Training Course on Juvenile Justice for Officials from Jordan

Sion Seminar 2006

Jean Zermatten (Ed.)

Working Report

2 - 2006
Training Course on Juvenile Justice for officials from Jordan

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This working report presents the various conferences of the Sion Seminar, held in Switzerland from November 4th to 11th 2006

A project of

Penal Reform International (PRI) and the UNODC

in cooperation with

Institut International des Droits de l’Enfant (IDE)

Working Report

2 - 2006
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OPENING SPEECHES
Hermann MURMANN, Cantonal Judge, President of the High Court, of Valais, Sion

Honorable Chief of Delegation, Mr Mohamed Al-Tarawneh,
Members of the Delegation, representants of

- the Ministries of Justice, Social Development,
- the Judicial Office,
- the Family Protection Department,
- the Family and Child Protection Society,
- the National Centre for Human Rights,
- the NGOs
  o Mizan Law Group for Human Rights,
  o Questoscope,

Dear Madams Carlotta Ferrerro and Sahar Rawas, Representative of United Nations Office on Drugs and Crime (UNODC),

Dear Madame Silvia Torricelli, Director of the Seminar,
Dear Mr Jean Zermatten, Director of the IDE and his staff,

Distinguished participants,

On behalf of the High court and the judicial authorities of Canton du Valais, I have the honour to welcome you in Switzerland, and more precisely in the beautiful Canton of Valais. The Judicial power is very proud to receive this high level delegation coming in our country to visit institutions, to see best practices and to have a practical view of the Swiss system dealing with juvenile offenders.

The International Institute for the rights of the child (IDE), located here in this pretty city of Sion, is used to receive training course in the field of Juvenile Justice. This time, I would like to take this opportunity to thank UNODC and Penal Reform International to have create this event (or joint-venture) inviting a delegation of responsible of Jordan in the field of Juvenile Justice to come here for “Best Practices and Visits” on the topic of Juvenile Justice. As many of you already know, IDE has been involved in juvenile justice in many countries for the past six years and has received many delegations from many countries. Today, we are provided with another country and opportunity to work with you and embark in the process of shaping a solid juvenile justice system that brings internationally recognized standards in the field to the Jordan reality.

Juvenile Justice is very well doted with international standards, since we have a lot of instruments dealing with the problems of the young coming in conflict with the law. Naturally, the principal instrument is the Convention on the Rights of the Child, to which Jordan is a signatory, and has recently presented its report to the Committee for the Rights of the child in Geneva. Judge Mohamed Al-Tarawneh was present at this important session and gave very acute answers on the Jordan judicial system.

But at the international (or universal) level, we have also others instruments like the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles
Deprived of Their Liberty and the new Guidelines on Justice for child victims and witnesses of crime. All this rules provide a comprehensive framework of juvenile justice. And from these rules, it's possible to find out some core principles that can be summarised as:

- The necessity to protect the dignity and the well-being of the child and ensures that any reaction to juvenile offenders shall always be proportionate both to the circumstances and the offence;
- The promotion of the child’s re-integration and the child’s assuming a constructive role in society;
- The establishment of a minimum age below which children are presumed not to have the capacity to infringe the penal law;
- The development of alternatives to deprivation of liberty or institutional treatment or care (in particular in pre-trial detention) to prevent the negative effects of imprisonment and isolation;
- The necessity to deal with children, keeping them in their own community as far as possible. If detained in jail, they shall be contact with their family;
- The control of strict conditions of imprisonment as separation from adults, education and possibilities to work or to be occupied, measures when they are released for appropriate help and support;
- The obligation to select and train qualified personnel available in all elements of the system (not only in the courts);
- The idea to tackle the problems before the young come in conflict with the law: it means to emphasis the prevention that requires efforts of the part of the entire society and not only of so called “specialists”. The role of the family and of the school system is of paramount importance.

The main problem that faces the States when changing a law is to find its way, respecting its culture, its history and the political will of the citizens. But one problem is common to all States: how to avoid the destructive consequences of the uncritical use of deprivation of liberty? Many countries have the same problem.

The answer is surely in looking at alternative measures to develop both public safety and responses to juvenile justice offenders that respect their rights and their best interests.

In concluding my intervention I would like to express the best wishes from our Authorities, in particular from the High Court, and to ensure you of the full commitment of the International Institute for the rights of the child to give you the best hospitality in our canton du Valais. As you know, the official part (lectures, visits, and workshops...) are important; the people coming to give you lectures or the institutions you will visit are very good ones and the IDE has tried to shape a well-balanced programme.
But beyond the academic part, I hope you will find also a convivial part, because, I do believe in the importance of the persons and relationships. And the Valais is a wonderful place to make contact.

So ENJOY your stay in Sion, Valais, Switzerland!

Thank you for your attention and have a fruitful seminar.
Jean ZERMATTEN, Director of the IDE, former Juvenile Judge, Sion

I have the pleasure to welcome all of you in our International Institute for the Rights of the Child (IDE).

Honourable Chief of Delegation, Mr. Mohamed Al-Tarawneh,
Members of the Delegation, representants of
- the Ministries of Justice, Social Development,
- of the Judicial Office,
- of the Family Protection Department,
- of the Family and Child Protection Society,
- of the National Centre for Human Rights,
- of the Mizan Law Group for Human Rights,
- of Questscope,

Dear Madam Carlotta Ferrero and Sahar Rawas, Representative of United Nations Office on Drugs and Crime (UNODC),
Dear Mrs Silvia Torricelli, Scientific Director of the training course,
Dear Guests,
Dear Participants to this seminar,

Already two months ago, I had the pleasure to attend the CRC session in Geneva, which took place on September 22 and where the Jordan’s third periodic Report has been considered and where some of you has also been present, in particular, my colleague, M. Mohamed Al-Tarawneh. It was very interesting to have this event before your seminar here in Sion and to have the possibility to to discuss on the topic of the Jordan Juvenile JUSTICE SYSTEM, because I could learn a lot on the legal situation of your country and I remarked the determination of many people to change the situation, in particular concerning the use of deprivation of liberty, not used as the measure of last resort (I refer here to the CRC Concluding observations¹: concern 94 b: “Due to the lack of alternative sentences, deprivation of liberty is not used as a last resort“.

In this concern, w had two questions:

1) the place of deprivation of liberty in Jordan

2) and the necessity to develop alternatives to the imprisonment.

The answer given by the Committee is clear and summed up in the recommendation 95 b of the Committee: The Committee recommends that the State party...

“(b) Strengthen its efforts to implement the Juvenile Justice Reform Programme and to ensure that it conforms fully with the principles and provisions of the Convention and develop and implement a comprehensive system of alternative measures such as community service

¹ CRC/C/JOR/CO/3 of 29.09.2006 p. 20
orders and interventions of restorative justice in order to ensure that deprivation of liberty is used only as a measure of last resort.\(^2\)

But since it was just a one day session, it was not possible to have a very deep and exhaustive discussion on your system. Anyway, I think that every country have to think and decide by itself on the way it wants to reform (or not) its system because it has to take into account its own culture, traditional juridical system, particularities and the will of the people. No State can give lessons to another one and say, OK we have the best system, so you can copy it and implement it in your country...

If you are in Sion, it’s not for the purpose of copying an ideal system. I will present you after this introduction, the system of Switzerland, which is a system, but not the ideal one; it has, as many, its limits and defaults. But you are here to think about Juvenile Justice, and that is important in the perspective of your country and the implementation of the laws No. 11 and No. 52 of 2002 amending the Juveniles Act, that you are working on. I see our role, as an Institute, to help you to have this reflexion. So we will present you some lectures, on the principal problems a State has to face when it is in the phase of change; but we will be more concrete with a programme of visits of institutions, all different, but all with some similarities: the common belief in rehabilitation, let me say better, in the idea of education. You will not see policemen or guardians, you will see specialised social workers acting inside the institutions and you will see close institutions, semi-open ones, and very open facilities. We will also have the opportunity to meet with people acting in the Juvenile Justice system. Please don’t hesitate to ask all questions, even if provocative, because people are used to it...

And I hope you will learn a lot.

Distinguished Participants,

The important points we have to discuss can be summarised as follow:

1. **The Collaboration** between Police, Social Services, Institutions and the court(s)? This issue is crucial when we are speaking in a juvenile justice perspective.

2. **The principle of Individualisation.** How to treat the young offender: as an adult with the principle of proportionality? Or as a juvenile, with the principle of the best interests of the child (art. 3 CRC)? i.e. case-by-case?

3. What place to give to the alternatives? In the new concept of Restorative Justice, we must think to a possibility for news answers (we can call it the “creativity” of the judge in the legal framework).

4. As the first alternative to think about is the mediation; but not forget the possibility of diversion (many forms possible) or all the field of personal activities of the young offenders, like for example the Community Services Orders.

5. No systematically deprivation of liberty: it’s the application of the rules of the CRC: the deprivation of liberty seen as the last resort measure, for serious offences and for the shortest period possible. But what to do instead of placement or prisons?

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\(^2\) idem
6. Procedural **guarantees**: the young offender is a person and has several rights: it’s a new paradigm derived from the art 40 CRC and from several international instruments, as the Beijing Rules. But how to implement this rights and which procedural rules in the proceedings codes?

7. The CRC is clear: we need Juvenile courts; the **specialization** is a necessity. Not only in the Capital, but in the whole country. This is a challenge for every State party to the CRC, not only for Jordan.

8. The personal involved in the Juvenile Justice System has to be trained. It’s easy to proclaim it; it’s difficult to realize, because of time, money and the lack of well trained trainers. And the training is the basis; the involvement of the persons is a factor of success.

9. One point, not to forget: **avoid the rotation in personal**. Sometimes, people work one year, two years and then changes. To be “productive” in such a difficult matter (as juvenile delinquency) requires years of experience!

10. What can bring the **collaboration with NGO’s**; it’s also an area to discuss, because we have very good NGO’s who are active in the field. Or NU agencies…

11. And finally, the **question of ages**: at what age, a State has to intervene with penal answers, and what is the age or entire criminal responsibility?

I’m aware that all the problems are very delicate and complex; I do hope we will deal with them in an open way.

I wish you a very constructive and interactive seminar.
THE SWISS LEGAL SYSTEM FOR YOUNG OFFENDERS
Jean Zermatten, Director of the IDE, Former Juvenile Judge, Sion

The presentation plan

Ancient Art. 82 to 99 CPS

New federal law
1) Law of inspiration "welfare"
2) The objectives of the law
3) Distinction between juvenile delinquents and juvenile endangered
4) The ages of intervention and the conditions of place
5) Statistics
6) Catalog and characteristics of the measures and the punishments

The models

In the world, there are three models that inspire the juvenile court's systems:
- the Welfare Model 1900 - 1960,
- the Justice Model, or Control model 1960 – 1980,
- the Restorative Model 1980 – ?
The Welfare Model

The Welfare Model puts the emphasis on the **person of the young offender**. The latter is seen more as a **victim** than as an offender: victim (family, history, hazard of care environment, immaturity, ...). The justice does not have to punish him, but to look for **the causes** of his behaviour and to act on them. Important (symbolic) role of the **Judge**.

**Procedural guarantees** are weak. The principal answer to the offence is a **measure**. The question of the responsibility isn’t important. The Model was the French legislation of 1945, still in function, (several reforms).

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**. Principal answer: **deprivation of liberty**. In the model the **procedural rights** of the young are very developed, but not the possibilities of taking care. The question of guilty or not guilty is the central point of the trial. If this model goes until his 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 goes from the idea to re-integrate the victim in the process and from the other **idea of reparation**. The young offender has to face his victim(s) and to do something in order to repair his fault.

The second idea is the **restoration** of the relationships with the community. These two ideas are important. During a long time, the victims / community have been forgotten.

A system that favours the **participation**. Concretely, **Mediation** and **Service Community Orders** appear and become more and more applied. But also Family group Conferences.

Example : the Austrian law for juvenile (1988)

---

The objectives/goals of the Swiss criminal law of the minors

**A law inspired by the welfare Model, but with restorative elements**

The objectives are :

- Educational
- Curative/Care
- Preventive
- Social integration
- Protection

The control is not at the front row :

**Deprivation of liberty is the exception**
### General ideas of the Swiss system

- Difficultly: federalism (26 cantons)
- The material law is federal (CP)
- The proceedings and judicial organisation is cantonal
- The organisation of the execution is cantonal
- Distinction
  - Minors/juveniles endangered /
  - Minors delinquents

- Minors endangered / or in difficult circumstances

Civil authorities = guardian (ship) system

Several models: Courts or administrative authorities, at cantonal or municipal level
Minors delinquents (juvenile offenders)

Penal authorities =
Juvenile Court: cantonal level

specialised courts with specialised judges

Swiss System
conditions of age

<table>
<thead>
<tr>
<th>Age</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-7 years old</td>
<td>absolute irresponsibility</td>
</tr>
<tr>
<td>7-14 years old</td>
<td>limited responsibility</td>
</tr>
<tr>
<td>15-18 years old</td>
<td>relative responsibility</td>
</tr>
<tr>
<td>18 years old</td>
<td>majority (civil, civic, and penal)</td>
</tr>
<tr>
<td>18-25 years old</td>
<td>youth adults</td>
</tr>
<tr>
<td></td>
<td>total responsibility but a watered-down intervention</td>
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</tbody>
</table>

NEW LAW COMING.....
**New Law (01.01.2007)**

Conditions of age

<table>
<thead>
<tr>
<th>Age Range</th>
<th>Description</th>
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<tbody>
<tr>
<td>0 – 10</td>
<td>no penal intervention if an offence is committed: parents / civil authorities</td>
</tr>
<tr>
<td>10 – 18</td>
<td>juvenile offenders: with emphasis on Community Service Order and Mediation</td>
</tr>
<tr>
<td>15</td>
<td>limit for deprivation of liberty (fine)</td>
</tr>
<tr>
<td>16</td>
<td>limit for extraordinary</td>
</tr>
<tr>
<td>18</td>
<td>penal majority</td>
</tr>
<tr>
<td>18 – 25</td>
<td>young adults</td>
</tr>
</tbody>
</table>

Conditions of place

- Inquiries: place where the act is committed
- Judgment: place where the young lives
- Reason: to be able to consider the personal and familiar situation of the young offender (double proportionality)
Generally speaking, the situation in Switzerland is characterized by:

- A **sharp rise** in the number of minors charged and convicted in juvenile court,
- A shift from “adult” delinquency towards **juvenile delinquency**, 
- A **change in the type of offenses** committed by minors, (violence !)
- A **drop in the age** at which offenses are committed.

