

VIOLENCE

AGAINST CHILDREN

Violence against children impedes their development and violates their rights. To raise a call that it be stopped, the United Nations conducted a Global Study on Violence Against Children. This involved nine regional consultations; in June 2005, a delegation from East Asia and the Pacific, including children, met to discuss how children experience violence at home, in communities and on the streets, in educational settings, in institutions, in work situations, in conflict with law and in on-line environment.

In East Asia and the Pacific, a coalition of regional agencies is working to raise awareness of the issues and explore solutions. As part of this, a series of monthly newsletters is examining a key issue of the UN violence study (global report to be published in October), providing background, highlighting progress, sharing key facts, figures and resources, as well as introducing agencies, activists and children in the region who are leading the push to end the violence.

Inside:

- P.2 The danger zones
- P.3 Feature: Behind bars in Indonesia
- P.4 Justice and the law
- P.5 Country innovations
- P.6 Opinion: Detention is the last resort
- P.7 Article angles
- P.8 Further reading

Credit : Paul Dillon/UNICEF



“Rights? Maybe we do not have that because we are still too young ...”

Child detained at the Tagum City jail in Davao, Philippines

A bleak view of prison life in Indonesia, where 85% of child offenders are placed in adult prisons. See feature “Behind bars in Indonesia”, pg.3

Children speak out!

Samuela Ralawa Raika

Most young offenders in Fiji are placed in what we call residential homes, where children considered at risk of abuse or children from the streets are also placed. The government is trying its best to look into separating the two groups. From what I have seen, these are child-friendly homes but I worry about the influence between the two groups. Children who are 17 and older are put into adult prison. There they are exposed to a violent, abusive mentality and a very influential environment. My father is a former prison guard and I know from his stories how influential it can be.

Most officials and ministers still are not aware or have good knowledge of the CRC. They think that if children know about their rights it will encourage them to misbehave and to be very naughty to their parents. These officials and most adults have a traditional mentality that sees children as third-class people.

» continued pg.2

Violence against children in conflict with the law

When students threw rocks at police attempting to arrest a primary school headmaster in Papua New Guinea, the officers opened fire on them. Three children were killed and up to 35 others were injured, some as young as 9 or 10.

Human Rights Watch estimates that 75% of children who come into conflict with the law in PNG experience some type of violence, including “panel beatings” (severe physical assaults), sexual abuse by police and prisoners, extra-judicial killings and shootings, death threats and public humiliation. Denial of rights is also a common: for instance, a 15-year-old shot by police and denied medical attention in custody. Other teenage prisoners cut out the bullet in his leg with a knife and fork.

A reform movement in this country in the past few years is slowly improving the situation for young people, including a new juvenile justice policy, the creation

of juvenile courts and a juvenile mediation programme and minimum standards for detention facilities and police guidelines.

Similar reforms are needed throughout the region. The number of children in conflict with the law has reached alarming proportions, increasing significantly in almost all countries in the region in the past decade. Many are detained or maltreated only to be released without charge.

According to the UN Convention on the Rights of the Child (CRC), children who commit crimes still must be treated as children. They are not criminals in the same sense as adults. Lack of education, poor socio-economic circumstances and vulnerable or desperate circumstances all contribute to the likelihood of children getting involved in crime. In many instances their judgement of right and wrong is still developing. Often their biggest mistake is in catching the eye of law enforcers.

Violence against children in legal systems spans more than just the juvenile justice system and the violence of prison life. It also includes treatment of children

» continued pg.2

Children speak out » *continued from pg.1*

Having been through the Regional Consultation, I have a goal now to fulfil: I want to talk to children who are under justice penalties. I want to understand. I want to get to know them, to be their friend – give them a sense of belonging, so they can know they have fellow peers who are out there advocating for them and to know they have someone to talk with. I am currently working to create a programme where I could visit and talk to these children – not as a counsellor but as a friend. We children have to do our best for our peers. In a small nation like Fiji where we are regarded as third class, we have to be the ones for advocating and educating each other on children's issues.

