation with UN organizations, IGOs, NGOs
- Assist the child
- Trace the parents/families

reunification

protection as for children of family environment (Art. 20)

Art. 23

**Handicapped children**
(Mentally or physically disabled children)

- Ensure their enjoyment of a full and decent life in dignity
- Promote self-reliance
- Facilitate active participation in the community
- Ensure special care (free of charge) for:
  - Education
  - Training
  - Healthcare services
  - Rehabilitation services
  - Preparation for employment
  - Recreation opportunities
Recommended:

- Exchange of information (preventive health care, medical, psychological and functional treatment)
- Dissemination of methods of rehabilitation, education and vocational services

Art. 30

Children of minorities or indigenous groups

- Ethnic minorities
- Religious
- Linguistic
- Indigenous origin

Have the right to:
- Enjoy their own culture
- Profess and practice their own religion
- Use their own language
Art. 32

Child labour

Protection from
- Economic exploitation
- Performing hazardous work
- Performing work that interferes with the child’s education
- Performing work harmful to health, physical, mental, spiritual, moral, social development

Recommended:

- Take into consideration CRC and other international instruments (ILO resolutions 138, 182)
- Provide for a minimum age for admission to employment
- Provide for appropriate regulation of hours and conditions of employment
- Provide for appropriate penalties for those not respecting this Article
Art. 33

Drug abuse

Protection of

- Children from illicit use of narcotic drugs and psychotropic substances
- Prevention of use of children in illicit production and trafficking of such substances

Problems:

- Law must allow for treatment instead of punishment
- Organized crime, especially if members of Government are involved
- Corruption, especially of law enforcement
- Justice: catching few and not the “big fish” and using deterrence by punishing
- Consumer: awareness raising but without inciting curiosity
Art. 34

Sexual exploitation

Protection from sexual exploitation (sexual abuse)
- Prevent inducement of a child to engage in any unlawful sexual activity
- Prevent exploitative use of children in prostitution or other unlawful sexual practices (pedophilia)
- Prevent exploitative use of children in pornographic performances and materials
Recommended:

Consideration of all national, bilateral and multinational measures (Optional Protocol II)

Art. 35

**Sale, trafficking and abduction**

Prevent

- Sale of children for any purpose,
- Traffic in children in any form

By taking all appropriate national, bilateral and multilateral measures
Art. 36

All other forms of exploitation

Protection against all forms of exploitation prejudicial to any aspect of the child’s welfare (street children)

Art. 38

In respecting all relevant rules of international humanitarian law applicable (Optional Protocol I)

- Ensure that persons under 15 years of age do not take a direct part in hostilities
- Refrain from recruiting any person under 15 years of age into armed forces
- Give priority in recruiting persons between 15 and 18 years of age to those who are the oldest
- Protect all children who are affected by an armed conflict in accordance with international humanitarian law
Art. 39

Rehabilitative care

- Promote physical and psychological recovery
- Promote social reintegration into an environment which fosters health, self respect and dignity for a child victim of:
  - Any form of neglect, exploitation, abuse
  - Torture, cruel, inhumane or degrading treatment or punishment
  - Armed conflicts

Adoption:
1) Inside the country (national legislation)
2) International adoption (Hague protocols)

Foster families:
1) Crisis placement (8 weeks approx.)
2) Long term placement (contact with family of origin)
3) Placement for children with disabilities (special training)

Kafalah:
1) Legal differences to adoption
2) Protection issues after puberty of placed children
THE WORK OF A JUVENILE JUDGE

Justice Renate WINTER, Team leader for EU project on Assistance to the Reorganisation of a Penal Justice System in Georgia

THE WORK OF A JUVENILE JUDGE

- Research on the facts AND on the person
- The offence is the reason for the judicial intervention (principle of legality)
- The personality of the author is very important (personal circumstances 40 CRC)
- The best interest of the child is in the centre of the judge’s reflexions (3 CRC)

Who does what?