### Statistics

#### Number of minors condemned in Switzerland

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
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<tbody>
<tr>
<td>1990</td>
<td>6'803</td>
</tr>
<tr>
<td>1991</td>
<td>7'278</td>
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<tr>
<td>1992</td>
<td>7'357</td>
</tr>
<tr>
<td>1993</td>
<td>7'930</td>
</tr>
<tr>
<td>1994</td>
<td>8'243</td>
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<td>1995</td>
<td>7'983</td>
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<tr>
<td>1996</td>
<td>8'900</td>
</tr>
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<td>1997</td>
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<td>1998</td>
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<td>1999</td>
<td>12'238</td>
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<td>2000</td>
<td>11'314</td>
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<tr>
<td>2001</td>
<td>12'319</td>
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<tr>
<td>2002</td>
<td>12'854</td>
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<tr>
<td>2003</td>
<td>13'483</td>
</tr>
<tr>
<td>2004</td>
<td>14'163</td>
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<tr>
<td>2005</td>
<td>14'106</td>
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Number of minors condemned in Switzerland

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<th>Year</th>
<th>Number of Minors</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>6803</td>
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<td>1991</td>
<td>7278</td>
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<td>1993</td>
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<td>1994</td>
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<tr>
<td>1995</td>
<td>7893</td>
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<td>1996</td>
<td>9364</td>
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<td>1997</td>
<td>11314</td>
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<td>1998</td>
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<tr>
<td>1999</td>
<td>12854</td>
</tr>
<tr>
<td>2000</td>
<td>13144</td>
</tr>
<tr>
<td>2001</td>
<td>13483</td>
</tr>
</tbody>
</table>

Number of minors denounced in the Swiss French part

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Minors</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>6803</td>
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<tr>
<td>1991</td>
<td>7278</td>
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<td>2000</td>
<td>13144</td>
</tr>
<tr>
<td>2001</td>
<td>13483</td>
</tr>
</tbody>
</table>

15
Statistics

Number of minors **denounced** in Valais

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Minors</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>829</td>
</tr>
<tr>
<td>1991</td>
<td>884</td>
</tr>
<tr>
<td>1992</td>
<td>904</td>
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<tr>
<td>1993</td>
<td>874</td>
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<tr>
<td>1994</td>
<td>928</td>
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<tr>
<td>1995</td>
<td>1,016</td>
</tr>
<tr>
<td>1996</td>
<td>1,026</td>
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<tr>
<td>1997</td>
<td>1,072</td>
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<td>1998</td>
<td>1,097</td>
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<td>1999</td>
<td>1,273</td>
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<td>2000</td>
<td>1,387</td>
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<td>1,360</td>
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<tr>
<td>2002</td>
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<td>2003</td>
<td>1,354</td>
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<tr>
<td>2004</td>
<td>1,374</td>
</tr>
<tr>
<td>2005</td>
<td>1,371</td>
</tr>
</tbody>
</table>
Denounced is not condemned

About half of all minors denounced go to court and receive a judgement. The juvenile judge has the possibility to:
- suspend his decision
- class the action
- renounce to the sanction
- introduce a mediation (if success = class the action)

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 one third peaking at 44% as seen for the canton of Fribourg in 2003!
### Changes in the Type of Offenses Committed

#### A) Property offenses

<table>
<thead>
<tr>
<th>Year</th>
<th>Convicted Juvenile (Convict)</th>
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</thead>
<tbody>
<tr>
<td>1990</td>
<td>4,410</td>
</tr>
<tr>
<td>1997</td>
<td>5,785</td>
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<tr>
<td>2000</td>
<td>5,052</td>
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<tr>
<td>2003</td>
<td>5,908</td>
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</table>

#### B) Drugs-related offenses

<table>
<thead>
<tr>
<th>Year</th>
<th>Convicted Juvenile (Convict)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>767</td>
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<td>1997</td>
<td>1,609</td>
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Changes in the Type of Offenses Committed (3)

C) Offenses against the physical integrity (violence)

- 1990: 181 convicted juveniles, or 2.5%
- 1997: 653 convicted juveniles, or 7.0%
- 2000: 798 convicted juveniles, or 7.1%
- 2003: 1'729 convicted juveniles, or 12.8%

Changes in the Type of Offenses Committed

Offences related with violence

From 1995 to 2005

1995: 417 = 5.2%
1999: 1’200 = 9.8%
2005: 2268 = 16%
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 create difficulties.

POSSIBILITIES OF INTERVENTION

The Judge has many possibilities

- To divert (non-suit, refusal to take action, dismissal, acquittal, withdrawal of complaint, conciliation arrangement, mediation)
- To pronounce a measure
- To punish
- But new dualist principle
Characteristics of the measures

- New System said dualist: measure and punishment
- But **Priority** to the measure
- The measure have to be accepted
- The term of the measure is not fixed
- The measure can be changed
- Swiss speciality: the dualism is not mandatory; if a measure, the judge can postpone/renounce to the sanction (art 97)

Measures

- Educational measures
  - Probation (educational assistance)
  - Foster care
  - Institutional care
- Welfare institutions (with school)
- Welfare institutions (with work or activities)
- Welfare institutions with psychological help
- Closed institutions for psy. Cases / For security reasons
- Medical treatment
- Outpatient treatment
- Still treatment
- Postponement of sanction
Characteristics of the punishments/penalties

- Subsidiary with regard to the measures; relative dualist system
- Educational contents of the sanction
- The term is fixed
- The question of the deprivation of liberty: 0 - 1; 0 - 4
- Swiss speciality: the judicial forgiveness (art. 21)

Punishment/penalties

- Punishment
- Mediation
- Community Service Orders
- Fine
- Deprivation of liberty
  - Suspended
  - Without respite
- Suspension
  - Without respite
  - Probation
  - Control time
  - Supervision orders
- Forgiveness
PRESENTATION OF THE IDE AND THE WEBSITE
« www.childsrights.org »
Geneviève Lévine, IDE, Sion

IDE is
A Swiss private law foundation with a special consultative status with ECOSOC and IOF, based in Sion (Switzerland) and created in 1995 by:
- The Institut Universitaire Kurt Bösch (IUKB)
- the International Association for Youth and Family Magistrates (IAYFM).

IDE goals
- Information
- Training
- Creation of a child rights culture in Switzerland and throughout the world…
- Better respect of children as persons
### IDE Information

- 11 publications on children’s rights
- Working Reports
- Newsletters published twice a year
- Book on the children’s rights didactic path « Droits d’Enfants »
- An interactive platform [www.childsrights.org](http://www.childsrights.org)
- Several articles in various publications

### The Internet website

- An information hub
- A documentation centre
- Training follow-up
- Discussion forums
- News every week
- A photo gallery
- Blended learning under construction
IDE Trainings

- **International Sion Seminar**: from 10th to 14th October 2006: Rights of children living with disabilities
- **Programmes with the International Social Service (ISS)** in Eastern Europe and in Western Africa
- **Programme with the Humanitarian Dialogue Centre** in Myanmar (suspended)
- **Programme with the International Organisation of the Francophonie** in Western Africa
- **Special trainings** with various organisations (UN UNICEF agencies, NGOs, States, etc...).

Examples of trainings for UNICEF:
- Iran, Turkey, Moldova, Macedonia, Mauritania …
- In 2006
  - Albania (April 2006)
  - Jordan (November 2006, with PRI)

Master of Advanced Studies in Children's Rights (MASCR)

In collaboration with:

the IUkB and the University of Fribourg

Has started in 2003, 3rd promotion to be launched.
Diplôme en Protection de l’Enfant / Diploma in Child Protection (DPE)

Training for social workers who are active in youth related services.

In collaboration with: the IUKB


Legal Psychology for Children and Adolescents Diploma

Training for psychologists in charge of drafting psychological reports on children involved in court cases

In collaboration with: the IUKB

Has started in December 2005.

Creation of a child’s rights culture

- By membership (ISS, TdH, AFXB…)
- By participation in international events
- By presentation of lectures (schools, universities…)
- By the creation and the participation to a Swiss and international network
- By welcoming doctoral students, trainees and students learning child rights
IDE hosts

The Sarah Oberson Foundation

Named after a 5-year-old girl who disappeared 20 years ago and whose fate has always remained unknown.

Organisation of yearly Day of Debate.

Publications.

The Maurice Veillard-Cybulski Association

Named after one of the first juvenile judges in Switzerland and his wife, a renowned international expert.

Veillard-Cybulski Award

Children’s Rights Didactic Path

• Inaugurated on October 20th 2005

• 12 fundamental rights of the CDE illustrated by animals

• Complement of the path: Book « Droits d’Enfants »
CHILDREN IN SPECIAL NEED
AND THE NOTION OF VULNERABILITY
Daniel STOECKLIN Senior Adviser, IDE and University of Fribourg

While the concept « children in special need » is not used in international law, the term is widespread in Non-Governmental Organizations and Inter-Governmental Organizations. This expression refers to some groups of children who are particularly vulnerable, both because of their status as children and because of other factors.

They are 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”). These children in special situations, or « in especially difficult circumstances » , do not constitute exclusive groups with different needs, as categories may overlap. They are children whose special situations have to be specifically addressed “so that they are able to benefit from the exercise of their rights”.

We concentrate here on a specific situation, the street situation, and more accurately on the street situations in order to take into account the diversity of situations in which children might find themselves in the streets of big cities worldwide. We advocate for the term “children in street situations” because it reflects this idea of diversity and therefore allows to come closer to the specific needs of different children living in different street settings. This is a necessary step to favour full exercise of their rights, that is actually jeopardized by the label “street child” and associated practices.

We first show how this label is itself an impediment to more individualized approaches that are necessary to address the special situations in which these children live. We then propose an alternative perspective with the concept “children in street situations” which is not a definition, and who has therefore the capacity to go beyond some limits intrinsic to approaches based primarily on definitions of “target populations”. The implications of this perspective, which allows to come closer to the needs and rights of individual children, are important and more in line with the general principles and articles of the International Convention on the Rights of the Child. Last but not least, this perspective shows that the CRC is not just a matter of international law, but if rightly used it constitutes also a quite important and relevant framework to favour social integration.

The problem of definitions

When specific social situations and problems are captured through definitions of special groups involved, there is often if not always an implicit “ex-ante” (beforehand) definition of what the needs of these groups might be. For instance, for children with disability, the needs might well be accessibility to education, training, health care services, rehabilitation services, etc. For children in war and/or natural disaster, one would have to deal with trauma (Post-Traumatic Stress Disorder). For child refugees, one main problem would be statelessness. For

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5 Van Burren, ibid.
unaccompanied child refugees, it would be family reunification. One may also identify the specific article(s) of the CRC dealing with any specific issue. For instance, family reunification is dealt by Art. 22 (2) of the CRC. Several articles might as well be relevant for different special situations. This is all fine and one may wonder why and how it should be different.

However, when it comes to define the problems of a category like “street children”, the risk is high of having adults defining the phenomenon through the lens of the emotional reaction conveyed by the term “street child”. Most of the time, they tend to base their assessment of the needs of these children more on their own assumptions than on qualitative data or first hand information gathered from the children themselves.

Some might identify the problem of a « street child » as being permanently or temporarily deprived of his family environment, while others would insist on the dangers of the street environment (abuse, exploitation, beatings, drugs, alcohol, etc.), and others still would claim that these children are nothing else than in conflict with the law.

If one wants to address more macrosocial causes, then one would have to deal with massive urbanisation generating overwhelming problems regarding social life, education, sanitation and housing, and expanding slums without any basic facilities; with a growing number of families at the boarders of the informal sector; with under- or unemployment and poor work conditions, mostly aggravated by alcohol and drugs; and also with economic structures that have become transnational (globalisation), and challenging the role of the State. If all of these factors indeed associate to “produce” what we call “street children”, where shall one begin with? Feeling overwhelmed by such massive problems, there is a temptation to simplify reality.

Eventually, everyone seems to know what is a “street child” and what is good for him. The diversity of experiences therefore tends to be forgotten in a “one-fits-all” response. It is then not surprising that interventions based on such simplifications are systematically failures. One claims that poverty is the problem, however not all poor children go to live on the street… Another sees causes associated to poverty, like domestic violence and family break-up, but then we find also whole families surviving in the streets… Actually, the complexity of the phenomenon cannot be addressed with top-down and “target-population” strategies.

The different degrees of seriousness related to a variety of experiences in the streets is further obscured by the question of numbers. Once everybody seems to know what is a “street child”, then the question comes: “how many street children?” (in this city or in that country). It is however impossible to give exact figures because people mix different categories: “children of the street”, “on the street”, “homeless”, “abandoned”, “in conflict with the law”, “in especially difficult circumstances”, etc. The real problem is not the difficulty to count “street children”, it is the label “street child” itself… Labelling is not just a matter of defining a group. This process is bound to the power balance between those who label and those who are labelled. Therefore, accessibility of basic facilities (economic, social, cultural rights) and accessibility of political representation (civil and political rights) are fundamental issues in this process of labelling and treating “street children” accordingly. People who label are in positions of power. They see children working on the streets, children begging, stealing, sniffing glue and/or involved in drug trafficking, roaming around, making noise… and they evaluate these situations using their own values,
positions and interests. The debate quite often remains among those who have access to the public sphere (media, political representation).

Depending on the social structure and the construction of public opinion, “street children” may be depicted as bandits and/or as victims. Some exaggerate statistics (sometimes in order to increase the feeling of insecurity and justify « cleaning-up » the streets), while others underestimate the problem or simply censure the topic (in order to preserve the image of the country). Violent reactions may even lead to murders like was the case for instance in Rio de Janeiro in 1993 where several children were killed before the Church « La Candelaria » by deaths squads hired to « clean up the streets ». Other kinds of « clean up operations » before international events have also become common. Especially striking is the fact that the people the children surviving in the streets fear most is the police, for confinement in closed institutions is often the sole response to street life.