Samuela Ralawa Raika, now 19, attended the Regional Consultation on Violence Against Children in Bangkok in 2005 as an under-18 delegate from Fiji and has since become very involved with the Ministry of Women, Social Affairs and Housing as an adviser on youth and children's issues. He can be contacted at shamredz@yahoo.com



Violence against children in conflict with the law » *continued from pg.1*

by legal authorities on the streets, as well as violence and injustice against young victims of crime.

Reliable data on all these forms of violence is incomplete, but anecdotal evidence is overwhelming. Questionnaires and interviews with children indicate a rapacious level of violence at the hands of police and prison guards. The CRC states clearly that children should not be detained in the same place as adults because of the dangers of abuse from adult criminals, yet lack of facilities and inadequate juvenile legislation makes this a common occurrence in the Asia-Pacific region.

Even in children's detention, there is often a reluctance to create child-centred facilities or activities. Recreation for children in prison can be very limited and children spend most of their time idle. They almost never have access to education and their schooling is severely disrupted, with long-term consequences on their development and future prospects. In combination with the frustrations of trial delays and the lack of family visits, this can cause severe depression.

Children who come into conflict with the law as offenders need to be surrounded by a protective environment that gives them every opportunity to avoid further conflict and develop positive life skills. This means:

- Training of all relevant authorities on dealing with child offenders and creating child-sensitive procedures for police, the court system and the detention or alternative systems.

- A diversionary system that channels children away from the formal justice system to alternative programmes.

- Restorative justice approaches, which make offenders responsible for reparation of harm caused and help them understand their actions and find ways to change their behaviour through counselling and other conflict resolution methods.

- Alternatives to detention, such as a police caution or warning; a written or verbal apology; written essays on the effects of the crime committed; community service/work; restitution to the victim; participation in a life skills course or counselling or therapeutic treatment for drug or alcohol abuse.

Material taken from the UNICEF EAPRO Fact Sheet for the Seventh Ministerial Consultation and Save the Children UK fact sheet:

www.crin.org/docs/sc_facts.doc

The danger zones

- **On the street** – Street children in particular are vulnerable to harassment including threats of arrest, insults and extortion (money or sexual favours), usually by police but also by the public, for example property owners or security guards.

- **Arrest** – The majority of arrests are without a warrant and authorities may use force such as beatings, handcuffs or restraints and humiliating treatment. Illegal arrests also happen, where individuals or groups are rounded up for no reason or as scapegoats.

- **Police custody/detention** – In police custody abuse is rampant, including intimidation, forced confessions, false accusations and torture. Parents or guardians are often not informed and access to a lawyer is the exception rather than the rule. These children may be held in detention for long periods of time before their case is reviewed.

- **Courts** – In general, there are very few courts designated as juvenile courts. Without them, judges do not have

specialized knowledge in handling cases of children and often are not trained in human rights/children's rights standards. There are also few "child-sensitive" court rooms or facilities.

- **Adult prisons or remand homes** – Children can serve long sentences, often in inhumane and degrading conditions including lack of food and water, overcrowding, no bedding or toilet facilities, poor lighting and extreme temperatures. Mixing children with adults is common, leading to bullying and sexual violence by adults against children.

"During the interrogation, the police threatened that they would take the fat off my waist by punching it.

I pleaded with them not to do it."

Christopher, 17, arrested on drug charges, Philippines

Behind bars in Indonesia

A UNICEF study found that in 2002, 90% of juveniles appearing before Indonesian courts were convicted of an offence, in most cases not serious, and sentenced to imprisonment. Some 85% of them are serving their sentences in adult institutions. Cell block C-2, a dank and airless 14 m x 7 m corner room at Kabon Waru, is home to as many as 40 juvenile offenders. Some have been convicted of serious crimes, including rape, assault and murder. Others have yet to be arraigned: a 12-year-old boy has been in C-2 for five months awaiting trial for allegedly stealing a chicken.