- 1) On the facts: the police (especially trained police)
- 2) On the person:
  - Social investigations by the social workers
  - Medical investigations by experts (if necessary)
  - Psychologic investigations by psychiatrists
The judge’s reaction

- He/she gives a judiciary and social answer
- The answer can be:
  - a) diversion
  - b) an alternative measure
  - c) a judgment
- The answer must take into consideration the development of the child and be FLEXIBLE

The Juvenile Judge must consider

- Are there a crime and/or a sickness (perturbation of the development)?
  - What are the causes of the dysfunction?
  - Necessary measures?
  - Necessary treatment?
  - Success indicator?
Interdisciplinary work

- The judge knows the law
- The specialists know the circumstances of the child

THEREFORE:

- Discussion between the judge and the experts to find an appropriate solution
- Discussion of the judge with the child and his/her family to know their possibilities and reactions
- The judge decides

The central role of the Juvenile Judge

- The judge can intervene at any moment
- The judge must establish and maintain the contact with the child (and its family)
- The judge is the cornerstone of all judiciary interventions and is the only one to decide
- The judge is the “personal” judge of the child. He/she is “his/her judge”
A “negociated” justice

- The judge discusses the situation
- Many solutions are proposed
- The most appropriate solution is searched for (not necessarily a consensus)

A Justice of reality

- Juvenile justice aims at modifying the situation of the minor.
- If a sentence is pronounced, it goes to the causes of the offence and tries to act on these.
- Importance of the measures as means of changing the situation of the child (behaviour of the child).
Time

- Time counts for a child
- The reaction must be immediate
- The child must not have the impression that there is no reaction.
CONCLUDING REMARKS

Justice Renate WINTER, Team leader for EU project on Assistance to the Reorganisation of a Penal Justice System in Georgia

It has not only been an honor for me but a real pleasure to direct the Training Course for Officials from Georgia in the beautiful city of Sion, embedded in a fantastic landscape, rich in natural and cultural treasures. It was certainly a honor to assist the group of such dedicated, hard working and highly motivated participants, coming from all institutions dealing with protection and rights of children, as the one from Georgia, using all the effective training facilities at the International Institute for Childs Rights as well as its fabulous team and its hospitality. But it was a huge pleasure as well, taking into consideration that almost all of them were colleagues and friends I worked with during my time in Georgia one way or the other.

It was especially rewarding for me to see how all participants befriended each other as well, trying to set up a strong group, exchanging ideas, plans and experience in order to further the acceptance of the rights of the child in their country with the goal to stay together afterwards, back home.

Remembering five days of intensive work, I am sure that the impact of the theoretical part as well as the really practical one has greatly contributed to a better understanding of a fully functioning system of juvenile justice on the one hand and child protection and rehabilitation, where necessary, on the other. This approach was facilitated by the explanation of the Swiss system by judge Zermatten, the President of the Committee on the Rights of the Child and director of the Institute, who used the welfare system of his county to show the interaction of justice and assistance for children. Presentations concerning legal systems in the field of juvenile justice with a special focus on restorative justice were given especially in Fribourg's juvenile Court by the juvenile judge Arthur Lehmann, who described the reactions of a child oriented justice system and underlined all possibilities a Swiss judge has at his/her disposition to find a “tailor made” judgement or order, assisting the child in his/her reorientation towards a caring society. Judge Lavanchy, specialized juvenile judge in Sion, concentrated his intervention on community service orders, one of the most efficient tools in rehabilitation of young persons, which allows for avoiding the use of custodial measures to a great extent.

In the afternoon visits to different types of institutions, for boys and girls alike, including a visit to the Specialized Police for young offenders and the Mediation Office in Fribourg, the Centre for young addicted persons Foyer Rives-Du-Rhone in Sion, took place. Directors and educators discussed with the participants about the statutes and directives of their institutions and their sometimes demanding policy in trying to solve the individual problems of the young people living there and to get them another chance in life.

The interventions given by judges, by experts and practitioners underlined the importance of team work in order to establish an efficient juvenile justice policy. Judiciary, psychologists, specialized Youth police, Juvenile prosecutors, Juvenile judges and qualified personnel for different, essentially small institutions working closely together and sharing information as quickly as possible can archive by far more positive results than any of the mentioned institutions alone ever could.
The last afternoon was dedicated to draft very practical and especially feasible recommendations, the “Recommendations of Sion” for the stakeholders in Georgia to assist them on their way to a fully fletched efficient juvenile justice and protection system. Taking into consideration the efficiency of the participants and the huge interest of the Georgian government to strengthen support for its children, I think I am entitled to hope that this way will not be a too long one.

Finally I don’t want to forget to reiterate how great it was to work and to discuss with colleagues and friends highly interested and specially devoted to make the life of many children in Georgia a better one.