All these violent or repressive reactions are linked to the process of defining and labelling children who do not live a “normal” life. 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 (whereas they mostly commit petty crimes). The labelling process itself is part of the problem. Labels are a reflection of policies and tend to maintain the same. Repression instead of prevention is favoured by the label “street child”: when one doesn’t address the vulnerability of children in street situations, one may eventually have to deal with them once they are found to be « in conflict with the law »… The problem intrinsic to definitions of target-groups is power. With more balanced power relationships, like conveyed by the CRC, an alternative perspective is needed.

A new perspective: children in street situations

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. This generic term allows for a new perspective where one considers the diversity of street situations as the outcome of contextual factors (like post-war settings, bonded labor, prostitution, trafficking, forced begging, unregistered births) and the specific strategies that children develop within their own environment. The child’s own views and consequent strategies have to be adequately addressed by researchers. The works of Prof. Riccardo Lucchini and the undersigned, at the University of Fribourg (Switzerland), have allowed for more qualitative understanding of how the child him/herself experiences his/her daily environment.

Some important dimensions of street life have therefore been identified, allowing to differentiate among different individual profiles of children in street situations: the time spent on the street, and the child’s age, the child’s use of space (city center / periphery), the child’s social networks (relations), norms and values, activities, image of Self, motivation, and opportunities according to gender. This perspective considers the child “in a street situation” as a social actor, actively adapting his/her behaviour to the social context, by making use of instrumental resources (activities, time, space) as well as and mostly symbolic ones (norms
This is a child-centred approach, putting emphasis on 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. In this perspective, the child is not anymore seen as a “target” of intervention, but as a participant: the child is a social actor, a subject of rights.

The implications of considering children in street situations as social actors are quite important. This approach not only allows for qualitative understanding of the situations, but also for child participation. In the contexts where this approach has been developed, the intervention strategies tend to include the children themselves in the definition of the programme, from objective identification to intervention modalities. However, implementation of such a perspective depends strongly on capacity-building and other institutional factors that are beyond the scope of the present article. Within the limited frame of this article, we concentrate only on the integration of this perspective with the principles and articles contained in the CRC. Implementation of the CRC and control mechanisms should progressively help overcome the institutional limits mostly bound to the classical top-down approach.

**Implications of the CRC on the treatment of children in street situations**

The General Principles of the CRC are Art. 2: Non-discrimination, Art. 3: Best interest of the child, Art. 6: Right to life, survival and development, and Art. 12: Right to express one’s views and to be heard. We quote these articles and show the implications of the perspective of the social actor when used accordingly with children in street situations.

**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.

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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; the label “street child” should be abandoned.

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 (see 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; the “Child-Street System” is a useful tool in this regard (further testing and improvements are required). It can also strengthen procedural connections between Art. 3 and Art. 12 of the CRC.

Vulnerability and Capability

Having stressed that children in street situations are subjects of rights, and should be considered as social actors, we must nevertheless and as a priority address their vulnerability. Actually, our perspective allows defining also vulnerability in terms of interactions. By so doing, we open perspectives that help go beyond the practices that would see vulnerability only as a state or strictly bound to age and personal capacity. Vulnerability is linked to capability, which is not the same as personal capacity, as we shall see now.

In our interactionist perspective, we say that a child is vulnerable when he/she cannot actively defend him/herself against discrimination and violence, not just because he/she is a child but also because of the special situation in which he/she finds him/herself. In other words, vulnerability is the result of situations in which the social actor sees his possibilities of action (capabilities) reduced because he is treated like an « object » and not as a « subject ». This approach includes the structural factors surrounding the child and does not solely rely on the question of the child’s personal capacity and the related but quite disputed question of maturity. It is according to this perspective that we can identify the label “street child” as being itself a structural factor contributing to the vulnerability of these children, because it treats them like objects and jeopardizes their capabilities.

With the interactionist perspective, we can show the very close link between vulnerability and capability. They are the two faces of the same coin we call social dynamics. The notion of “capability” has been developed, among others by Prof. Amartya Sen (Winner of the Nobel Prize for Economy, 1998); he stresses that development cannot be reduced to access to material resources. Poverty is lack of freedom to lead a suitable life, a lack of « capabilities ». A person’s capability is the freedom of leading different ways of living. This capacity to make choices depends on numerous elements comprising personal characteristics as well as the social organisation. Therefore, the responsibility of society towards individual freedom is to pay attention to the increase in the capabilities which different persons actually possess, and one should always consider the capacity of the social organisation of improving human capabilities. In consequence, he claims, it is essential to take into account various ways of converting revenues and primary resources into capabilities and freedom.

7 See among other works of A. Sen, the main reference regarding the concept of capabilities: “Development as Freedom”, Oxford University Press, 1999.
This approach stresses that the social actor can be vulnerable/capable because of weak/strong institutional structures (family, education, associations, etc.), and because of weak/strong personal skills (social and symbolic competences). These two levels (individual and social) are interdependent. The CRC is a relevant framework allowing to work on both (individual and social) levels. The contribution of CRC in strengthening social integrative structures (family, school, work, leisure activities, sports, etc) is evident with the articles that are most concerned by the situations faced by children living and surviving in the streets: Art. 19: Protection from abuse and neglect, Art. 20: Protection of children without families, Art. 22: Refugee children, Art. 23: Handicapped children, Art. 30: Children of minorities or indigenous groups, Art. 32: Child labour, Art. 33: Drug abuse, Art. 34: Sexual exploitation, Art. 35: Sale, trafficking and abduction, Art. 36: All other forms of exploitation, Art. 38: Armed conflicts, and Art. 39: Rehabilitative care. Implementation of these subjective rights still depend primarily on the way we look at children, as the CRC is not self-fulfilling.

Our recommendations are therefore:

- to consider the child as a “social actor”, having skills and an opinion on his/her situation.
- to treat children in street situations (or in special need) as participants to the solutions to their problems.
- to consider a child’s vulnerability and / or capability as the outcome of social and individual capacities.
- to consider the CRC as a relevant framework to favour social integration.

**Bibliography**


THE INVOLVEMENT OF THE COMMUNITY IN JUVENILE JUSTICE
Christian NANCHEN, Director of the Children’s Protection Office, Sion

Introduction

Collaboration between the Juvenile Court and the Cantonal Children’s Protection Office

By adopting on May 11th 2000 the Law in favour of Youth (hereafter Lje), the Valais cantonal Parliament wished to modify the philosophy of child care in situations necessitating State intervention.

Until this law was adopted, the traditional conception of children's rights in the Valais had indeed revolved around the concepts of protection and care to provide to the child. Thanks to the entry into force of the Convention on the Rights of the Child, a third, more positive principle appeared: participation. This principle is explicitly stated in the new Valais Law provisions.

Thus, the new Law has meant to favour better social inclusion of youth. In its conception, it progresses from the general – promoting youth – to the particular – minor protection, special provisions, etc…

This Law emphasizes the general principles that must guide any State action in the field, notably:

1) That responsibility of providing care, maintain and education to the child is foremost the parents' responsibility.

2) That any decision in compliance with the law must be taken in respect to the best interests of the child, as well as to the subsidiarity principle.

3) That the child has the right to freely express his/her opinions on any issue regarding him/her, according to age and maturity.

Any intervention must respect the subsidiarity and proportionality principles. Therefore, any decision taken in virtue of the present Law must intend to maintain the child in his/her family environment; every measure must be adapted to the pursued goal.

Parents are invited to participate as actively as possible to the implementation of the provisions aiming at putting an end to situations compromising the security or development of a child, and preventing them to recur.

The Juvenile Court and the Cantonal Children’s Protection Office, created at the adoption of the Lje, are very often required to collaborate with each other.
As a matter of fact, about 100 cases are tackled yearly by the Children’s Protection Office by mandate of the Juvenile Court. During such mandates, the Office's collaborators carry out various functions like:

- Drafting social evaluations to inform the judiciary authorities on the child's living conditions, notably about the socio-emotional support he/she receives.

- Educational assistance follow-up: counselling the youth and supporting his/her family system, when the Juvenile Judge has ordered such a measure for the youth, and give regular feedback on the evolution to the judiciary authorities.

- Follow-up of institutionalization, one of the measures available to the Judge when situations crave that the youth be extracted temporarily from his family environment. The Office can be appointed to find an institution able to care for the youth. In such cases it will be in charge of informing the Judge on the evolution of the measures and on future prospects.

- This joint two-partner work has a key-word: collaboration. It is indeed not to be considered that the measures ordered by the Court have any results if those two bodies do not work in a respectful and interactive mindset. The purpose is to avoid that the youth, by his/her behaviour, find himself/herself again in conflict with the provisions of the Swiss Criminal Code. However, the Juvenile Judge is sole master of the procedure, and last resort decisions rated necessary for the youth are his/her competence.

- The Office can also be required to carry out expert reports by mandate of the Juvenile Judge. Reports are drafted by the specialized units: educational counselling, school psychology and psychiatry, in order to determine whether the youth directed to the Juvenile Court suffers psychological troubles, and to assess whether therapeutic measures should be ordered among the pronounced measures. About 40 mandates are appointed yearly to these specialises units. An important evolution in future years in this respect will be the increased recourse to psychologists and paedo-psychiatrists due to the implementation of the new Young Offender Law.

- We wish to emphasize the importance for Courts to be granted access to offices and specialized staff in child and youth protection. In our view, it is essential that these various specialists be gathered in a common service in order to avoid the dissipation of forces and competences.

Presentation of a psychological evaluation and of a therapy following the judgement of a minor, in the context of a European Master’s in Child Rights

**Psychological evaluation**

We present our psychological evaluation under this heading, indicating to the Judge:

- Our response to his request for a psychological evaluation of younx X
- Made to us on date Y.

And in order to carry out this evaluation, we need to:
- have x interviews with the parents and the juvenile
- have x interviews with the parents alone
- have x interviews with the juvenile alone
- and sometimes, x interviews with others (teachers, an apprentice-master, the family doctor).

Reason for the request

We remind the Judge of:
- the offences committed by the child or adolescent
- his/her present situation (in which school-year, or which degree of formal education)
- weather he/she has been placed in an institution
- …

Intellectual assessment

Intellectual Quotient test:

The results obtained provide a quotient:
- Verbal
- Performance
- Total.

Emotional evaluation

To arrive at this we use:
- various psychological tests: Rorschach, Thematic Aperception, Test …
- free-structured conversations, directed towards problems that are specific and significant to the child or adolescent
- questionnaires that give us a personality profile: anxious, depressive, aggressive type…

Perspective

At this stage of the evaluation, we are able to perceive:
- how the child or adolescent has experienced events since the court appearance
- his/her feelings of guilt concerning the acts committed
- his/her present emotional state regarding all this
- and the probability, or not, of recidivism.

Conclusions and Suggestions

Under this heading, we summarise the essential aspects of the evaluation, attempting a synthesis of the whole, and at the same time drawing attention to pertinent elements that have emerged during the process of evaluation. Based on this conclusion, we generally offer suggestions to the Judge. The latter may be very varied in nature.

Here are some examples:
- need for therapy for the child or adolescent
importance of follow-up, not only for the child, but for the whole family
- placing the child in an institution
- education assistance for the parents
- …

After the Judgement: “special measures”

We usually work on:
- a building or consolidation of self-esteem for the child/adolescent,
- a word space
- an apprenticeship in emotional management
- individuation in all relationships
- an opportunity for the juvenile to take some distance from the family problem.

Family history of the child or adolescent

- Number of children in the family, rank, how do the siblings get on among themselves?
- History of the family, of the parents, their relationship as a couple (Close? Divorced? In conflict?…).
- General emotional climate of the household (tensions, type of communication …).
- Problems specific to the family (illness of a parent, depression in the family …).

Evaluation of the child’s or adolescents interpersonal relationships

- Relationship with the father
- Relationship with the mother
- Relationship with each sibling individually
- Relationships with friends
- Relationships with peers
- Relationship with teacher, educator, employer…

Social evaluation report of the children’s protection office

1. Mandate
2. Identity of the members of the family
3. Contacts-procedures
4. Other speakers
5. Personal situation of the parents
   5.1 History of the couple
   5.2 Mister
   5.3 Madam
6. Personal situation of the children
   6.1 Child 1
7. Hearing of the Child(ren)
8. Relations parents – children
   8.1 Personal realations of the child with his parents
   8.2 Collaboration between the parents
9. Synthesis
10. Proposals
Service Cantonal de la Jeunesse

SCJ

Section Administrative
SA

Le Délégué à La jeunesse
DJ

L’Office Pour la Protection de l’enfant
OPE

Le Centre Pour le développement et la thérapie de l’enfant et de l’adolescent
CDTEA

L’Unité de psychiatrie et de psychothérapie de l’enfant et de l’adolescent
UPEA

L’Office éducatif itinerant
OEI
SOCIAL EVALUATION REPORT

1. Mandat : mandate
2. Dentite des members de la famille : identity of the members of the family
3. Contacts – demarches : contacts - procedures
4. Autres intervenants : other speakers
5. Situation personnelle des parents : personal situation of the parents
5.1 Historique du couple : History of the couple
5.2 Monsieur : Mister
5.3 Madame : Madam
6. Situation personnelle des enfants : personal situation of the children
6.1 Enfant 1 : Child 1
7. Audition de(s) l’enfant(s) : hearing of the child(ren)
8. Relations parents – enfants : relations parents - children
8.1 Relations personnelles de l’enfant avec ses parents : Personal relations of the child with his parents
8.2 Collaboration entre les parents : Collaboration between the parents
9. Synthèse : synthesis
10. Propositions : proposals

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- kantonale Ebene
- kommunale Ebene
- Ebene Private subv.
- Jugendgericht
- Jugendanwaltschaft
Presentation of a psychological evaluation and of a therapy following the judgement of a minor, in the context of a European Master’s in Child Rights

Psychological evaluation

We present our psychological evaluation under this heading, indicating to Judge:

- Our response to his request for a psychological evaluation of young X,
- Made to us on date Y.

and in order to carry out this evaluation, we need to:

- Have x interviews with the parents and the juvenile
- Have x interviews with the parents alone
- Have x interviews with the juvenile alone
- And sometimes, x interviews with others (teacher, an apprentice-Master, the family doctor)

Reason for the request

We remind the Judge of:

- The offences committed by the child or adolescent
- His/her present situation (in which school-year, or which degree of Formal education
- Whether he/she has been placed in any institution
- …