Behind these walls the children are easy prey for both sex offenders and extortionists as well as brutal guards who supplement their meagre pay by shaking down prisoners.

"Forced sodomy is common," says one of the few outreach workers who ventures into the prison. "The children are supposed to be kept in a separate cell from the adults but we know there are boys in the general population of the prison that we do not see on our visits. They are also made to give money to the guards, especially if their families have just visited during one of the religious holidays. They have to wash the clothes of the other prisoners and buy them food."

"The police told my uncle that they would release me for 5 million rupiah (US\$580) but my family didn't have the money," says 16-year-old Chandra, who is awaiting trial for an alleged sexual offence. "When he couldn't pay, they came into my detention cell and beat me. When I was brought here, also they beat me."

Juvenile offenders are uniformly poor and uneducated. Many are orphans and street children who commit petty crimes to survive or while under the influence of a dizzying variety of cheap drugs available

on the street, ranging from glue and moonshine to low-grade heroin.

The prisoners are allowed outdoors for two hours once every two-and-a-half days, time mostly spent washing their clothes and trying to bathe properly. The cell's slimy stone mandi (water tank) contains foul water that is used both for bathing and drinking. Many of the boys are filthy, their backs and thighs covered in rashes.

Their diet consists almost exclusively of low-grade rice and fried noodles twice a day, supplemented with the occasional piece of uncooked tofu. A small portion of meat is occasionally included and there are boiled vegetables twice a week. If they have money, the prisoners can supplement their diets with instant noodles bought at the canteen.

Prison authorities say they are doing the best they can with their limited resources.

"We are supposed to have 750 inmates here, but this morning I have more than 1,400 and the budget is the same," says Warden Kusnin. "This is not a good place for children. They will only learn more about being criminals. I expect to see many of them coming back when they are older."

In October 2002, Indonesia adopted a new child protection law that clearly stipulates that arrest, criminal prosecution and detention should only be measures of last resort for child offenders. Restorative justice measures offer a better alternative to incarceration and a chance for the young offender to pay back to the victim and the community for the offence committed. For example, the 12-year-old chicken thief might be confronted by the victim of his crime, required to apologize and make restitution by caring for the birds for several weeks.

» continued pg.4

Country facts

Cambodia: According to January 2004 data, children comprise 4% of the prison population; 48% of juvenile prisoners are pre-trial detainees

Indonesia: 3,110 Indonesian children (almost 95% of them boys) were detained in 2005. 85.8% of pre-trial detainees and 57% of post-trial were held with adults. 86% were sent to further judicial proceedings and/or prison, 61% are likely to receive more than one year in prison.

Lao PDR: Youth detained in custody, both pre- and post-trial, are often held in the same facilities as adults. 30% report receiving some form of physical or mental punishment, including beating and being made to crawl on the floor or sit in the sun.

Mongolia: Juvenile cases increased from 733 recorded crimes in 1991 to 1,332 in 2005. Between 75% and 80% of young people who commit crimes do not re-offend; the average term children spend in prison is 6 years, 6 months.

Philippines: 52,576 children were incarcerated between 1995 and 2000, an average of 10,515 each year. Only 23% committed a crime against another person. In 2005 there were 9,863 children in centre-based and community-based programmes.

Thailand: In 2005, a total number of 36,080 children came up against the law, of whom 4,357 (12%) were repeat offenders. 5,220 cases were diverted from judiciary process through family and community group action.

Timor-Leste: Many of the children detained between June 2002 and December 2004 were charged with non-serious crimes; of them, 47% had lost one or both parents and 67% were out-of-school at the time of their arrest.