Justice Renate Winter
ANNEXE

GEORGIA

JUVENILE JUSTICE

GOOD PRACTICES & FIELD VISITS

Training Course

A project of

INSTITUT INTERNATIONAL DES DROITS DE L’ENFANT
(IDE)

July 5th to 10th 2011
FOLLOW UP RECOMMENDATIONS

Prepared by the group of Switzerland Study Visit on Juvenile Justice

A. Members of the delegation

1. Tamar Alania – Judge
2. Tea Giorgadze – Prosecutor
3. Bela Berikelashvili – Prosecutor
4. Zviad Kordzadze – Attorney
5. Giorgi Getiashvili – Probation
6. Anton Kelbakiani – Penitentiary
7. Natalia Zazashvili – Mediator
8. Tamaz Akhobadze – Ministry of Justice
9. Eka Machavariani – Ministry of Interior
10. Renate Winter – Team Leader of the Project
11. Maia Chochua – Deputy Team Leader of the Project

The Group had an intensive (5 days) training course on Juvenile Justice in the International Institute for the Rights of the Child (Sion, Switzerland). The Seminar comprised two parts: one being theoretical presentations by the experts – practitioners and the second one visit to open and closed type of juvenile institutions as well as to a mediation center and a police station specialized on working with children.

As an outcome of the course, all members of the delegation summarized the information received and drafted follow up recommendations. The 10 points listed below are the result of brainstorming and common consensus among the group. There are recommendations requiring legislative changes to the criminal legislation and the group wishes to pass the information to the Working Group on the revision of the Criminal Code, as well as requiring the infrastructure needed and financial resources for an effective implementation of the recommendations. The members of the group fully understand that some recommendations are achievable in the short run and that some require a longer time and more resources, but the members are convinced that these changes will assist Georgia in reaching internationally accepted standards.

1. Specialized training for specialized professionals working in Juvenile Justice:
based on the information received and the visits to the special institutions (special schools, police, drug addicted treatment institutions, courts) the members of the group are convinced that it is absolutely important to have special training to specialize professionals, enabling them to better dealing with juvenile justice issues.

2. Special training modules for all specific professions included in the curriculum of the respective Training Institution:
these modules have to be developed to cover the specific needs of each profession.

3. Shared statistics of institutions involved in criminal justice:
members of the delegation agreed that it would be helpful to share statistics of data concerning children in conflict with the law to develop a coherent policy responding to the respective given situation.
4. Decrease of the maximum sentence and no minimum term for sentence determined in the Criminal Code on crimes committed by juvenile offenders:
Since the State committed itself to a criminal justice system liberalization policy and as there are already significant steps made in this direction, the group considered it important to also make relevant legislative changes and to decrease the sentences and not to determine the minimum punishment in the revised Criminal Code of Georgia. This would provide better opportunities for all involved professionals – judges and prosecutors mainly, to concentrate on the best interests of the child and not to be forced to use harsh punishment.

5. Pro-bono activities for juveniles provided by the Georgian Bar Association when conflict of interests arises within Legal Aid Service:
The only institution providing free legal aid service in Georgia nowadays is the Legal Aid Service. This creates difficulties when there are several defendants in one case and a conflict of interest arises. The Georgian Bar Association should be ready to start providing free legal aid services and immediately start doing it in Juvenile Cases.

6. To ensure consistency for children serving their sentence in the same institution till the end:
(if not in Juvenile Institutions, in special units of Adults Institutions). Since there are significant efforts already made by the state to create best rehabilitation conditions for juvenile prisoners, shifting these prisoners to adults’ institutions may jeopardize the results already achieved.

7. To consider the age group of 18 to 21 as young adults for privileged treatment:
As often youth problems don’t stop exactly at the age of 18, so called young adults should be given some of the privileges of juveniles. (education, mitigating circumstances etc)

8. No criminal records after becoming adult (save in cases of deprivation of liberty):
The group agreed that an empty criminal record should be available to children formerly convicted after becoming adults to enable them to start a new life without losing job opportunities.

9. Increase of trained social workers and specialized probation officers:
Considering that there is already the right vision and concept to address the reform of the penal system, there was a common agreement that the Probation Agency can only achieve relevant results in case there is adequate infrastructure and financial resources allocated to increase the number of probation officers and social workers and to decrease their workload especially by eliminating unnecessary work. (e.g. weekly fingerprinting)

10. Widening the scope of mediation – family mediators and school mediators:
As mediation is recognized as one of the best tools for solving disputes and reconciling parties, the group has agreed that it would be wise to use mediation as well in family disputes and at school level. Especially for children under 14 years of age.
In July of 2010, Georgian Criminal Procedure Code was amended and discretionary prosecution was introduced. The new rules made it possible to develop programs, such as Juvenile Diversion Program. How does this new program work?

If there is a probably cause that a juvenile committed a less grave crime and he/she does not have a prior criminal record, then the prosecutor may decide to divert the juvenile from criminal prosecution.