Family history of the child or adolescent

- Number of children in the family, rank, how do the siblings get on among themselves?
- History of the family, of the parents, their relationship as a couple (Close? Divorced? In conflict? …)
- General emotional climate of the household (tension, type of communication…)
- Problems specific to the family (illness of a parent, depression in the family…)

Evaluation of the child’s or adolescent’s interpersonal relationships

- Relationship with the father
- Relationship with the mother
- Relationship with each sibling individually
• Relationships with friends
• Relationships with peers
• Relationship with teacher, educator, employer…

**Intellectual assessment**

Intellectual Quotient test

The results obtained provide a quotient:

• Verbal
• Performance
• Total

**Emotional evaluation**

To arrive at this we use

• Various psychological tests: Rorschach, Thematic Aperception Test,…
• Free-structured conversations, directed towards problems that are Specific and significant to the child or adolescent.
• Questionnaires that give us a personality profile: anxious, Depressive, aggressive type…

**Perspective**

At this stage of the evaluation, we are able to perceive:

• How the child or adolescent has experienced events since the Court appearance,
• His/her feelings of guilt concerning the acts committed,
• His/her present emotional state regarding all this,
• And the probability, or not, of recidivism

**Conclusions and Suggestions**

Under this heading, we summarise the essential aspects of the evaluation, attempting as synthesis of the whole, and at the same time drawing attention to pertinent elements that have emerged during the process of evaluation. Based on this conclusion, we generally offer suggestions to the Judge. The latter may be very varied in nature.
Here are some examples:

- Need for therapy for the child or adolescent
- Importance of follow-up, not only for the child, but for the whole Family
- Placing the child in an institution
- Education assistance for the parents
- …

After the Judgement: “special measures”

We usually work on:

- A building or consolidation of self-esteem for the child/adolescent
- A word space
- An apprenticeship in emotional management
- Individuation in all relationships
- An opportunity for the juvenile to take some distance from the family problem
HOW TO RUN AN INSTITUTION?
Jean-Pierre HEINIGER, Former Director of « a Fontanelle » Vérossaz

« Road Map » of the session
1. Preliminary thoughts to have in mind before building an Institution
2. Fundamental needs and development of a person
3. Organization of an Institution
4. Partnership with others key players

Leadership in Action

Vision - Head
Inspiration & Orientation
Thinking: to be able to give a direction

Energy & passion
Organization & Control

Motivation - Heart
Feeling: able to feel passion!

Action - Hand
Competence: able to act precisely
At the end of the day you bet on people, not strategies.

1. Preliminary thoughts to have in mind before building an Institution

a) My REPRESENTATION of the reality is biased!
The three filters of perception

1. Physiological  3. Life experience
2. Socio-cultural

To analyze
To think
To look
To discover
To act

There are three «traps» to be avoided:

1. To look and act = activism without thinking…
2. To look and analyse = theories only, no action, no change
3. To analyse and act = applying models that are not adapted to the situation
Failure strategies (dead end options)
- What I see is true for everybody
- What I know is true for everybody
- What I feel is true for everybody
- What I think is the truth
- Things are exactly as I see them
- If you don’t see things the same way as I, it means you are looking in the wrong way.

b) CHANGE is about LEARNING

_The challenge of every person is how to change!_

Learning is not made with what happens to you, but with what you do when this happens to you!
Information is not enough to learn the most...
Why?
Experience as well is insufficient in order to learn!
Why?

Learning is reflecting on experience

First condition:
You need to be involved personally in a concrete situation.

Second condition:
Learning is a continuing process. We learn from what we already know, from what we all have accumulated. There is a strong interaction between the learner and the object of learning.

Learning is an interaction! (Dewey)
Four steps to get in a learning! (Kolb)

Apply
Concrete Experience

Practice
Active Experimentation

Synthesize
Abstract Conceptualization

Analyze
Reflective Observation

The reality is a construction!

We select, we organize, we interpret the reality in our way to give a meaning to it or to adapt to it. We create our own action model our own map.

We construct or invent the reality more than we discover it!

Action model (Bourassa, Serre, Ross)
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1. Reflecting in the action

- How can I adapt my representation to this situation?
- What will I do different next time?
- What is my plan now for the next action?

2. Reflecting on your action

- Type 1: “in and on your action”
  - Do more and learn better the same thing or when the solution becomes the problem! This type is functional, the representation of the reality stays the same (beliefs & values don’t change). The action model is used as much as possible.
- Type 2: “on your action model”
  - First, stop doing the same thing. Change the problem! Look at the reality with an other point of view! Open the situation to a larger understanding. The action model needs to be re-framed, it means that the conceptual or emotional context of the situation will be modified. The way of conceptualizing the reality is changed substantially.

Learning is a construction based on two types of change!

3. Reflecting on your action model

- Type 2
- Type 1
Humans are the only species on earth with the ability to interfere with their own performance. Self-interference is a learned skill; we are not born with it.

Michael Hebron

c) We can’t avoid INFLUENCE

We all are seeking for security!

People are looking for secure bases!

Get out of the comfort zone to learn to change the reality

Take some risk!

Learn from mistakes!

Necessary skills: Resilience, Endurance, Coping, Adaptation, Openness

Attachment

Secure Base

Exploration & discovery

Separation
Attachment and separation: The Cycle of Life

- Crisis
  - Separation (preparation)
  - Grief (identity)
- Stability
  - Attachment (comfort)
  - Bonding (intensity)

The Strength of a Secure Base

- Attachment
- Bonding
- Persons
  - To love
  - To be loved
- To belong
- To be worthwhile
  - To deserve to exist
- Secure Base
  - Exploration
  - Playful
- Goals
  - Competence
  - Success
  - To Act
  - To be Capable of acting

Creating a bound

- Self
- Other
- Talking - Dialogue - Negotiation

B - Body
E - Emotions
I - Intellectual
S - Spiritual

(G. Kohlrieser)
Losses and Grief
Loss of attachment – (who am I connected to ?)
Loss of territory – (where do I belong ?)
Loss of structure – (what is my role ?)
Loss of identity – (who am I ?)
Loss of future – (where am I going ?)
Loss of meaning – (what is the point ?)
Loss of control – (I feel overwhelmed)

Stages of a Transition
1. Endings:
   - Relinquishing the old, letting go, separating, saying good-bye.

2. The Neutral Zone:
   - the gap where confusion and even chaos exists, emotions in turmoil, pull between the past and future.

3. New Beginnings:
   - a new identity and new reality emerge with mindset and emotional shifts

d) Two dimensions to manage in Organization:
RELATIONSHIP vs TASK

A difficult balance!
Two energies in tension

- **Production energy**: activities with objectives will give to the members of the group the possibility to participate.
- **Maintenance energy**: keeps the group in cohesion with two important functions – facilitation and regulation.

Two energy in tension

![Diagram showing the relationship between production and maintenance energy towards sustainable results.]

Two different goals in tension

- **The task level of the group**: the production energy
  - **Rational** – how to get into an action?
- **The relation level of the group**: the maintenance energy
  - **Irrational** – how can we survive together?
Different levels of interaction in a system

1. **Individual** (self)
2. **Inter-individual** (between two persons)
3. **Intra-group** (small group, a team in an institution)
4. **System – Organization - Institution**

Group dynamic principles

1. **Boundaries**: container for group work that holds the task.
2. **Authority**: right to do the work. Conferred power to perform a service for the Organization (formal and personal).
3. **Roles**: competences at work and coordinated resources to achieve the objectives of the Organization (formal and informal).
4. **Task**: the primary task of the Organization and the tendency to survive co-exist.

Culture differences

**Individualism:**
- Independent
- Goals
- Compete
- Unique
- Private self-know
- Direct communication

**Collectivism:**
- Related
- Belong
- Duty
- Advice
- Context
- Hierarchy
- Group solidarity
Organizational Bonding

1. Members Want to Belong
2. Commitment to Goals
3. Dialogue with Mutual Respect
4. Creative Leadership
5. Maximum Self-regulation

2. Fundamental needs and development of a person

Individual level
Four levels of need

**Materiel** (shelter, food, …)
**Individual** (self esteem, personal capacity)
**Social** (family, friends, community, society)
**Existential** (values, meaning, beliefs, cultural)

We need to be able:

*To do* = **Competence** = capacity to act! I CAN through activities

*To be* = **Identity** = capacity to love and to be loved, to belong! I HAVE security through relationship

*To trust* = **Meaning** = capacity to give a purpose to life! I AM through my beliefs and values

The world of a person

My Person
My World

I CAN
I HAVE
I AM

Resilience
When the world of a person is disrupted!

I AM:
Hopelessness
Confusion

I HAVE:
Mistrust
Loss

I CAN:
Insecurity
Fear

Effects on a person

The capacity to use these inner resources:

RESILIENCE
1. The capacity to manage oneself when faced with difficult circumstances
2. The capacity to transform oneself in a positive way
3. The capacity to recover or rebound

How can we build autonomy?
Four strategy

**Fight:** take what I need by force

**Flight:** run away from my responsibility

**Powerlessness:** loss of hope and will

**Master:** capacity to cope with the reality and with others through cooperation and negotiation

The development to autonomy

Growth and meaning of life

Loss of purpose of life
Personal Growth Dynamic

- Affirmation of identity
- Change with continuity
- Anchor
- Recognition
- Engagement
- Legitimization
- Action
- Anticipation
- Adaptation
- Coping with stress
- Give Meaning to life
- Orientation

3. Organization of an Institution
Mission and Strategy

Refers to the **final outcome** of the Organization and to the resources and tactics needed **to realized** the strategy.

System

Refers to the **global resources available** to get organized. For example: the structure of the organization, the techniques to manage the information, the human resources, the finance and the materiel.

Culture

Refers to the **global beliefs and norms** that will influence individuals and groups in this environment.
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The logical frame to Reach the mission

Donors
Gives the the resources to the right organization

Director
Transform the resources into action plan

Resources
Transform the resources into action plan

Services
Transform the resources into action plan

Beneficiaries in need
Youth in difficulties

Social worker/educator

Responsibility of the Institution

1. Consider the needs
2. Realize the rehabilitation
3. Control the result

Documentation Of The Institution

External Documents
Quality Manual
General Concept
Institutional Rules

Laws & Conventions
Philosophy General organization

Internal Formulary and Procedures
Tool box To help the Educator to Work With quality

To help the Educator to Work With quality
The key elements interacting

a) The Institution: a place to leave not to survive!
1. Quality of the organization
2. Quality of the communication network
3. Maintenance of the values and the quality of life
4. Solidarity in action
5. Engagement of the educators at 100%
6. Integration of the global need of a person
7. A dynamic environment of life

b) The educator: a guide, a secure base to hold on!

1. Personality: self awareness, self management, social awareness, social management

2. Competences: knowledge, know how, self knowledge
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Foundations for High Performance Leadership

**Self-Awareness**
- Emotional self-awareness: the ability to keep disruptive emotions and protect your mental control.
- Accurate self-assessment: a realistic evaluation of your strengths and limitations.
- Self-confidence: a strong and positive sense of self-worth.

**Self-Management**
- Self-control: the ability to keep disruptive emotions and impulses under control.
- Trustworthiness: a consistent display of honesty and integrity.
- Conscientiousness: the ability to manage yourself and your responsibilities.
- Adaptability: skill at adjusting to changing situations and overcoming obstacles.
- Initiative: a readiness to seize opportunities.

**Social Awareness**
- Empathy: skill at sensing other people's emotions, understanding their perspective, and taking an active interest in their concerns.
- Organizational awareness: the ability to read the currents of organizational life, build decision networks, and navigate politics.
- Service orientation: the ability to recognize and meet customers' needs.

**Social Skill**
- Visionary leadership: the ability to take charge and inspire with a compelling vision.
- Influence: the ability to wield a range of persuasive tactics.
- Developing others: the ability to develop others through feedback and guidance.
- Communication: skill at listening and at sending clear, convincing, and well-tuned messages.
- Change catalyst: proficiency in initiating new ideas and leading people to new directions.

**Three essential roles!**

1. A organizer: logistics, coordination, communication, group work and collaboration, leading activities

2. A educator: creating bound, mentor, authority figure, mediator, conflict management, pedagogue, trainer

3. A therapist: able to listen, to coach, to heal, to encourage, to guide and confront

The Six Leadership Styles at a Glance

- **Coercive**
  - Demands immediate acceptance
  - Demands immediate action
  - People come first
  - The style is a personal, individualistic one

- **Authoritative**
  - Demands immediate acceptance
  - Demands immediate action
  - People come first
  - The style is a personal, individualistic one

- **Affiliative**
  - Creates harmony and builds emotional bonds
  - People come first
  - Emphasizes emotional intelligence or empathy

- **Democratic**
  - Forgets consensus through participation
  - People come first
  - Emphasizes emotional intelligence or empathy

- **Pacesetting**
  - Sets high standards for performance
  - People come first
  - Emphasizes emotional intelligence or empathy

- **Coaching**
  - Develops people for the future
  - People come first
  - Emphasizes emotional intelligence or empathy
c) The Beneficiaries: youth in difficult situation

1. Behavior disorder
2. Family breakdown
3. Emotional instability
4. Violence
5. Delinquent
6. Dependency to drugs
7. Excluded from official school
8. No professional activities
9. Poor social integration

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d) The Concept: a road map to create a learning environment

1. Philosophy of the institution: concept
2. Presentation of the Institution: context
3. General Organization: structure
4. Psycho-Social options
5. The shelter sector: boys and girls
6. The Professional and School sector
7. The Sport sector
8. The Transitional sector
9. The Rules

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Rehabilitation in La Fontanelle
An alternative to prison

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“La Fontanelle” programming

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<th>Development of: person and competences</th>
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Progressive objectives for each phases

Experiential activities

1. School
2. Sports and outdoors
3. Rituals & Initiation
4. Exploration of rules and norms
5. Group relations meeting
6. Individual follow up with the educator
7. Family therapy
8. Meeting with Judge and Social worker
9. Personal project
10. Professional training
11. External individual activities
12. Meetings with partners

5. Partnership with others key players
Who are they?

1. Youth judges of the Swiss French part
2. Parents, family members
3. Social workers and Tutor
4. Psychotherapist
5. Medical Physician
6. Bosses of different Company
7. Teacher of regular school
8. Neighbors of the Institution
9. Local authorities

Collaboration principles

1. The partners should have a clear picture of our work and our goal: transparency, humility, communication, talk about successes and failures, guaranty service with quality
2. Respect the formal authority of our partners: work with their resources, take into consideration their point of view, listen to their remarks and their feedbacks
3. Keep the dialogue: through regular communication, meetings, festival and celebration, Institution Dairy

Collaboration with the judges

1. Before a placement, analyze the needs of the youth together with the social worker
2. Maintain a regular contact
3. If necessary use the authority of the judge for sanction
4. Give clear information on the progression of the youth
5. Presentation of the personal project to the judge by the youth
6. Do not use the judge for what is our responsibility!
Collaboration with the Family

1. Our role is the monitoring of the process, not the replacement of the parents. No substitution!
2. Keep the parents informed about the daily life in the institution with clear boundaries
3. Help the parents to recover their role of authority and build the relationship with their competences
4. Rebuilt trust and the bounding with their child

Collaboration with the Social Worker

1. Keep them regularly informed about the process
2. Organized meeting with them and the parents to discuss the future
3. Every three month, give them a report to help them to stay aware of the progress or the difficulties

Do not go where the path may lead – go instead where there is not path and leave a trail.