Vietnam: The age of criminal responsibility is 14 for criminal offences (rape or drug-related crime) but as young as 12 for administrative offences (robbery not involving violence). In 2001, only 6% of offences committed by juveniles were violent crimes; theft represented 52% of the cases. 95% were male.

UNICEF statistics and observations: for further information contact Manuel Finelli, UNICEF child protection officer, mfinelli@unicef.org



Credit: Paul Dillon/UNICEF

Inside this cell in Indonesia, children are living in cramped and unhygienic conditions with little protection from abuse by adult prisoners.

Global study, regional focus

At the UN East Asia and Pacific consultation in 2005 (*Report on the East Asia and Pacific Regional Consultation on Violence Against Children, Bangkok 14–16 June 2005*, www.violencestudy.org), delegates including children called for greater commitment at government level to protect children in conflict with the law. Detaining children in facilities alongside adult criminals was a major concern, as well as the extent of violence received at the hands of law authorities. The consultation proceedings will feed into the report of the UN Secretary-General's Study on Violence Against Children, to be presented to the General Assembly on 9 October.

Recommendations from the regional consultation call for:

- Community-based preventive approaches to reduce the number of children in conflict with the law, focusing on diversion and restorative justice rather than retributive justice;
- Improved legislation to create comprehensive juvenile justice laws based on international standards;
- Internationally agreed guidelines regarding children's deprivation of liberty. Detention should be the last resort with time limits for pre-trial detention, review for conditional release, good quality of care, complaints systems, access to information and separate children's detention centres;
- Meaningful children's participation, both at the preventive stage and within the juvenile justice system.

Justice and the law

Changes to legislation in the East Asia and the Pacific are urgently required to reduce the high level of violence against children in justice systems. But progress is slow and, even where special courts and related procedures are in place, implementation is weak and sporadic.

Philippines: New legislation on juvenile justice prohibits the detention of children in jails, raises the age of criminal liability from 9 to 15, provides for the referral of children's cases to community-based rehabilitation (diversion) programmes instead of going to trial, introduces the need for helping offenders change their behaviour as a framework for the juvenile justice system and emphasizes the role of various sectors in the prevention of juvenile crime, including family, the education system, mass media and the community.

Papua New Guinea: Children and juveniles who come into conflict with the law and who are formally charged with an offence now have the matter heard in one of seven Juvenile Courts, presided over by a trained Juvenile Court Magistrate. For minor offences, the child will not go into the court system but through a court-managed Juvenile Mediation Programme. The Royal PNG Constabulary has developed its first Juvenile Policy and Diversion Programme – principles and guidelines include revised arrest and charge procedures to give effect to restorative justice and the CRC.

Thailand: The 1999 Amended Criminal Procedure Code allows for better treatment of children in a non-threatening judicial environment, which includes allowing children to be interrogated in a private setting, separate from adults, in

the presence of psychologists or social workers and other persons requested by the child. However, Thailand has recently refused to respond to a call to raise the minimum age of criminal responsibility from 8 to 10, which means that children aged 8 to 17 are tried under the same legislation as adults.

Mongolia: Mongolia's justice system suffers from a lack of human resources. There is an urgent need for trained people within the government to use values and skills learned through international theory at a local level. This would help to improve child protection laws, particularly in the areas of juvenile justice and rehabilitation of child offenders. For instance, child sex workers are currently prosecuted rather than protected; a child rights approach supported through legislation would allow them greater chances to escape their exploitation.

The Pacific: In Pacific Island countries, the absence of specific legislation relating to children in the justice system is of concern. Currently, Solomon Islands is the only jurisdiction that has a legislative framework for a children's court; Fiji, Kiribati and Samoa have established juvenile or youth courts in the absence of legislation, while advocacy for the establishment of a court is taking place in Vanuatu.

Behind bars in Indonesia » *continued from pg.3*

A working model for a new juvenile justice system in Indonesia is in its infancy. However, frontline workers from organizations like Lembaga Perlindungan Anak (Child Protection Institute), a Bandung organization that advocates for child rights, are excited about the possibilities.