When such a decision is made, the prosecutor will contact social worker and pass on the case-file of a juvenile to her. The social worker will then formulate a bio-psycho-social portrait of the juvenile and bearing in mind the juvenile’s mental, physical and social conditions, will draw up civil contract. The contract will be signed by the juvenile, his/her parents, prosecutor, social worker and the victim of the crime. The victim is invited to participate in a conference with a juvenile. A concept of mediation (restorative justice) is used to develop terms of the agreement. The juvenile will be provided with the services that he/she needs. He will also be responsible to fulfill certain obligations. He will have to carry out a set of concrete actions.

The state and various non-governmental organizations will provide assistance to the juvenile. The goal of the program is to help the juvenile become an improved citizen of the society. That is why rehabilitation and the social integration of the juvenile is very important.

The social worker will monitor how well the juvenile follows the terms of the contract. There is a possibility that the juvenile will not benefit from this one chance and will breach the terms of the contract. In that case, the social worker will return the file of juvenile to the prosecutor. The prosecutor will then have the right to start or resume criminal prosecution against the juvenile.

Juvenile Diversion and Mediation Program was launched in 15th November, 2010. In 19th November first juvenile was diverted. The program is pilot and covers four cities of Georgia: Tbilisi, Rustavi, Kutaisi and Batumi. It is planned to add two new cities, Gori and Samtredia, to the pilot program.

As of 27th June, 2011 there are 30 juveniles diverted from criminal justice. The diverted juveniles are fulfilling the terms of the contract successfully.
PROGRAM

for

GEORGIA

JUVENILE JUSTICE

GOOD PRACTICES & FIELD VISITS

Training Course

A project of

INSTITUT INTERNATIONAL DES DROITS DE L’ENFANT (IDE)

July 5th to 10th 2011
Training course for officials from Georgia
Institut international des Droits de l'Enfant (IDE)
Sion, Switzerland – 5-10.07.2011

Director: Justice Renate WINTER,

Justice Renate WINTER, Team leader for EU project on Assistance to the Reorganisation of a Penal Justice System in Georgia

Tuesday 05.07.2011

10:35 a.m. Arrival at Geneva airport flight LH2404 from Munich
11:30 a.m. Departure to Sion
02:00 p.m. Arrival to the hotel du Rhône and check-in

Chair: Mr Jean Zermatten, Director of the IDE

03:00 p.m. Departure to the IDE
03:15 p.m. Registration and handing out of documents
03:30 p.m. Opening Ceremony Mrs Renate Winter, Course Director
03:45 p.m. Seminar's presentation: Mr Jean Zermatten, Director of IDE
03:50 p.m. Presentation of the members of the delegation of Georgia
04:15 p.m. The Swiss legal system for young offenders Mr Jean Zermatten, Director of IDE
05:45 p.m. End of the day and transfer back to the hotel
07:15 p.m. Pick up at the hotel by IDE staff and walk to the Cave des Sans Terre
07:30 p.m. Valaisanne evening, Cave des Sans Terre, Old City of Sion
Wednesday 06.07.2011

Visits lead by: Mrs Aline Sermet, Juvenile Court, Fribourg

Visits of a Juvenile court, Mediation Office (pilot project) and Minors’ Brigade

07:30 a.m.  Departure to Fribourg

09:00 a.m.  Arrival in Fribourg
Welcome of the participants and visit of the Juvenile Court of Fribourg
Mr. Arthur Lehmann, Juvenile Judge and Mrs Aline Sermet, Juvenile Court, Clerk-Chief, Fribourg

10:30 a.m.  Transfer to the Mediation Office for young offenders and visit led by Mr. Gérard Demierre, Mediator, Director of the Office

12:15 p.m.  Lunch at the Grandfey restaurant

02:30 p.m.  Visit of a specialized police station for young offenders, La Grenette (Minors’ Brigade)
Mr. Alex Bircher, Minors’ Brigade Chief

04:00 p.m.  Visit of the old town of Fribourg

05:30 p.m.  End of the visit and transfer back to Sion

06:30 p.m.  Dinner on the way back to Sion

09:30 p.m.  Arrival in Sion, transfer to the hotel
Thursday 07.07.2011

Chair: Mrs Renate Winter, Course Director

08:45 a.m. Departure to the IDE

09:00 a.m. Restorative Justice
Mrs Renate Winter, Course Director

10:00 a.m. Children in street situations
Prof. Daniel Stoecklin, IDE, Sion

10:45 a.m. Break

11:00 a.m. Presentation of the Georgian’s Juvenile Justice System
Tamaz Akhobdze from the Georgian’s delegation