Ralph Waldo Emerson
THE WORK OF A JUVENILE JUDGE
THE IMPORTANCE OF COLLABORATION
Silvia TORRICELLI, a. Youth Court President, Lawyer, Lugano

According to the purpose of our legal system, a good collaboration with other persons or authorities involved in youth matters is of course fundamental for a juvenile judge to do his work well.

As you have already seen on Monday with Mr Zermatten, the Swiss legal system for young offenders is particular if compared to other legal systems, since it is much based on protection and education and in some way is different from other systems. In fact, according to our legal system, at the centre of the proceedings is not the crime committed by the young offender but the young offender itself, therefore the sanctions have the unique purpose to prevent the personal recidivism and promote the social reintegration of the young offender.

Collaboration with the police

The first condition for a juvenile judge to intervene is, of course, that a minor has broken the law, he has committed a crime, that is an act or an omission that under penal law constitutes an offence, according to the principle of no punishment without law.

Once the penal procedure has begun because a minor is suspected of having committed a crime, is usually the police, under direction and in collaboration with the juvenile judge, that intervene and does all the necessary things to acquire evidence against the minor: for example examine witnesses, do searches and confiscations, as well as examine at first the young offender.

Which is the role of the police and how should operate with young offenders you will see on Friday with Mr Steiner, Chief of the Judiciary Police.

In Switzerland only few Cantons have Police Corps specialised for minors, the so-called Minors Squads, therefore the policemen whom the juvenile judge delegates the investigations are usually the same who operate in adult matters.

Therefore a good and constant collaboration with the police is very important in order to respect since the beginning of the penal procedure the educational purposes of our legal system. And duty of the juvenile judge is to keep watch on it.

Duty of the juvenile judge is therefore to form and instruct policemen about the way they have to act and behave when they have to treat young offenders.

And the way a policemen treat a young offender is very important because we don’t have to forget that very often the first contact of a young offender with the police is also his first contact with the State in the sense of Authority.
So what the police may consider a routine, for the young offender could be a crucial experience that could condition him – in a positive or negative way – for life.

Therefore I don’t think it’s exaggerate to affirm that for the young offender the image of the Authority itself could also depend on the impression that the single policeman transmits him, in addition of course with the impression transmitted by his family and the school.

There is in fact a big difference between handling an adult and a minor, especially by the first intervention of the police and by the examination of the offender.

And with “big difference” I don’t’ mean the way a policemen has to write the record of examination, but the way he has to run the examination. This is because there is a big difference between a 10 years old child and a 25 year old, but also between a 10 year old child and a youngster of 17 years.

Therefore the younger the minor is, the more one has to apply easy and comprehensible words so that the child under prosecution can understand what’s going on, which are exactly the charges, can be able to understand the questions and then be able to answer correctly and defend himself.

In fact, the personality of the minor depends a lot on his psychological development, his education, his social and cultural environment, and the policeman must therefore be always more prepared to face different situations and reactions that could happen when young offenders are under prosecution.

In any situation the policeman must then act as a sort of psychologist but must also show respect to the young offender avoiding to react in an inappropriate way when provoked, since in any case the legal protection coming out of his state of child must be guaranteed.

The collaboration between the police and the judge must then be constant to guarantee the young offender a treatment respectful of his condition and respectful of the educational purposes of our law. Therefore is also important, parallel to the specific training, to promote privileged personal contacts between the judge, the police and the court’s social workers in order to coordinate strategies and exchange know-how.

Furthermore, entrust and collaborate with specialist in investigation activities, who are as well instructed in juvenile matters, can also be useful to plan general prevention and security actions to try to stem the increasing phenomenon of juvenile delinquency.

As a matter of fact in the last years also in the quiet Switzerland crimes committed by minors, often very heavy and violent one, have increased in a preoccupant way. The causes of this increase are varied, between them the immigration phenomenon of the last 20 years, since some specific crimes are committed by specific ethnical groups, and many crimes are committed as an expression of juvenile uneasiness, as well as an expression of abuse of alcohol and drugs.

And we all know that prevention instead of repression should always be the policy to be followed by a State.
The collaboration in collecting information concerning the young offender

During the investigation or when the investigation is closed, our legal system foresees that the Swiss judge himself has to conduct a further investigation, this time not concerning the criminal facts charged to the young offender but concerning the offender himself.

This because, according to our legal system, the judge has to choose the punishment or the educational measure not only on the basis of the importance of the crime committed by the young offender, but also on the basis of his needs and on the basis of his capacity and will to be reintegrated into society.

Before finding his verdict, the judge has then also to understand the reasons why the minor has committed the crime in order to intervene on them, by adopting the more suitable educational measure or punishment.

Our sanctions, besides the purpose to punish the minor for what he has done, have also and principally the purpose to fit the needs of the young offender in order to avoid recidivism through his complete reintegration.

The sanction has then to be individualized and its main purpose is the individual prevention by reintegration.

The reasons why the young offender has committed a crime are then to be searched for instance in his social or family environment, uneasiness, cultural reasons, lack of education, lack of vocational training, unemployment, in alcohol or drug abuse, social alienation, mental weakness or in further reasons that could have lead the minor to commit a crime.

Therefore the investigation concerns the personal, social and family conditions and eventually his physical and mental status and when needed the judge also requests collaboration to psycho-socio health professionals by ordering expertises.

But how can the judge raise the necessary information to detect the needs of the young offender in order to choose the more suitable sanction for the young offender?

Our code foresees what I call “Personality Investigation” and for executing it the judge orders a formal investigation to experts in juvenile matters as social workers, juvenile psychologists or psychiatrics, and so on, depending on the situation and the single case.

Usually the Youth Court itself disposes of an own special service composed of social workers with specific training who is charged by the judge to collect the necessary information about the young offender.
When needed, this service collaborate with other youth services.

When the personality and behaviour of the young offender appears particularly problematic, the judge can also order the placement of the offender for a time (usually three months) in specialised structures where specialists observe the minor, his mental health, his behaviour, his skills etc. at the purpose to have a complete picture of him.
This kind of investigation is very important and, according to our legal system, could have the same value and importance than any other crime investigation act, for instance, the same value as a search, confiscation and drug test.

Of course, this kind of investigation is not formally ordered in every single case, there are many cases (the majority) where it is enough to take informal information about the minor and its living environment, but a formal investigation is always ordered when the judge considers that specific information concerning the young offender can be useful for his final judgement.

Therefore the collaboration between the judge, his own social service, institutions and other persons directly involved with the offender, for instance his family circle, is very important in order to collect all the necessary and complete information about the offender.

The very first source of information concerning the young offender should of course be his family, I mean his parents and other people living together with him who could give information about the way of life, behaviour, educational principles, family rules etc.

But I said that the family “should” be an important source since in practice often happens that the family of the young offender doesn’t collaborate with the judge or his social service on providing information.

Actually, many parents are wary on speaking about themselves and their family and find this kind of investigation an illegitimate intrusion on their private circle.

Many of them are also ashamed on referring about their own weaknesses or uneasiness especially, for instance, if they abuse alcohol, drugs or medicaments, or if they suffer any medical problems such as depression, diseases and about circumstances that could impede in some way an equilibrium growth of a child.

Some parents also have the attitude to protect and defend the offender, justifying his behaviour, blemishing the behaviour of the police, social services, Youth Court etc.,

And of course only in very rare situations parents will admit they use violence, verbal or physical, against their kids for resolving conflicts or for having home rules respected and we all know that also exists the sore of sexual abuse that - of course - will never be admitted.

Nevertheless we all know, violence and sexual abuses against children are very important problems for the society and it is also statistics shown that many of young offenders who commit violent crimes against persons or property have themselves been prior victims of ill-treatments, violence or abuses, especially committed by parents or relatives.

Therefore is very important to investigate in-depth way the living conditions of the young offender to understand why he infringed the law and since is often difficult to collect information in the family circle, those information have to be collected it elsewhere. Important is then to collaborate with all other persons or authorities who are also concerned with the young offender and could provide the judge useful information for his final judgement.
For instance the school attended by the young offender can give a lot of information about his personality, skills and behaviour as well as social workers who already followed the family by order of civil authority, the civil judge in case of separation or divorce, the employer if the young offender is already on vocational training, as well as the family doctor who could attests diseases and ill-treatments.

All the information requested by the judge, as well as expertises ordered to psycho-socio health professionals or institutions, is then collected in reports, and the case is then ready for judgement.

**The importance of collaboration after the judgement**

As presented to you on Monday by Mr Zermatten, our legal system foresees several kind of punishments and educational measures, besides the possibility to suspend the decision, send the case to mediation or renounce to the sanction.

**The punishments are**

*The reprimand* usually applied in case of light offences and in case of first infringement of the law. The young offender is formally admonished, by written or orally by the Judge. In case of new violation of the law, he will be punished more seriously. With the reprimand the judge can also prescribe a probation period and/or behaviour rules that the offender must follow.

*The fine* (up to about US$ 1’500) usually applied in cases of small use of drugs or in cases of traffic offence. The condition for the fine is that the young offender has already reached 15 years and is at work, since the fine has to be paid with the income of the young offender and not by the parents.

*Work service (Community Service Order)*, usually applied in many cases (also when the young offender doesn’t have an income) and very efficient in all those cases where the young offender has damaged things or other’s properties, in case of thefts, etc.

The young offender has to serve the number of work days decided by the judge in favour of community bodies or agencies, usually in hospitals, in elderly homes or by community administration services but also in favour of his victim.

The work days can be split up in individual days of service: if the young offender goes to school or works, he will do his community service during weekends or holidays.

*Detention:* up to 4 years.

Usually the detention is up to 1 year but if the young offender has already turned 16 years and has committed a very serious crime (of the ones listed exhaustively in the law), the judge can condemn him up to 4 years of prison.

The detention homes have to provide educational and working programmes so that the young offender can continue his education or start an education and learn a profession during his staying in prison.

Furthermore, if he suffers of some personal or psychological problems is also assisted by specialists.
Up to a sentence of 1 year of detention, the judge can agree that the young offender expiates his penalty in semi detention. Semi detention will usually be prescribed in those cases where the young offender goes to school or has a job and his personal conditions let suppose that he will not commit other crimes. During the day he will then go out to attend school or go to work and he will spend his free time, evenings, weekends etc. in prison. Up to a sentence of 1 month of detention the judge can also agree that the young offender expiates his penalty in separate days of prison.

The execution of fine, work service or the penalty of detention up to 30 months can also be partially or totally suspended if the judge assumes that a suspended sentence is enough to prevent the minor from committing further crimes.

The educational/protective measures

They can be combined with the punishments. The judge order them when - on the bases of the information he has collected concerning the young offender, his family and his environment - considers that the young offender needs an educational support or needs to be followed by youth specialists.

The educational/protective measures are:

Minor’s watch: the judge appoints a person or a youth service that monitors and watches over the minor in his development and behaviour and reports the judge regularly about it.

External support: when the measure of minor’s watch appears not sufficient, the judge appoints a person, normally a trained social worker specialist in juvenile delinquency matters, who has to support the parents in their upbringing duties and assists and helps the young offender in his development, education, vocational training and watch over his behaviour.

The judge can also confer the appointed person some powers usually exerted by the parents of the young offender concerning education, health treatments, vocational training and administration of minor’s income, limiting in that way the parents in their decisional autonomy.

The appointed person has to report regularly the judge about his work.

Placement: the judge will order the placement (institutional care) in the cases where he assumes that the development of the young offender will be in danger if he remains in his family and social environment since the reasons of committing crimes have origins in his living conditions.

The type of placement depends of the individual needs and personal problems of the young offender. He can then be placed in a small family community, in an open institute or in a closed one.

To place a young offender in a closed institute however it is necessary an expert’s report which indicates the necessity of this kind of placement and usually the young offender
placed in this kind of institutes is socially dangerous, drug or alcoholic addict or suffers from mental diseases. Inside of the institute, beside following an education and job training, the young offender will also be followed by experts and will follow rehabilitation programmes.

_Medical treatment_: if the young offender suffers of a mental disease, shows troubles in the development of his personality or has addiction problems, the judge can also order a medical treatment, which can also be ordered in addition to one of the above mentioned measures.

Of course, also for what concerns the execution of the judgement the collaboration between the persons charged of the execution and the judge is very important since, according to our legal system, the judge is also competent for the vigilance of the execution and has to control that the judgement is executed in the right way.

For what concerns _the punishments_, collaboration is usually needed in case of a judgement concerning a work service (community service order), between the judge and the board or authority who will be charged on organising the days of work service the offender has to serve.

Is in fact very important for the judge not only to know if the work days were all done, but also the way they were done, if the offender behaved himself correctly, did well his duties, showed respect etc.

To prevent problems during the execution of the work service, the judge can also inform the board or authority charged on organise the work days about some aspects regarding the personality of the young offender and usually requests them a final execution report.

Also in case of reprimand of the offender with imposition of a period of probation and/or some behavioural norm the judge would need collaboration. In those cases he usually collaborates with the family of the offender at the purpose to watch if what was ordered in the sentence is respected.

Since the judge has to watch over the execution of the judgement a good collaboration is of course also very important with the detention home where the young offender is placed to expiate the penalty of detention.

