



National Conference on Juvenile Justice: A Practical Approach

OUTCOME DOCUMENT

A. Introduction and Background

On March 19-20, DCI-Sierra Leone hosted a 2 day national conference on juvenile justice. The purpose of the conference was to discuss and identify practical steps for ensuring the implementation of Sierra Leone's newly enacted Child Rights Bill, in particular with regard to children's rights in juvenile justice. The conference was a way of moving from words to action and ensuring better coordination between national actors in guaranteeing the rights of children in juvenile justice.

Day One of the conference set the context of children's rights in Sierra Leone, reviewing both national and international legislation on juvenile justice. Presentations looked at the provisions of the Child Rights Act 2007 to establish community-based diversionary measures (e.g. Child Panels), raise the minimum age of criminal responsibility to fourteen, and provide a family court to hear children's cases and protect children from abuse. Participants emphasized that the Child Rights Act must take precedence over all other laws and legislation and must make the best interests of the child a primary consideration.

Other presentations used a global perspective to examine the gaps existing between the international juvenile justice standards set forth in the Convention on the Rights of the Child and in General Comment No.10 and legislation and practice in Sierra Leone. While the new Child Rights Act has addressed many of the previous gaps by providing provisions for diversion and community-based alternatives, participants noted that many practices were still not meeting international standards and should be addressed.

During Day Two of the conference, participants identified remaining issues requiring clarification or guidance for better implementation. Participants then split into groups to develop recommendations for action in addressing these remaining challenges. Some of these included: establishing guidelines for age verification, promoting better coordination, providing protection for child victims and witnesses of violence, and facilitating the development of child panels.

The conference also looked at how to improve methods of national coordination amongst stakeholders and discussed how the jurisprudence of the Special Court for Sierra Leone could be integrated into law and practice in the country.

The conference saw diverse participation from various sectors of society including police officers, lawyers, magistrates, civil society, teachers, the Ministry of Gender, Social Welfare and Children's Affairs and children themselves. Participants also came from all

regions and provinces of the country, bringing a wide range of perspectives and experiences. Of note is that four magistrates participated actively in the conference as both expert speakers and participants.

B. Key Themes and Recommendations

The working group discussions lead the development of a number of key themes and corresponding recommendations:

1. Age verification:

Birth registration is the only reliable method of ascertaining the age of a child. Other forms of determining age are unreliable, carry serious risks for the child and are not sustainable long-term options.

The Convention on the Rights of the Child, to which Sierra Leone is a State Party, states that every child has a right to be registered at birth. General Comment No.10 on Children's Rights in Juvenile Justice emphasizes that "a child without a provable date of birth is extremely vulnerable to all kinds of abuse and injustice... in the case of conflict or inconclusive evidence, the child shall have the right to the rule of the benefit of the doubt".

Police officers are the first point of contact for most children in conflict with the law. It is essential that police officers have the tools and guidelines necessary to respond to cases in which a child's exact age is unknown.

Recommendations:

- Children have the right to birth registration and this must be made a key priority of the government. Resources must be allocated for the development of a nationwide database for birth registration.
- In the absence of birth registration, use the "benefit-of-the-doubt" principle and treat the individual as a minor using the juvenile justice system
- Methods of examining a child's body parts and signs of puberty should not be used as they can be humiliating for the child and make him/her vulnerable to sexual abuse
- Police officers and the judiciary can ask the child questions about historical events to establish a general idea of the child's age but this method leads only to an estimate and is not reliable
- Establish a high level expert group composed of international and national experts (particularly those from other African countries struggling with similar issues) to provide stakeholders with guidance and recommendations
- Children who are found to be under the age of criminal responsibility (14) should be provided with extensive social care, counselling and education within the community, as well as monitoring by parents

2. Promoting the use of diversion

Diversion is a key component of the new Child Rights Act. The diversion will be facilitated primarily by Child Panels, which will serve as buffers between the complainant and the police and courts. Complainants will be able to approach the Child Panels directly to mediate a case which will reduce the criminalization of children.

Recommendations:

- All cases except the most serious ones (e.g. rape and murder) should be diverted from the criminal justice system and managed by Child Panels
- Social workers and probation officers must be included in every Family Support Unit and cases should be immediately redirected to the Child Panels
- The Family Support Unit must be given clear guidelines and criteria for diversion
- Child Panels must be provided with the tools and training to do their work
- Parents must be engaged in all processes of diversion and the child must consent to any diversionary measure proposed

3. Provide alternatives to detention

The Children's and Young Person's Act says that no child shall be sent to prison. However, children between the ages of 14-18 can be sent to prison when it is determined that there is not other means of dealing with them. These cases can also be dealt with through alternatives to detention and restorative justice principles.