Says LPA director Sri Judaningsih, "We've organized trainings and focus-

group discussions with police, judiciaries, social workers, NGOs, religious leaders, politicians, parents, children and others to explain why restorative justice is a good option for everyone. We're hoping to see a provincial-level action plan made. I must say, we're optimistic."

UNICEF continues to work in partnership with local NGOs and authorities to improve

juvenile justice systems in Indonesia. For more information on child protection efforts in Indonesian prisons, contact: Jasmina Byrne, UNICEF Indonesia, Head of Child Protection Unit, jbyrne@unicef.org

Article excerpt from "Working to get children out of adult prisons", Paul Dillon, 2004.

Country innovations

Implementing legislation – Cambodia

Cambodia's National Assembly adopted an Anti-Domestic Violence and Victim Protection law in October 2005, but enforcing this law has been a challenge. Save the Children Norway in partnership with Legal Aid of Cambodia is helping to introduce this law, as well as a model for community diversion to keep children out of detention, to the police and local authorities in Battambang. A significant challenge in this work is to overcome communication gaps and differing agendas in those who influence government decision-making, including external donors and advisers.

Contact: *Ekvisoth Khat Ty, Save the Children Norway Cambodia*, visoth@scn.online.com.kh

Ger-camp, not prison – Mongolia

Many children in Mongolia await trial in government detention centres because they are homeless or live in circumstances where they cannot arrange or are not permitted bail. Often, these children spend many months in prison as suspects of minor non-violent offences. They report many forms of abuse from other prisoners and guards. World Vision's "ger-camp" concept offers alternative housing for these young people. The concept of the ger-camp makes use of the traditional Mongolian lifestyle in the countryside, providing enough protection from escape to appease authorities, yet the freedom to live as a community with opportunities for the children to learn, interact and develop life skills under influences that encourage, not stifle, their potential.

Contact: *Don Lord, World Vision Mongolia*, don_lord@wvi.org

Youth court established – Pacific Islands

UNICEF Pacific is working closely with the South Pacific Council of Youth and Children's Courts to provide advice, funding and training on judicial decision-making in cases involving children. The Council has been instrumental in providing ways forward for Fiji, Kiribati, New Zealand, PNG, Samoa, Solomon Islands, Vanuatu and all state and territory jurisdictions in Australia. For example, following Kiribati's involvement in the Council's Annual Meeting in 2005, Kiribati's first Youth Court was established on the main island of Tawara. A pilot probation programme involving community leaders as probation officers is under way in Fiji. Contact: *Magistrate Salote Kaimacuata, Ba Courts, Fiji*, skaimacuata@yahoo.co.uk

Comics promote child rights – Indonesia

Ten children from the Tangerang Children's Jail in Jakarta had a special day out in late June 2006 to launch their comic book art at a Jakarta café. Under the theme "We Can Do It Too" the café displayed comics from the child inmates on a range of topics including anti-violence, daily life in jail, and drug abuse. The Director General for Correctional Facilities, who attended the launch event, praised this initiative for its promotion of child rights. Contact: *Paulan Ajibrata, Plan International*, Paulan.ajibrata@plan-international.org

Juvenile Justice Policy Monitoring Unit – Papua New Guinea

Alongside a reform in juvenile justice policy in Papua New Guinea, a small monitoring unit now exists within the police force, made up of government and NGO representatives with UNICEF at the fore. The unit is helping to identify breaches of the new policy, reducing violence and rights violations.