More important for the judge is however the collaboration in the execution of _educational measures_, since – unlike punishments – their length is not determined in advance.

And since the educational measure can last a year or more, can also happen that the circumstances or personal needs of the offender will change during the execution. The judge can therefore change the measure he ordered before with another and more suitable one. The same can be requested by the parents of the offender or by the offender himself.

Furthermore, the judge must also decide when to end the educational measure, since - according to our system - the measure must end when its purpose is reached or when the measure is no more effective.
Therefore the judge and the persons charged in following and assist the young offender for the length of the measures of minor’s watch, external support, medical treatment or placement have to meet regularly and collaborate in exchanging information about the progress of the measure.

The purpose of collaboration is of course to be always informed on what’s going on and to intervene at any step of the measure and at any time when necessary, in order to then act in the best way and in favour of the complete reintegration of the young offender in the society.

The collaboration between penal and civil authority

As we have seen, according to our system the juvenile judge, besides punishing, can also order educational or protective measures in favour of the young offender.

But what happens when the penal proceeding is dismissed but the young offender needs anyway a measure of protection or when the juvenile judge finds out the measure needed by the young offender is not of his competence but is competence of the civil authority?

Our legal system foresees that both – penal and civil authorities – have to collaborate together in finding out which would be the best and most coherent measure to order, in consideration of the interests and needs of the young offender.

So for instance, when the juvenile judge assumes the young offender needs measures not of his competence, informs the civil authority about the case and ask him to intervene by ordering a civil measure of protection, which could be for instance an educational stand, custody or an institutional placement.

The juvenile judge can also propose the civil authority, in case of conflict of interests between the minor and his parents, to appoint a tutor to the young offender who will represent him instead of his parents.

In case the juvenile judge considers the parents of the young offender not able to carry out their educational and parental duties in an adequate way, he can as well ask the civil authority to order some measures of protection also in favour of the brothers and sisters of the young offender, even if they haven’t committed any infringement of the law.

Furthermore, in case the juvenile judge considers still necessary civil measures already in force before the beginning of the penal proceeding, he asks the civil authority to maintain them.

The same happens when the civil authority renounces in ordering a measure of protection of his competence and asks the juvenile judge to intervene at its place.

Therefore, besides the constant collaboration between them, both authorities have also to communicate each other their decisions, in order to be constantly informed about their steps and assure a coherent proceeding.
Last but not least, is also very important to collaborate and cooperate with those persons and professionals who directly support in some way those parents who need help to face and cope with their specific problems.

Because any educational measure wouldn’t ever be completely efficient, if the usual environment of the young offender won’t also change.

**Conclusion**

As you can see, the work of the juvenile judge must always be interdisciplinary in order to choose the appropriate form of intervention. An inappropriate intervention can in fact lead to contradictory messages to the young offender and can generate problems in his future reintegration.

Therefore a good collaboration and cooperation is an absolute priority and the wisdom of the judge can be enhanced by the knowledge gained from consultation, collaboration and cooperation with all those persons that act in favour of the young offender and in favour of his complete reintegration.

Without forgetting that a good collaboration, cooperation and exchanging know-how is also very important for plan general prevention actions and therefore help our children to grow in an adequate and respectful way and therefore help them developing in responsible adults.
INTERNATIONAL DEVELOPMENTS
IN JUVENILE JUSTICE
Jean ZERMATTEN, Director of IDE, Former Juvenile Judge, Sion

PLAN

1. Part I: the texts
   • Three main United Nations texts
   • … and the CRC
   • ECOSOC works
   • Guidelines Child victims and witnesses
2. Part II: the principles
   Five main principles and their implication

The three main United Nations Texts

Riyadh Guidelines (1990)

- Prevention of Juvenile Delinquency in a positive way, i.e. upgrading the overall well-being and socialization.
- Tackling the problem in a comprehensive way and not merely through expounding negative or partial situations.
- Prevention cannot be limited to the justice area and must include all fields relative to childhood and adolescence.
- Force of the sentence: prevention is everybody’s business and not only a few specialists.
- Input of community services: school role, implication of local associations, collaboration with sport, leisure and media bodies.

Purpose: Helping youth to make relevant choices.

UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing)

- Provide States with guidelines for elaborating specialized systems of justice for minors.
- The Rules predate the CRC but are incorporated in it (art. 37 and 40) = binding power through the CRC.
- 10 fundamental principles.

UN Standard Minimum Rules for the Administration of Juvenile Justice (2)

1. Fair and humane treatment
2. Capital penalty and corporal punishment abolished
3. Deprivation of liberty for extremely serious cases;
4. Detention = last resort, for the minimum period;
5. Institutionalisation: last resort;
6. Objective: rehabilitation;
7. Use of diversion;
8. Specialized training for all law enforcement officials;
9. Taking the minor’s opinion into consideration;
10. Consider the issue of release as soon as possible.
United Nations Rules for the Protection of Juveniles deprived of their Liberty

- **Definition**: any person under the age of 18, under deprivation of liberty, i.e. any form of detention or imprisonment or the placement in a public or private custodial setting as a result of the penal law
- The Rules are intended to counteract the detrimental effects of deprivation of liberty by ensuring respect for children’s rights.
- Special emphasis is given to pretrial detention.

United Nations Rules for the Protection of Juveniles deprived of their Liberty (2)

**Principles**

1. Deprivation of liberty: last resort and for the minimum period;
2. Minors cannot be deprived of their liberty without objective judicial grounds;
3. The establishment of small open facilities must be encouraged;
4. Juveniles deprived of their liberty should be prepared for release (educational programmes);
5. Contacts with families must be maintained;
6. Separation from the adults;
7. The facilities management personnel must be trained.


- A holistic text, with basic principles related to Juvenile Justice:
- Non-discrimination (art. 2)
- Best interests of the child (art. 3)
- The child’s view (art. 12)
- 3 articles: 37, 40 and 39
THE CONVENTION ON THE RIGHTS OF THE CHILD (2)

Article 37

a) Prohibition of torture and cruel, inhuman or degrading treatment. No capital punishment nor life sentence without possibility of release for minors.
b) 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;
c) Every child deprived of liberty shall be treated with humanity. Separation from adults and right to maintain contact with his/her family;
d) Children deprived of liberty: right to prompt access to legal assistance and right to challenge the legality of the deprivation of his/her liberty before a court or other competent, independent, and impartial authority and to a prompt decision on any such action.

THE CONVENTION ON THE RIGHTS OF THE CHILD (3)

Article 40

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.

THE CONVENTION ON THE RIGHTS OF THE CHILD (4)

Art 40: guarantees

• i) Presumption of innocence;
• ii) Information on the charges and legal assistance;
• iii) Matter determined without delay by a competent, independent and impartial judicial body;
• iv) No compelling to give testimony or to confess guilt; examining or having examined adverse witnesses as well as witnesses on his or her behalf;
• v) Possibility of appeal;
• vi) Free assistance of an interpreter;
• vii) Privacy fully respected at all stages of the procedure.
THE CONVENTION ON THE RIGHTS OF THE CHILD (5)

Article 40: System

• Necessity of laws, procedures, judicial bodies and institutions intended especially for minors including:
  a) minimum age under which children will be presumed not liable to infringing criminal law;
  b) taking measures to treat those children without resorting to judicial proceedings every possible time.
• Priority given to care, probation, to foster care, to education and professional training programmes, and to non-institutional solutions.
• Proportionate both to the circumstances (personal…) and the offence.

THE CONVENTION ON THE RIGHTS OF THE CHILD (6)

Article 39
Reintegration principle

State Parties take all appropriate measures to promote physical and psychological reintegration of a child victim of: any form of neglect, exploitation or abuse; torture or any other form of cruel, inhuman or degrading treatment…

Guidelines for Action on Children in the Criminal Justice System, ECOSOC, Vienna 1997

• Resume all precedent texts (CRC, Beijing, Riyadh et The Havana)
• Emphasize the importance of specialized bodies, specific procedures and a broad range of adapted responses
• Emphasize mediation and restorative justice
• Reduce recourse to institutionalization
• Special attention to vulnerable groups
• Including victim and witness children
• Institution monitoring
• Necessity of international collaboration
• Training support by UN agencies

Rights recognized by the Guidelines (partie B. art. 1 à 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 concerns 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 .

THE FIVE MAIN PRINCIPLES

1. The child is different = specific treatment.
2. Public safety or individual interests ?
3. Objectives of this specific penal law.
4. Specific and numerous responses.
5. The child is entitled to procedural rights or guarantees.
## 1. The child is different = specific treatment

- The child is a being in development (cognitive and psychosocial immaturity)
- Needs different from the needs of adults
- A malleable being with high rehabilitation potential
- Delinquency as a transition, not as a chronicity sign

## Principe 1

### Consequences

States must establish a justice system:
- that recognizes progressive steps in making children responsible; no penal liability before 18
- That does not fear non-judiciary solutions
- That does not consider the young offender a future criminal, but believes in his/her chances
- That differentiates teen age offence and crime
- Forgiveness for petty offences.

## 2. Public safety or individual interests?

- Increasing youth offence worries States, especially violent expressions
- A relevant question: must minors be isolated and neutralized or rather educated?
- General prevention or specific prevention?
- Best interests of the child = individualization of sentencing.
Principle 2
Consequences
Real increase, but linked to known root causes: migrations, poverty, parents’ role, economic model, attraction for consumption goods
States must not give a law-and-order response (prison) to shield themselves, but rather think:
- That general prevention doesn’t work for minors (proceedings behind close doors, law challenging)
- That punishment is expensive, or even more expensive
- That educated minors are more productive than revolted minors
- That art. 3 CRC is an individualistic rule.

3. The objectives of this specific law
- The retributive objective leaves way to the rehabilitation/reintegration objective
- Summing up is also possible in education
- With an idea of the need for reparation …
- and an idea of socialization
- To bring about individual and social protection / prevention

Principle 3
Consequences
States must set up a Justice system:
- that recognizes the existence of measures beside punishment,
- that provides the necessary means (staff and finance) for rehabilitation/reintegration,
- that recognizes professions other than law-related (social work, education for special needs, psychological care),
- that believes in the necessity to integrate the minor into society (work, training, social integration),
- that also protects child victims (mistreatment, harmful family surroundings, abuse).
4. Responses are specific and multifold

- Those objectives cannot be reached only by deprivation of liberty (prison or institution)
- In most cases, removal from home is not necessary
- Juvenile delinquency is many-sided and calls for «tailor-made» responses
- The root causes must be looked for and addressed
- The young must become aware of the consequences of his/her deed (third party or society).

Principe 4
Consequences

States must set up a Justice system:
- That knows a large range of responses, in the form of measures or punishments,
- That has a preference for outpatient rather than institutional care,
- That leaves room for reparation (confronting the minor to his/her deed or victim),
- That favours care over sanction,
- Interested in root causes and not symptoms.

5. The child is entitled to procedural rights

- Recognizing the delinquent child, as a person = recognizing procedure guarantees
- They are rooted in the CRC and UN standards
- This builds up the idea of a child taking part in decisions affecting him
- This must not suggest: more rights = more responsibility = more punishment!
Principe 5
Consequences

States must set up a Justice system granting the following minima:
• Age of criminal responsibility not too low (art 40 al 3 CRC and 4 BR)
• Criminal coming of age not under 18 years (art 2 CRC)
• No retroactive juvenile justice (40 al 1 CRC)
• Presumption of innocence
• The right to be heard in direct (art 12 CD)
• The right to be informed of the charges (art 40 al.3 b)

Principe 5
Conséquences (2)

• Appropriate legal assistance, not necessarily lawyer, (art 40 al 2 b vii CRC)
• The principle of promptness (art. 37 d CRC)
• The involvement of parents (art 5, 18 CRC)
• The ban on torture or other treatments to obtain confession of the crime (art.37 a CRC)
• The possibility to have witnesses examined (art 40 al 2 b iv CRC)
• The right to lodge an appeal
• Free assistance of an interpreter
• Respect for privacy (art16 CRC)

CONCLUSION

Juvenile Justice rules thus demand a specialized Justice. Or rather a Juvenile Justice SYSTEM, which implies:
not only specialized courts, but services, institutions, persons
• trained,
• knowing how to work together,
• providing comprehensive care,
• emphasizing care and not sanction.
RESTORATIVE JUSTICE
Karl HANSON, Senior Lecturer and Researcher, Children’s Rights Unit, IUKB, Sion,

Dimensions in juvenile justice

1. Definition of offences
2. Criminal responsibility
3. Criminal procedure
4. Imposition of sanctions (sentencing)
5. Execution of sanctions

Approaches to juvenile justice

• Justice approach
• Welfare approach
• Restorative approach
Training Course on Juvenile Justice

Approaches to juvenile justice

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Defining restorative justice

Restorative justice is every action that is primarily oriented toward doing justice by repairing the harm that has been caused by a crime

Bazemore & Walgrave, 1999
Key notions in restorative justice

- The Harm
- The Victim
- The Restoration (outcome and process)
- Doing Justice

Core principles in restorative justice

- **Principle 1**: Justice requires that we work to heal the victims, offenders and communities that have been injured by crime
- **Principle 2**: Victims, offenders and communities should have the opportunity for active involvement in the justice process as early and as fully as possible
- **Principle 3**: In promoting justice, government is responsible for preserving a just order and the community for establishing peace

Some concluding remarks

- Victim – Offender – Community
- Restorative Justice in the Books vs. Restorative Justice in Practice
- Restorative justice for all or a separate restorative justice system for juveniles?
- Legal protection for juvenile offenders
Chronology and the different steps of the investigation

- **Starting** of the case (report, legal proceedings, denunciation, enquiries etc.)
- **Preliminary police investigation** - enquiries
- **Contacts** with the juvenile judge or the examining magistrate

- **Contact** with the victim (medical examination, safeguarding of the prints and traces) – preparation of his hearing (relating person, psychologist, specialist LAVI, etc.)
- **Hearing** of the victim in accordance with the LAVI (law on the victim assistance) regulation (video or audio recording etc) - immediate taking in charge or the follow-up of the victim
Chronology and the different steps of the investigation

- **Analysis** and **retranscription** of the hearing
- **Hearing** of people being able to provide informations

- **Inquiry** into the environment of the offender and the victim
- **To apprehend / arrest** the offender in private, educational or professional circle
- **Interrogation**
- **Searching / House search** – analysis of sequestered and seized objects
Chronology and the different steps of the investigation

- Information and presentation to the juvenile judge (measures) – Information of the parents
- Release or incarceration.
- Checks – proofs – locking of the confession
- Development and transmission of the report of denunciation

Missions of the investigation groups - Subdivisions

Investigation / statements / legal proceedings
- Theft
- Armed robbery
- Fraude
- Offences against the sexual integrity
- Ill-treatment
- Offences against the life (homicide, threat, body lesions etc.)
Missions of the investigation groups - Subdivisions

Investigation / statements / legal proceedings
- Cybercrime (paedophile)
- Removal of the body
- Prostitution
- Etc.