Recommendations:

- The government must adopt a permanent policy on alternatives to detention and detention must be used only as a last resort and for the shortest period of time

4. Improving protection for child victims and witnesses

The lack of protection for child victims and witnesses is a serious problem in Sierra Leone. Children may be cross-examined in court when they complain of abuse and may be sent back without protection to the very communities or people who have abused them.

Recommendations

- Children must not be cross examined in court cases where they are victims and witnesses.
- Children must be protected and assisted when they return to their communities and must be provided with counseling and rehabilitative services
- Children must be given access to an interpreter when needed
- Child victims and witnesses should be able to provide testimony in private with the magistrate and with the support of a social worker and lawyer
- Parents or guardians should be integrated into the processes where appropriate and desired by the child

- Strong local policies and bylaws on protection should be developed at the local level

5. Promoting Prevention:

The vast majority of children in Sierra Leone commit crimes to meet basic needs and survive. Any strategy to address juvenile delinquency must recognize this fact and provide recommendations for addressing it.

Recommendations:

- Establish and support child welfare committees
- Provide support and mentoring to parents and teach positive methods of discipline
- Provide guidance and information to parents on family planning
- Provide opportunities for recreation for children
- Address the root causes of juvenile delinquency such as extreme poverty and ensure that basic needs such as food, clothing and shelter and being met
- Revitalize the National Film Censorship Board
- Provide livelihood micro-credit support to families for poverty reduction
- Continue raising awareness about the Child Rights Act 2007

6. Juvenile Court and Family Court

At present, the Child Rights Act provides for both Family Courts and Juvenile Courts to handle civil and criminal cases respectively. This would be an area of the Act that is in need of amendment to blend the two courts together in the best interests of the child.

- The Family Court and the Juvenile Court should be brought together as one specialized body with one child-friendly mandate
- There must be a special court for each district
- Staff must be provided with comprehensive training in line with international standards on juvenile justice

7. Ensuring a Fair Trial

The child's right to a fair trial must be respected. Children not only have the same rights to a fair trial as adults, but also additional rights that recognize their need for care and protection.

Recommendations:

- The child has a right to be heard in Child Panels and in courts in all matters affecting him or her

- The child must be provided access to a probation officer who is familiar with his or her case
- The child's right to privacy must be respected (e.g.: trials should be held in private magistrate chambers)
- The child must be guaranteed access to a lawyer
- The child's parents or guardian must be informed of the charges and invited to be present at the hearing
- Protection of witnesses must be guaranteed by the court
- An interpreter must be provided for children where necessary
- When space is not available for the child in a remand home, or when the court cannot set a court date in a reasonable amount of time, the child shall be granted bail

8. Rehabilitation and Reintegration

At present, there are no government structures in place to ensure that children receive education while in places of detention or opportunities for training, rehabilitation and reintegration into society. This is a crucial gap which causes children to recycle back and forth in the system and continue reoffending.

Recommendations:

- Provide quality education to children while in the Remand Home and Approved School
- Provide vocational and training opportunities to children to promote their reintegration into society
- Provide counseling and support to children who are victims of abuse

9. Coordination of stakeholders and responsibilities

The government through its Ministry on Gender, Social Welfare and Children's Affairs bears primary responsibility for upholding the rights of children in juvenile justice systems and coordinating the responsibilities of all actors in the system. NGOs and other partners can provide training and support but cannot be a sustainable, long-term replacement for the government.

Coordination among all actors is crucial in closing the gaps in implementation of the Child Rights Act. Communities, government, the judiciary, civil society and children must work together to ensure active coordination.

Recommendations:

- A high level body must be established to coordinate inter-ministerial and interagency activities and services for children in the justice system. This could be achieved by strengthening the National Child Justice Taskforce and giving it a clear mandate, terms of reference and a key role for the government
- A plan must be developed to ensure that the Child Justice Taskforce remains sustainable even with the absence of UNICEF or other partners
- Children should participate actively in all levels of coordination and decision-making
- Actors in the justice system, including police officers at the Family Support Unit, judges and Magistrates, need training and capacity building on children's rights in juvenile justice