Trained court officers (often volunteers) provide support to children by assisting police to notify parents and identify bail options, being present during interviews and ensuring that the child is represented in the Juvenile Court. Juvenile Court magistrates have also agreed to conduct inspections of places where children are detained, such as police cells, detention centres and correctional institutions, to assess child rights and violence issues. Contact: *Anthony Nolan, UNICEF*, anolan@unicef.org

Identifying the vulnerable – Philippines

A 2004 study conducted by Plan Philippines on the situation of children in conflict with the law describes most Filipino children in conflict with the law as male, 14–17 years old, with primary education from a low-income family of four to six members. Most common charges are property-related crimes (robbery and theft), rape, drug pushing and drug use; reasons include drug use or gang influence. Further study by Plan will help with demographic programming to assist children who are most vulnerable to violence from authorities.

Contact: *Leonila Melendrez, Plan Philippines*, leonila.melendrez@plan-international.org

Working with governments – Fiji

Save the Children Fiji is an active member of the National Coordinating Committee on Children established by Cabinet in 1993 to oversee the overall implementation of

the CRC in Fiji. Save the Children Fiji recently placed a submission to the newly appointed secretariat (Ministry for Women, Social Welfare and Poverty Alleviation) to provide direct support to the secretariat. Contact: *Margaret Logavatu, Save the Children Fiji*, mlogavatu@savethechildren.org.fj

Juvenile justice indicators

A set of 15 Juvenile Justice Indicators has been developed by UNICEF, the UN Office on Drugs and Crime (UNODC) and other members of the Inter-Agency Panel on Juvenile Justice to increase visibility and protection for children in conflict with the law. These indicators form a global baseline definition to monitor progress toward international standards and for advocacy purposes; to increase protection of children in conflict with the law by engaging local actors in information collection and preventing children from "slipping through the net"; and to introduce accountability by reviewing policy, programmes and practice nationally and regionally. A full report on these indicators will be launched shortly.

Contact: *Manuel Finelli, UNICEF*, mfinelli@unicef.org

Youth justice project success – China

As part of its work to prevent children entering into crime in Yunnan province, Save the Children UK has provided workshops for community and judicial staff and public presentations for parents on positive parenting and communication skills. A programme to divert children from the formal justice system is also a means to protect children against corporal punishment and bullying in custodial institutions.

In 2005, the project diverted 269 children at the public security stage, 19 at the prosecution stage, and 13 at the court stage. Many of the children received support from people trained under the project, including social workers and volunteers from the community and schools.

Contact: *Ms Jiang Min, Save the Children UK China Programme*, jiangmin@savethechildren.org.cn



One of the comics by child inmates of a Jakarta jail, calling for children to say no to drugs.

Detention is the last resort

Viewpoint from Manuel Finelli, a UNICEF child protection officer in the UNICEF East Asia and Pacific regional office, Bangkok
UNICEF has been advocating across this region for new ways of handling children in conflict with the law, based on the success of non-detention alternatives in countries such as Indonesia, Papua New Guinea, Philippines, Thailand and New Zealand.

The reality in this region is that detention is typically all there is – and prevailing attitudes hold that all offenders must be locked away from society. Yet we see inadequate levels of funding for detention centres; consequently, young people are penned into nightmarish dens that do little to reform. How does incarcerating children in facilities with adult criminals and denying them any education or counselling ultimately protect society if they are released as angry young adults?

The system of handling suspects, prosecutions and incarceration generally ignores the human rights of young people it meets at every turn. A child rights mandate pushes us to consider all children's best interests and this includes offenders, as well as victims and witnesses.

Ours is not a “free them all” message but a rationale for improving legal systems, procedures and reintegration programmes. It is a call to consider the background factors of young offenders and for governments to put in place and utilize alternatives to custodial sentencing. Crimes that threaten communities, such as murder and rape, necessitate imprisonment of convicted offenders. But those facilities should not be so derelict as to endanger young inmates, which is often the case in this region.

Most young people in conflict with the law don't require formal detention. Warnings, restitution to victims and community service are effective alternatives. In Papua New Guinea it is hoped that a juvenile mediation approach will see 30% of child offenders diverted away from the formal justice system and some 70% fewer detained. It is clear that these alternatives better serve the needs of society.