Narcotic cases
- Traffic = specialized subdivision
- Other = gendarmerie

The Juveniles

Mission that falls into the competences of the court police, according to the swiss penal code and the task distribution between gendarmerie and investigation police.
Typology of the juvenile

- From 0 to 7 years: Early childhood
- From 7 to 12 years: Children
- From 13 to 15 years: Pre-juveniles
- From 15 to 18 years: Juveniles

Children and juveniles in front of the law

- From 0 to 7 years: no punishable (82 CPS)
- From 7 to 15 years: child, punishable (82 CPS)
- From 15 to 18 years: juvenile, punishable (89 CPS)
Principles

- Knowledge of the rules governing the intervention by the minors children and juveniles
- Pressional attitude of the police officer
- To take account of the environment
- General informations
- Research of the truth

Interpellation of a juvenile

- Proportional measurements
- Security (personal search)
- Handcuffs if necessary
- Inventory
- Information of the holder of the parental authority
Convening

- Written convening (eventually oral agreement with the parents)
- Addressed to the parents of the minor
- Exceptionally by phone:
  - in a case of emergency
  - through the parents

Intervention and interpellation in an educational circle

- In civil only
- In accordance with the direction
- No intervention at school without information of the direction and always in accordance with the juvenile judge
Attitude of the police officer in front of the juvenile

- Exemplary behaviour
- Appropriated and adapted language
- No critics against the parents
- Resistance to the provocations
- No conditioning

Attitude of the police officer in front of the parents

- To put oneself at their place
- Objectivity
- To make less dramatic or sometimes to dramatize
- Not to judge educational deficiencies
- Not to be opposed in case of differences
- To contribute to a solving of the problem (advice)
House search

- Agreement of the parents
- Refusal of the parents:
  - search warrant
- Only in front of:
  - a parent or relative
  - a legal representative
  - a person in charge of the institution

House search

- Inventory signed by the juvenile and one of the parents (representative)
- To mention on the hearing record the origin of the objects
Hearing

• In accordance with the code of criminal procedure and the juvenile judge
• According to the case, in presence of the parents or the legal representative
• The juvenile’s signature
• No countersignature of one of the parents

Among other informations, the hearing record has to contain:
• The name of the legal representative
• The name of the social reference point / educational trainer
• The present situation
• The circumstances and facts seen by the heard person, if possible formulated with his own words
Hearing

Below mentioned informations about the juvenile’s family are obligatory:

- Father
- Mother
- Marriage
- Separation
- Divorce

- Brothers and sisters
- Attended schools
- Present situation
- Remarks

Hearing of a child of less than 10 years old

- LAVI regulation (law on the victim assistance)
- If one of the parents is present, to mention it in the record
Environment

The *why* is as important as the *how*

- Situation of the family
- The reasons of the offence
- Relationship
- Hobbies
- Etc.

Turning over to the parents

- The juvenile is obligatory to be turned over to his parents or the person in charge (school)
- The juvenile (more than 15 years) is allowed to return home by himself (with the parents’ agreement)
Information of the parents

- Explanation given by the juvenile himself
- Reading of the hearing record
- Details given by the police officer

Apprentices - Students

- The apprentice-trainer has not to be informed about the intervention and the reason of it.
- Theorically no interpellation of an apprentice on his work place.
Principles, methods and aspects of the investigation

- Concept of the investigation
- General valuation
- Investigation
- Situation of the facts
- Situation of the proofs
- Situation of the facts
- Situation of the suspicion

Principles, methods and aspects of the investigation

- Situation of the danger
- Offender
- Hypothesis relating to the reasons
- Cui bono?
- Hypothesis relating to the event
- Versions relating to the event
Principles, methods and aspects of the investigation

- Legal situation
- Public
- Medias
- Equipment resources
- Situation of the intervention
- Staff

General evaluation

Principles, methods and aspects of the investigation

- Place
- Victims
- Spots
- Procedure
- Hour
- Means

Situation of the facts
Principles, methods and aspects of the investigation

- Situation of search
- People
- But
- Hour
- Place / site
- Objects
- Value of the goods

Principles, methods and aspects of the investigation

- Situation of the proofs
- Traces at disposal
- Expected traces
- Fictitious and misleading traces
- Confession
- Damaged witnesses
- Value of the proof
Principles, methods and aspects of the investigation

Aspects of the various methods of the criminal tactic

- Analyse / Synthesis
- Observation
- Inspection
- Questioning
- Comparison
- Hypothesis
- Forecast
- Experimentation
- Reconstruction
- Mathematical methods
- Logical methods
Introduction

On September 22nd, 2006 the Hashemite Kingdom of Jordan presented its third periodic Report before the CRC’s Committee in Geneva. The concluding observations adopted at the 1199th meeting, held on September 29th, 2006, noted in the field of Juvenile Justice:

**Administration of Juvenile Justice**

94. The Committee welcomes the Juvenile Justice Reform Programme in Jordan and the State party’s close collaboration with the UN Office on Drugs and Crime (UNODC), UNICEF and others to improve coordination and collaboration amongst partners working in the field of juvenile justice. While acknowledging the State party’s efforts to protect the rights and the best interests of juveniles deprived of their liberty, for example, by implementing the Law No. 11 and the Law No. 52, both of 2002, amending the Juveniles Act, it notes with concern that:

(a) Despite the information from the State party that efforts are being made to raise the age of criminal responsibility to 10 years, the minimum age of criminal responsibility is still too low (7 years);
(b) Due to the lack of alternative sentences, deprivation of liberty is not used as a last resort;
(c) The lack of resources impedes the establishment of a special juvenile court;
(d) Not all children in conflict with the law are provided with free legal assistance;
And
(e) Children in conflict with the law, particularly girls, are not provided with adequate recovery and social reintegration services.

95. The Committee recommends that the State party continue and strengthen its efforts to ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention and other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the Havana Rules), taking into account the recommendations adopted by the Committee on its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238). It recommends that the State party:

(a) Urgently raise the minimum age of criminal responsibility to an internationally acceptable level;
(b) Strengthen its efforts to implement the Juvenile Justice Reform Programme and to ensure that it conforms fully with the principles and provisions of the Convention and develop and implement a comprehensive system of alternative measures such as community service orders and interventions of restorative...
Training Course on Juvenile Justice

justice in order to ensure that deprivation of liberty is used only as a measure of last resort;

(c) Establish juvenile courts with appropriately trained staff throughout the country;

(d) Expand access to free legal aid as well as independent and effective complaints mechanisms by all persons under 18 years of age;

(e) Ensure that both sentenced and released persons under 18 are provided with educational opportunities, including vocational and life-skills training, and recovery and social reintegration services, in order to support their full development;

and

(f) Seek technical assistance from the United Nations Interagency Panel on Juvenile Justice.

96. As regards the protection of child victims and witnesses at all stages of the criminal justice process, the Committee draws the State party’s attention the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (ECOSOC Resolution No. 2005/20).

Request

As Jordan is now in a phase of reform of its Juvenile Justice system, different activities has been organised about Juvenile Justice, in particular a training course took place in Amman on Restorative Justice and Mediation with the participation of Mrs Silvia Torricelli, expert in the field (January 2006). It was organised jointly by UNICEF, PRI, UNODC and the Jordan Authorities.

In spring 2006, PRI and UNODC requested the International Institute for the Rights of the Child (IDE) to set up a training session for the people involved in the ongoing reform. The training module was meant in continuity with the work undertaken in the country, in order to serve the interests of investigating the key issues faced by Jordan: specialised Justice for minors is still in at an embryonic state, and centralized in the Capital, Aman.

Following IDE's acceptance to act the part requested by PRI and UNODC, an official delegates group from Jordan obtained the high level government authorizations and came to Switzerland from November 4th to November 11th, 2006. The delegation was made up of 18 persons: 16 representatives chosen by government and non-government bodies and two UNODC Representatives.

Objectives

The objectives of this training course were:

- facilitating the meeting of the stakeholders of the Jordan justice system reform, outside their usual context,
- rising awareness among participants on the necessity of a specialized Justice,
- pointing out to them the relevant existing international instruments in this field,
- making them reflect on the possible reforms of the Jordanian system,
- showing instruments (institutions and infrastructures) feasible in Jordan,
- explaining that other responses exist, apart from deprivation of liberty, in particular the alternatives as the Mediation or the Community Service Order,
- issuing recommendations useful for Jordan,
- ensuring a seminar follow-up, in a form to be decided later.

Development of the Seminar

The Seminar was a 5-days module (November 6th to November 10th), each day covering a specific theme. The method of work was the confrontation theory/practice, through plenary lectures, workshop sessions and visits (3 institutions including 6 different centres visited). The delegation had the opportunity to visit:

- the Juvenile Court in Fribourg
- the “Brigade des mineurs” specialised unit of the Fribourg Police,
- the Office of mediation in Fribourg.

The eight speakers came from the academic as well as practical field.

Participants were introduced to the IDE website (www.childsrights.org) and to the different activities of the IDE (also the Children's Rights Didactic Path).

Two convivial dinners were organised as well, in Champlan (St-Raphaël Centre) and in Fribourg. Such moments are indeed important, giving the opportunity for better acquaintance and closer links. At the participants' request, some evenings were free.

The working language was English. The translations were made by two interpreters, one from UNODC ant the other from Questscope.

Participants

The list of participants is joined in Enclosure I.

The delegation Head was Dr Mohamed Al-Tarawneh, Juge, Member of the Judicial Council.

Mrs Carlotta Ferrero and Mrs Sahar Rawas were UNODC representatives.

Training sessions, visits and transfers were supervised by IDE staff.

Speakers

Direction of the course was insured by Mrs Silvia Torricelli, a. Judge for Young Offenders, President of the “Magistratura per i Minorenni” Lugano, Switzerland, lawyer and expert in Juvenile Justice.
List of speakers:

Dr Karl Hanson, Project Manager, Master in Children’s Rights IUKB, International Consultant Sion and Geneva, Switzerland

Mr Jean-Pierre Heiniger, Independant consultant, expert in Juvenile facilities

Mr Michel Lachat, Youth Court President, Member of the Board of IDE, Member of the Board of AIMJF, Teach at University of Fribourg, Switzerland

Mr Christian Nanchen, Chief of Children’s Protection Office, Lawyer, Switzerland

Mrs Geneviève Levine, Lic. Phil, animator of the website www.childsrights.org, IDE, Sion, Switzerland

Mr Robert Steiner, Chief of the Judiciary Police, Sion, Switzerland

Dr Daniel Stoecklin, IDE and Fribourg University, Sion and Lausanne, Switzerland

Mr Jean Zermatten, Director of IDE and Member of the UN Committee on the Rights of the Child, Switzerland.

Programme

The training programme was very intense and the number of plenary presentations was probably ambitious. Being a starting training Seminar, it seemed necessary to provide substantial theoretical elements.

Lectures were presented with the support of varied technical devices (overhead-projector, Powerpoint presentations) increasing their interest. Technical facilities were unanimously appreciated.

There was an active participation and animated debates.

The working method has been interdisciplinary throughout the course, this aspect being favoured by an adequate blend of professions represented among speakers and participants. In itself, the issue tackled is indeed interdisciplinary.

Informal events were of paramount importance, between Jordanian officials and "foreigners" or amongst Jordanian officials. It ranges among the benefits of such meetings. They could accordingly get acquainted with each other, but also with the work of other delegates. These contacts initiated in Sion will hopefully be maintained in the home country.

Apart from an official dinner the first evening, there was no other official event than the Opening ceremony by Mr Hermann Murmann, President of the High Court of the Canton du Valais.

Visits of institutions concerned: St-Raphaël (3 different Centers), Pramont (closed institution for adolescents having committed severe offences) and la Fontanelle (Mex for
girls with important difficulties). In each of them, the welcome was warm. The information were provided in French and translated in Arabic).

Transports and trips were provided by the enterprise Theytaz. To avoid transfers, lunches were taken on the spot. The high-quality of the food was praised. Meals were catered by Mr Salamin, Le Plaza’s manager. Participants could help themselves to a buffet in our Cafeteria. The formula is well suited for a one-week session.

The programme is joined to this final report (Enclosure II).

**Recommendations**

Jordanian participants’ issued a list of recommendations, presented by reporters (5 groups). The list was then redrafted, to avoid repetitions, and finalized by participants once back in Jordan.

Recommendations were issued on November 10th, 2006 on the basis of written suggestions.

They were formally approved in a plenary meeting during the closing session of the training course.

The recommendations are joined to this final report (Enclosure III).

**Follow-up**

It is obviously up to everyone, to implement the matter of training course in her/his work, Ministry, Courts, organisation. To make collaborators benefit from it, possibly, to organise a training course.

As far as IDE is concerned, the follow-up will take two forms:

- first **the publication of a working report** on the works carried out during the week in Sion. A special section will be devoted to the mention of Swiss basic legal texts in the field of penal law and protection law. Participants have shown a deep interest in the Swiss model, in spite of the understanding and implementing obstacles due to federalism;
- considering the lack of time to set up a more practical training session in Jordan, UNODC and PRI have to consider facilitating the setting up of a training course, essentially for judges and procurators, in alternatives measures;
- the **main speakers will be available** for a second training, focussed more on good practice, if requested.
9. Financial aspects

The costs of the training course were entirely supported by UNODC and PRI. The final breakdown is joined to this final report (Enclosure IV).

10. Concluding remarks of the Course Director’s Jean Zermatten

Some final remarks about Juvenile Justice.