12:30 p.m. Lunch at St-Raphaël CPA

02:00 p.m. Visit of the 2 St-Raphaël units for young, boys and girls,
open institution – visit lead by Mr Jean Zermatten:

02:00 p.m. - Center for vocational training boys – CPA (14 – 16)
03:30 p.m. - Young workers home (15-19 years old)

04:30 p.m. End of the day, transfer back to the hotel and free evening
Chair: Mr. Jean Zermatten, Director of the IDE

08:45 a.m.  Departure from the hotel for the “Foyer Rives-du-Rhône”, Sion

09:15 a.m.  Visit lead by Mr Jean Zermatten, of the Foyer Rives-du-Rhône in Sion, Rehabilitation Center for substance-addict adolescents and young people

11:45 a.m.  Transfer to the restaurant for lunch

12:15 p.m.  Lunch at the Bramoisien restaurant

01:30 p.m.  Police and Juvenile Court
Mr Martin Lauber, Chief of the Minors Squad Section, Cantonal Police / Valais, Switzerland

03:15 p.m.  Break

03:30 p.m.  CRC and Juvenile Justice, legal and practical references
Mr Jean Zermatten, Director of the IDE

05:15 p.m.  End of the day, transfer back to the hotel and free evening
Saturday 09.07.2011

Chair: Mr Xavier Lavanchy, President of the Juvenile Court in Sion

08:45 a.m. Departure to the IDE

09:00 a.m. Community service orders: theory and practice
Mr Xavier Lavanchy, President of the Juvenile Court in Sion, Switzerland

09:45 a.m. Children with special needs. The vulnerable group.
Mrs Renate Winter, Course Director

10:30 a.m. Break

10:45 a.m. The work of a Juvenile Judge. The importance of Collaboration
Mrs Renate Winter, Course Director

11:45 a.m. Plenary Discussion with the participation of a Swiss Juvenile Judge
Mr Xavier Lavanchy, President of the Juvenile Court in Sion, Switzerland

12:30 p.m. Lunch at the Bramoisien restaurant

01:30 p.m. Workshops
Recommendations to be presented to the Georgian authorities
Mrs Renate Winter, Course Director

02:45 p.m. Adoption of the recommendations

03:10 p.m. Closing Ceremony
Head of Georgian Delegation
Mrs Renate Winter, Course Director

03:15 p.m. End of the training course and transfer back to the hotel free evening

Sunday 10.07.2011

10:00 p.m. Departure to Geneva from the hotel

12:15 p.m. Arrival in Geneva and small city tour (no guide) during 2 hours max

02:15 p.m. Transfer to the airport an check-in

05:00 p.m. Flight back to Munich and Tbilisi (LH2385 and LH2556)
GEORGIA

General presentation

Georgia is a sovereign state in the Caucasus region of Eurasia. Located at the crossroads of Western Asia and Eastern Europe, it is bordered to the west by the Black Sea, to the north by Russia, to the southwest by Turkey, to the south by Armenia, and to the southeast by Azerbaijan. Tbilissi is the nation's capital and the country's largest metropolitan city.

The landscape within the nation's boundaries is quite varied: largely mountainous with Great Caucasus Mountains in the north and Lesser Caucasus Mountains in the south; Kolkhet’is Dablobi (Kolkhida Lowland) opens to the Black Sea in the west; Mtkvari River Basin in the east. Forests cover around 40% of Georgia's territory while the alpine/subalpine zone accounts for roughly around 10% of the land.

Georgia came under Roman influence in the first centuries A.D. and Christianity became the state religion in the 330s. Domination by Persians, Arabs, and Turks was followed by a Georgian golden age (11th-13th centuries) that was cut short by the Mongol invasion of 1236. Subsequently, the Ottoman and Persian Empires competed for influence in the region. Georgia was absorbed into the Russian Empire in the 19th century. Independent for three years (1918-1921) following the Russian revolution, it was forcibly incorporated into the USSR until the Soviet Union dissolved in 1991. An attempt by the incumbent Georgian government to manipulate national legislative elections in November 2003 touched off widespread protests that led to the resignation of Eduard Shevardnadze, president since 1995. New elections in early 2004 swept Mikheil Saakashvili into power along with his United National Movement party. Progress on market reforms and democratization has been made in the years since independence, but this progress has been complicated by Russian assistance and support to the breakaway regions of Abkhazia and South Ossetia. After a series of Russian and separatist provocations in summer 2008, Georgian military action in South Ossetia in early August led to a Russian military response that not only occupied the breakaway areas, but large portions of Georgia proper as well. Russian troops pulled back from most occupied Georgian territory, but in late August 2008 Russia unilaterally recognized the independence of Abkhazia and South Ossetia. This action was strongly condemned by most of the world's nations and international organizations.

Political geography

Georgia is divided in 9 regions (Guria, Imereti, Kakheti, Kvemo Kartli, Mtskheta-Mtianeti, Racha-Lechkhumi and Kvemo Svaneti, Samegrelo and Zemo Svaneti, Samtskhe-Javakheti, Shida Kartli), 1 city (Tbilissi) and 2 autonomous republics (Abkhazia and Ajaria).

Map of Georgia with zone divisions

![Map of Georgia with zone divisions](image)

Population

<table>
<thead>
<tr>
<th>Population structure $^5$</th>
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<tbody>
<tr>
<td><strong>Data</strong></td>
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<tr>
<td>Population</td>
</tr>
<tr>
<td>Growth Rate</td>
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<tr>
<td>Population below 14 Years</td>
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<tr>
<td>old</td>
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<td>Population of age 15 to 64</td>
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<td>Population above 65</td>
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<td>The median age (Average)</td>
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<td>The median age (Male)</td>
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<td>The median age (Females)</td>
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<td>Ratio (Male:Female)</td>
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<td>Life expectancy (Average)</td>
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<td>Life expectancy (Male)</td>
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<td>Life expectancy (Female)</td>
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<tr>
<td>Literacy Rate (Average)</td>
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<tr>
<td>Literacy Rate (Male)</td>
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<tr>
<td>Literacy Rate (Female)</td>
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Language

The official language is Georgian 71%, Russian 9%, Armenian 7%, Azeri 6%, and other 7%.
Abkhaz is the official language in Abkhazia.

Religion

<table>
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<tr>
<th>Religion</th>
<th>Percent</th>
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<tbody>
<tr>
<td>Orthodox Christian</td>
<td>83.9 %</td>
</tr>
<tr>
<td>Muslim</td>
<td>9.9 %</td>
</tr>
<tr>
<td>Armenian-Gregorian</td>
<td>3.9 %</td>
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<tr>
<td>Catholic</td>
<td>0.8 %</td>
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<tr>
<td>Other</td>
<td>0.8 %</td>
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<tr>
<td>None</td>
<td>0.7 %</td>
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</table>

Georgia and children’s rights


The Committee notes with appreciation the legislative and programmatic measures taken with a view to implementing the Convention, including⁶:

⁶ CRC/C/GEO/CO/3 2008
(a) The Law on Combating Domestic Violence, Prevention of and Support to Victims, in June 2006;
(b) The Law on Adoption, in May 2008;
(c) The Safe School Program, aimed to reduce violence on and off school premises, introduced in 2007; and

The Committee also welcomes the ratification/accession by the State party to:

(a) The Council of Europe Convention on Action against Trafficking in Human Beings, on 14 March 2007;
(c) The Framework Convention for the Protection of National Minorities, on 22 December 2005;
(d) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 9 August 2005; and

Main problems related to children’s rights

- Factors and difficulties impeding the implementation of the Convention

The Committee notes that the de facto lack of control by the State party over Abkhazia and South Ossetia/Tskhinvali region is a serious obstacle for the State party in the implementation of the Convention in those regions.

- Committee’s previous recommendations

The Committee notes that several concerns and recommendations made upon the consideration of the State party’s second periodic report (CRC/C/15/Add.222) have been addressed. However, it regrets that some of its concerns and recommendations have been insufficiently or only partly addressed, including those related to: legislation; allocation of resources; reduction of poverty; social security and services; internally displaced children; street children; and juvenile justice.

- National Plan of Action

While welcoming the adoption of the National Action Plan for Child Care for 2008-2011, the Committee regrets that it does not cover all areas of the Convention. The Committee

7 http://www.ohchr.org/EN/countries/ENACARegion/Pages/GEIndex.aspx
also regrets that the previous National Plan of Action for Children (2002-2003) was not implemented due to insufficient financial backing from the State budget.

- **Independent monitoring**

While welcoming the establishment of the Child’s Rights Centre of the Office of the Public Defender and its role in the protection of the rights of the child, the Committee regrets that the Child Rights Centre does not have adequate human and financial resources to fulfil its mandate throughout the country. The Committee is also concerned that the reports and the recommendations of the Child’s Rights Centre are not considered in a timely fashion by Parliament. The Committee is further concerned about the inability of the Child’s Rights Centre to have unhampered access to children in State institutions.