There is currently an important set of international instruments in the field of Juvenile Justice. However, one evidence comes out of all these texts: the international community intends to alleviate the harshness of traditional systems of Justice, characterised by the emphasis given on retribution/repression. The principal manifestation of this harshness is the extensive application of the deprivation of liberty both in prisons and in closed institutions.

We can ameliorate the conditions in prisons and jails. We can separate young offenders from adults, give more occupations and formation to the adolescents’ imprisoned. But they remains prisons and jails and a very harsh answer to offences which, although sometimes very serious, are in the vast majority of the cases relatively minors, or even petty. So the concern at the international level is to reform the systems and apply more social and pedagogical measures instead of deprivation of liberty. According to me, it is clear that a majority of the juvenile don’t need to be detained, or only for very short periods of time.

The possibilities offered by the Juvenile system are often called alternatives, because they are another way to deal (they rotate) with juvenile delinquency. The two main alternatives proposed on the international level are:

- Community service Order
- Mediation.

But other possibilities exist, respectful of the country, the culture. I think in particular in all “conferences” possibilities, existing in countries where the whole community is in charge of solving the problem of the young who comes in conflict with the law, expressing social reprobation and trying to find a reintegrative solution for the accused not to be excluded by his/her behaviour. You may think here of the traditional Justice system (or the tribal system, in which the community plays an important role in solving the problem arisen between two families, or two tribes for example, when an offender in particular a young one has committed an offence....).

All this movement is named “Restorative justice” and emphasizes the necessity for the offender to face his act and to be confronted to the victim (person) or the victim globally (society/community), or both. RJ is also based on the important idea of participation: to consider the young offender as a person, with rights and first of all, the right to be an actor of the decision, not only a spectator.

I think also important to mention that diversion, alternatives and restorative justice are a very innovative way of thinking; but they are not magic and cannot solve all the
problems. If we agree on the necessity to alleviate the harshness of the juvenile system and if we advocate for “softer” answers, we have to take into consideration the legitimate concerns of public security.

So a State has to make the balance between protection and control. Not a very easy task, because you have, on the one hand, the pressure of the public, the media, the victims who often ask for very severe punishments; and on the other hand, you have the evidence:

- The child is a being in development (cognitive and psychosocial immaturity),
- Needs of children are different from the needs of adults,
- A young is a malleable (evolving\(^9\)) being with high rehabilitation potential,
- Delinquency is to be seen as a transition, not as a chronicity sign.

Finally, what I want to add is the following: you must not see the Juvenile Justice system (JJS) only as a court, or a judge, or a prosecutor. And the JJS cannot be reduced to situations where a conflict with criminal law has arisen. It covers many spheres including delinquency prevention, law enforcement and adjudication and rehabilitation. Consequently, it is not a legal issue but also a key area of social policy.

The JUVENILE JUSTICE SYSTEM is a very complex system built and interconnected with others systems. It is linked with:

- Police
- Social services
- Medico-legal system
- Education system (schools)
- Institutions
- Prisons...

There are many players in the game and the difficulty is to find how to play together...

It’s up to you to build the JJS convenient for your country! You go back home with this new responsibility.

\(^9\) See notion of evolving capacity, art 5 CRC
APPENDIX I

Final Recommendations elaborated by the members of the Official Delegation of Jordan to the High Level Training Course on Juvenile Justice organised by the International Institute for the Rights of the Child (Institut international des Droits de L’Enfant – IDE) in Sion, Switzerland

The Jordanian delegation formulated recommendations at the final working session, on November 10th 2006. These recommendations were done by sectors.

As a synthesis of all these recommendations, we put together the common remarks and recommendations in a first chapter, and then we give the sectorial ones.

Chapter 1: Common Recommendations

a) To have a specialized justice for all offences committed by juveniles, with specialized courts and specialized judges,
b) To specialize the police dealing with juvenile delinquency and to effectively train the police forces,
c) To introduce restorative justice principles to improve juvenile justice, in particular alternative measures as mediation for juvenile cases (with a Mediation’s Office) and Community Service orders,
d) To better the collaboration between all the stakeholders of the Juvenile Justice system, in particular between police and justice,
e) To avoid the frequent rotation of staff in all the sectors, in order to gain in sustainability,
f) To have new facilities for young offenders, with specialized staff and specialized social workers,
g) To lower the number of beneficiaries in all institutions in Jordan (currently around 7'000 beneficiaries),
h) To install appropriate equipments in the institutions and to implement vocational and life-skills training,
i) To implement data collection in order to know the statistics on juvenile delinquency and to make studies on the phenomenon,
j) To raise awareness at the family level about children’s rights and young offenders,
k) To have more resources (human and financial) to implement an effective Juvenile Justice system,
1) To consider NGOs as active partners, especially in a specific sector like juvenile justice.

Chapter 2: Sectorial Recommendations

The Judiciary
a. To address the problems of corruption and transparency,
b. To improve the IT equipments

The Ministry of social development
a. To consider having private institutions,
b. To control that all facilities correspond to international standards,
c. To ensure sustainability in capacity building efforts undertaken on ad hoc basis
d. To increase the number of social workers and of training opportunities for them,
e. To continue efforts for introducing comprehensive law reform that strengthens the role of social workers and caters explicitly for alternative measures and promote aftercare,
f. To deal with the problem of children that drop out from school,
g. To consider informal education not having the same outcome as formal education
h. To implement an electronic system in order to follow up the cases,
i. To give opportunities for more exchange of visits with other systems.

The Police
a. To reform the law to provide more authority to police in order to deal with minor cases,
b. To increase the services for juvenile in conflict with the law,
c. To raise awareness on child rights at police level,
d. To have clearer procedures in order to deal with children.
National Center for Human Rights

a. To harmonize the implementation of juvenile law,
b. To strengthen the control of the government in juvenile law implementation,
c. To have specific care-follow up after release,
d. To accept planning from community.

Lawyers and NGOs

a. To raise awareness on need of legal aid / assistance of lawyers for juvenile offenders,
b. To better the connection between NGO and government,
c. To ensure the sustainability of the juvenile Justice system.

Recommendations from IDE (Mrs Torricelli and Mr Zermatten)

a) to raise the minimum age for criminal responsibility to at least 10 years,
b) to adopt a gender sensitive Juvenile Justice System.
### APPENDIX II

**List of Participants at the Sion Training on Juvenile Justice**  
*(4-11 November 2006)*

Names of institutions' representatives:

<table>
<thead>
<tr>
<th>#</th>
<th>Name of Participant</th>
<th>Agency/ Institution</th>
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<tbody>
<tr>
<td>1.</td>
<td>Mr. laith Abu Oweida</td>
<td>Ministry of Social Development</td>
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<tr>
<td>2.</td>
<td>Mr. Saou'd Al-Barary</td>
<td>Ministry of Social Development</td>
</tr>
<tr>
<td>3.</td>
<td>Mr. Mohamed Kharabsheh</td>
<td>Ministry of Social Development</td>
</tr>
<tr>
<td>4.</td>
<td>Mr. Mohamed Shabana</td>
<td>Ministry of Social Development</td>
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<tr>
<td>5.</td>
<td>Dr. Mohamed Al-Tarawneh</td>
<td>the Judicial Council</td>
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<td>6.</td>
<td>Mr. Thaer Al-Edwan</td>
<td>Ministry of Justice</td>
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<td>7.</td>
<td>Mrs. Suhair Al-Tobassi</td>
<td>the Judicial Council</td>
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<tr>
<td>8.</td>
<td>Mr. Adeeb Khawaldeh</td>
<td>the Judicial Council</td>
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<tr>
<td>9.</td>
<td>Lieutenant Colonel Izzeddine Abderrahman Al-Soukhi</td>
<td>Family Protection Department</td>
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<tr>
<td>10.</td>
<td>Major Fakhri Ahmad Ayed</td>
<td>Family Protection Department</td>
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<td>11.</td>
<td>First Lieutenant Majdi Mohamed Majed</td>
<td>Family Protection Department</td>
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<td>12.</td>
<td>Mr. kazem Kofeiri</td>
<td>Family and Child Protection Society</td>
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<tr>
<td>13.</td>
<td>Mrs. Christine Faddoul</td>
<td>The National Centre for Human Rights</td>
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<tr>
<td>14.</td>
<td>Mr. Issa Al-Maraziq</td>
<td>The National Centre for Human Rights</td>
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<tr>
<td>15.</td>
<td>Miss Najah Innab</td>
<td>Mizan Law Group for Human Rights ( Ngo )</td>
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<tr>
<td>16.</td>
<td>Mr. Haytham Mehyar</td>
<td>Questscope ( NGO )</td>
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**UNODC Delegation Leaders:**

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<tr>
<th>#</th>
<th>Name of Participant</th>
<th>Agency/ Institution</th>
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<tr>
<td>1.</td>
<td>Mrs. Carlotta Ferrero</td>
<td>United Nations Office on Drugs and...</td>
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<tr>
<td>.2</td>
<td>Miss Sahar Rawas</td>
<td>United Nations Office on Drugs and Crime (UNODC)</td>
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الأنسة سحر الرواس

مكتب الأمم المتحدة المعني بالمخدرات والجريمة

Training Course on Juvenile Justice
APPENDIX III

Juvenile Justice
Training course for officials from JORDAN
Institut international des Droits de l’Enfant (IDE)
(4-11 November 2006)

Saturday, 04.11.2006

04:20 p.m. Arrival of the delegation at Geneva Airport (flight RJ 149)
05:27 p.m. Transfer to Sion, by train
07:22 p.m. Transfer to the Hotel Elite and free evening

Sunday, 05.11.2006

Day free

Monday, 06.11.2006

Chair: Mr Jean Zermatten, Director of the IDE, former Juvenile Judge

08:45 a.m. Departure for IUKB
09:00 a.m. Registration, handing out of documents
09:15 a.m. Opening Ceremony
  Welcome by Mr Herman Murmann, President of the High Court of Valais, Sion
09:30 a.m. Seminar's presentation: Mrs Silvia Torricelli, Director
10:00 a.m. Presentation of the members of the delegation of Jordan
10:30 a.m. Break
11:00 a.m. The Swiss legal system for young offenders
  Mr Jean Zermatten, Director of the IDE, former Juvenile Judge
12:30 p.m. Lunch
01:30 p.m. Presentation of the IDE and of the website www.childsrights.org
  Mrs Geneviève Lévine, IDE
02:00 p.m. The child in special need, Dr Daniel Stoecklin, IDE and University of Fribourg
03:15 p.m. Departure for Institut St-Raphaël and visit of 4 units for young people (boys and girls), open institutions:
- Foyer des Jeunes Travailleurs
- Centre de préapprentissage
- Centre de préformation
- Centre pédagogique et scolaire

Mr Jean Zermatten

07:00 p.m. "Valaisanne" evening

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**Tuesday, 07.11.2006**

*Chair: M. Daniel Stoecklin, IDE*

08:45 a.m. Departure for IUKB

09:00 a.m. The Involvement of the Community in Juvenile Justice

Mr Christian Nanchen, Head of the Children's Protection Office, Sion

10:15 a.m. Break

10:45 a.m. How to run an Institution

Mr Jean-Pierre Heiniger, Former Director of la Fontanelle, Switzerland

12:15 p.m. Lunch

01:30 p.m. How to run an Institution (continuation)

02:45 p.m. The work of a Juvenile Judge. The importance of Collaboration

Mrs Silvia Torricelli, a. Youth Court President, Lawyer, Lugano, Switzerland

03:45 p.m. Break

04:00 p.m. Departure for Pramont

04:15 p.m. Visit of Pramont Center (closed institution for difficult young offenders)

Mr Jean Zermatten, Director of IDE, former Juvenile Judge

06:30 p.m. Transfer to the hotel and free evening

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**Wednesday, 08.11.2006**

*Visits lead by: Mr Michel Lachat, Juvenile Judge, Fribourg*

07:30 a.m. Departure from the Hotel to Fribourg

09:00 a.m. Arrival in Fribourg

Welcome of the participants by Mr Michel Lachat and visit of the Juvenile Court of Fribourg

09:45 a.m. Transfer to the Mediation Office for young offenders and visit
12:30 p.m.  
Lunch

02:30 p.m.  
Visit of a police station, La Grenette (Brigade des Mineurs)

04:30 p.m.  
Visit of the old town of Fribourg

06:00 p.m.  
The traditional Fondue

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

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**Thursday, 09.11.2006**

*Chair: Mr Daniel Stoecklin, IDE*

08:45 a.m.  
Departure for IUKB

09:00 a.m.  
International developments in Juvenile Justice  
Mr Jean Zermatten, Director of the IDE, former Juvenile Judge

10:30 a.m  
Break

11:00 a.m.  
Restorative Justice  
Mr Karl Hanson, Senior Lecturer and Researcher,  
Children’s Rights Unit, IUKB, Sion, Switzerland

12:00 noon  
Lunch

01:15 p.m.  
Departure from the IDE and to Vérossaz and visit of la Fontanelle

02:00 p.m.  
Institution for girls offenders  
Mrs Silvia Toricelli, a. Youth Court President, Lawyer

04:15 p.m.  
Transfer to the hotel and free afternoon and evening  
Shopping, tourism

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**Friday, 10.11.2006**

*Chair: Silvia Torricelli, a. Youth Court President, Lawyer*

08:30 a.m.  
Departure for IUKB *(with luggage)*

09:00 a.m.  
The role of the Police  
Mr Robert Steiner, Chief of the Judiciary Police, Sion, Switzerland

10:00 a.m.  
The problem of Justice in a country in transition  
Jordan participants have to prepare, before their departure from the training course,  
10 minutes presentation. In the 10 minutes presentation: each category presents  
their challenges, problems and suggests recommendations
10:50 a.m.  
Break

11:00 a.m.  
Plenary discussion: with adoption of the recommendations

11:30 a.m.  
Closing ceremony and distribution of the certificates

12:00 p.m.  
End of the training course and lunch

12:30 p.m.  
Departure for the mosque

12:45 p.m.  
Arrival at the Mosque

01:00 p.m.  
Payer

01:30 p.m.  
Departure for the train station

02:05 p.m.  
Departure for Geneva by train

04:04 p.m.  
Arrival in Geneva (Cornavin) and night in Montana Hotel in Geneva


Saturday, 11.11.2006

02:50 p.m.  
Departure of the train to Geneva airport arrival at 02:56 (free sitting)

05:10 p.m.  
Departure of the flight no RJ 150 to Jordan