- **Data collection**

The Committee, while noting that the State Department for Statistics under the Ministry of Economic Development is responsible for comprehensive data collection, remains concerned that the lack of reliable statistics on children are hampering effective follow-up or evaluation of the implementation of the Convention. The Committee is particularly concerned that disaggregated data and analytic information in important areas of the Convention are not available such as on children with disabilities, refugee and internally displaced children, child abuse and neglect, children who are victims of sexual exploitation, including prostitution, pornography and trafficking, substance abuse and children working and/or living in streets.

- **Non-discrimination**

The Committee is concerned that, despite the Constitutional and other guarantees, the principle of non-discrimination is not fully respected in practice with certain groups of children, including, inter alia, for children belonging to minorities; children with disabilities; refugee and asylum-seeking children; children who are internally displaced; children of disadvantaged families; street children; children in juvenile justice system and children living in rural or remote areas. The Committee also notes with concern that girls in particular are disproportionately affected, due to gender discrimination.

- **Cooperation with civil society**

While noting the existence of an active civil society in Georgia, the Committee notes with regret that insufficient efforts have been made to support civil society as partners in the implementation of the Convention, and to involve non-governmental organizations (NGOs) in the preparation of the third periodic report to the Committee.

- **Best interests of the child**

The Committee is concerned that procedures to determine the best interest of the child (art. 3) are lacking in the laws and the decision-making processes of the State party on matter relating to children, particularly in the areas of juvenile justice and adoption.
• **Respect for the views of the child**

However, the Committee is concerned that the State party’s efforts to promote the right to participation of those children, who belong to vulnerable groups, including internally displaced children, have been insufficient, particularly in civil, judicial and administrative procedures. The Committee also regrets that children’s forums for participation and decision making for matters affecting them, such as the Youth Parliament, are no longer supported by the State party. The Committee further notes with concern that the traditional attitudes in Georgian society may limit children’s right to freely express their views within the family, in schools and in the community at large.

• **Birth registration**

The Committee welcomes the progress achieved with regard to birth registration rates due to the simplification of the birth registration procedure in 2003 and that birth registration is now free-of-charge. However, the Committee remains concerned that large numbers of children belonging to minority groups, as well as internally displaced and refugee children, are still not registered at birth.

• **Torture and inhuman or degrading treatment or punishment**

While welcoming the accession by Georgia in 2006 to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the elaboration of the Anti-Torture Action Plan, as well as the establishment of the Inter-agency Coordinating Council for fight against torture in June 2007, the Committee remains concerned about information indicating that children continue to be victims of arbitrary detentions, police brutality and ill-treatment in detention facilities.

• **Corporal punishment**

While noting the legal prohibition of corporal punishment in school as stipulated in Article 19 of the Law on General Education, the Committee notes with concern that corporal punishment in the home remains lawful. Furthermore, the Committee concerned that corporal punishment continues to occur in the home as well as schools and institutions.

• **Family environment**

The Committee is deeply concerned that a large number of children are customarily placed in institutions due to the lack of adequate services and financial support to families or the absence of social service alternatives and effective gate-keeping mechanisms, and that most of the children placed in residential care are in fact not orphans. The Committee is also concerned that the social services network remains underdeveloped and that qualified social workers and social services are in short supply. The Committee also notes with concern that the current reforms focus mainly on children in institutions, and have not dealt with social exclusion issues such as poverty and domestic violence which could adequately address the needs of children and families at risk and effectively prevent the abandonment and institutionalization of children.
• **Children with disabilities**

The Committee, while welcoming the various measures aimed at promoting inclusive education for children with disabilities with a view to using the model in all schools, regrets the lack of a comprehensive government policy for children with disabilities which takes into account their overall developmental needs, including their right not to be discriminated against, the right to education and the right to health.

• **Health and health services**

The Committee welcomes the various measures undertaken by the State party in the context of health reform, including the adoption of the National Policy and Strategic Plan of Healthcare for 1999-2010, the introduction of the free-of-charge medical treatment for children. However, the Committee is gravely concerned by the high rates of neonatal deaths and premature births as well as the overall state of prenatal and post-natal health care, in particular, among the minority groups. The Committee is also concerned that many children have limited access to medical care as a result of geographic restrictions, and about the marked disparities in the quality of water, which continues to have a negative impact on the health of the population in rural areas.

• **HIV/AIDS**

The Committee is concerned at the increasing number of children with HIV/AIDS or who are affected by the HIV/AIDS-related illness or death of their parents and other family members, and at the lack of concerted action by the State party.

• **Standard of living**

Despite the impressive overall economic progress achieved by the State party, the Committee remains concerned by the persistence of widespread poverty and deprivation in the country and notes that the overall standard of living of many children is very low, as measured by indicators such as access to housing, water and sanitation. In particular, it expresses concern at the large disparities in living standards among children in the State party, depending on, inter alia: rural/urban residence; family size and structure; refugee or internally displaced persons (IDP) status. The Committee also notes with regret that no information has been provided by the State party on whether children are prioritized and mainstreamed in its poverty-reduction strategy.

• **Refugee children**

While welcoming the April 2007 amendments to the Law on Refugees Issues which grant refugees registered in Georgia temporary residence permits, and that the Law is in the process of being revised to bring it closer in line with international standards, the Committee is concerned about the deprived living conditions of refugees living in the State party, including Chechen refugees. The Committee is particularly concerned about the lack of sufficient protection of the rights of children in isolated refugee communities that severely hampers development and well-being of these children.
• Internally displaced children

While welcoming the newly adopted draft action plan for the implementation of the national strategy on internally displaced persons adopted on 2 February 2007 with an increased focus on integration, the Committee remains concerned that internally displaced children in the State party continue to face serious socio-economic deprivation, especially their limited access to housing, health services and education, as well as the physical and psychological impact of displacement on children. The Committee is further concerned about the potential negative impact of segregated schools for internally displaced children.

• Economic exploitation, including child labour

The Committee notes the State party’s position that child labour is not a problem in Georgia, however it is concerned that the Child Labour Survey conducted by the State Department for Statistics in 2004 indicated that over 21.5 per cent of children in the State party were engaged in economic activities and that 10.56 per cent of children were undertaking work in conditions that violate their rights and harm their development.

• Street children

While noting that a study on street children is currently underway, the Committee remains concerned by the absence of strategic measures addressing the situation of children who work or live in the street. The Committee is particularly concerned about the plight of these children in view of the risks to which these children are exposed, including trafficking.

• Sexual exploitation of children

The Committee is concerned about the paucity of information provided with regard to sexual exploitation and prostitution of children in the State party, and in particular, expresses concern about the absence of:

(a) Comprehensive legislation to prevent sexual exploitation of children;

(b) Protection and/or recovery assistance and social reintegration for children who are victims of sexual exploitation; and

(c) Data on the extent and patterns of sexual exploitation and prostitution.

• Administration of juvenile justice

While noting that that a reform of the criminal justice system is currently underway, the Committee is concerned that the Convention does not appear to be adequately reflected in guiding documents on the State reform of the criminal justice system, for example, the “Implementation Plan for the Strategy of Criminal Justice Reforms in Georgia, 12 June 2006”. In particular, the Committee is concerned about:

(a) The abolishment, in November 2006, of the Commission of Minors and the Inspectorate of Minors, the only specialist unit dealing with prevention activities with regard to juveniles, and that apparently no appropriate mechanism has been put in its place;
(b) The increasing number of children entering the criminal justice system and receiving custodial measures and punishments;

(c) The lack of juvenile courts;

(d) The absence of efficient mechanisms to ensure that imprisonment is used as a last resort and for the shortest possible period of time (e.g. pre-sentence reports, risk and needs assessment, individual sentence planning, parole board); and the often disproportionate length of sentences in relation to the seriousness of offences;

(e) The lack of community-based programmes offering an alternative to prosecution and custody, in particular, the negative impact of the 2006 “Zero-Tolerance” policy on juvenile offenders, such as the reduced possibility of alternative sentencing;

(f) The excessive length of pre-trial detention and the limited access to visitors during this period;

(g) The conditions of detention; and

(h) The absence of facilities for the physical and psychological recovery and social reintegration of juvenile offenders.

- **Minimum age for criminal responsibility**

The Committee deeply regrets the decision of the State party to lower the minimum age for criminal responsibility from 14 to 12.

- **Children belonging to minority groups**

While recognizing the State party’s efforts to ensure equal enjoyment of rights for children belonging to minority groups, including the establishment, in 2005, of the Council of National Minorities and the National Council on Civic Integration and Tolerance (NCCIT), the Committee remains concerned that children from minority populations experience discrimination in the enjoyment of their rights as stipulated in the Convention, in particular, concerning culture and language.

The Committee notes that after the “Rose Revolution”, the State party has been encouraging its population, through the enforcement of its language law, to use Georgian in all public spheres. However, the Committee is concerned that insufficient efforts have been made by the State party to facilitate learning by children belonging to minority groups in Georgia, both in Georgian and in their own language.

**The Committee invited the State party to submit its fourth periodic report, by 1 July 2011.**