Media can help bring attention to the needs of children in detention. In the Philippines, after a CNN feature on the living conditions within some child/adult detention centres, child detainees were moved to another location with spaces for children separated from adults – through still without proper facilities and education.

The Philippine Government recently enacted its Juvenile Justice Bill after a long pending phase. We attribute this to a combination of broad media attention and an advocacy campaign carried out by a number of civil organizations.

For alternative approaches to truly work, communities must accept and support them. How helpful to the reform process is the adult citizen who hollers belittling insults at a young offender engaged in a community service programme? Media can help here too, by influencing negative attitudes and presumptions about juvenile justice.

We do not underestimate the media's ability to bring about change. We encourage more investigative reporting on the realities and social implications of the current judicial system and innovative ideas for alternative approaches.

Manuel Finelli is available for comment or information: mfinelli@unicef.org, 662-356-9419.

Raising the standards

The International Federation of Journalists Guidelines for Reporting on Issues Involving Children www.ifj.org/default.asp?index=192&Language=EN provide good direction for journalists. In addition, UNICEF raises the following concerns:

- Emphasize progress in legislative/policy changes made by governments to motivate them to do more and stimulate commitments to enforcement.
- “Lock them up and throw away the key” is a common call from communities frightened or angered by crime. By sensationalizing crime trends or portraying children as willing and threatening perpetrators of crime, media often contributes to this reactive and most unproductive community attitude. Instead, encourage audience acceptance of alternatives to detention, especially detention alongside adults, by underscoring their positive impact and cost benefits to society.
- Exposing institutional abuse makes for a powerful story both nationally and internationally but must be handled carefully. Ask NGOs and local authorities for help to enter children's detention centres and institutions and report on conditions there. Or, if access is denied to journalists, ask NGOs to inspect and source information and statistics on your behalf.
- Take care not to disclose details of an abused or detained child if there is any possibility it may have an impact on them or their family in the future. If there is any doubt at all, choose another child to interview or feature.
- Explore the links between violence in the justice system and other forms of violence against children. Children may break the law because they have been told to by parents or peers, out of fear for their own safety, or because of behavioural problems caused by neglect or abuse at home or school. Incarceration where they remain vulnerable to physical and mental punishment extends the cycle of violence they live in.
- While it is important to help children avoid conflict with the law, questions need to be asked on the prevalence and severity of beatings, physical punishment, humiliation and neglect within justice systems: Why does this region value its children so little that it allows this violence to continue, or even condones it through policy or procedure?

Article angles

The issue of violence against children in conflict with the law is much broader than it may look at first. From discrepancies in definition of both child and crime, to violence sanctioned by policy or authorities, there are many ways to approach the story.

Can a child be a criminal?

States have discretion regarding the minimum age for criminal responsibility (the age at which a child can be tried for a crime). However, the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) require that the age of legal responsibility not be set too low. The concept of an appropriate “minimum age” has been gradually integrated into much national legislation, but in eight countries the minimum age is still younger than 10. Is 18 the most appropriate age? What happens to children younger than the age of responsibility who commit a violent crime? What is in place, or should be, for handling child offenders younger than the age of responsibility?

Contact: *Manuel Finelli, UNICEF*, mfinelli@unicef.org

Violence against children legally sanctioned

Court-administered physical punishment of children is allowed by law in Malaysia where the Child Act of 2001 permits whipping of children found guilty of an offence. This is subject to some precautions when administered, in that “only a light cane” can be used, “with average force so that the child’s skin is not cut”. In addition, the child may request that a parent or guardian be present during the whipping.

Contact: *Dominique Pierre Plateau, Save the Children Sweden*, dominiquepp@seap.savethechildren.se

Capital punishment of children

Until this year, all countries in the region had clear rules against capital punishment of children except the Philippines. There, children were reportedly being executed, usually because of lack of clarity on their age. The Philippine Action for Youth Offenders reported in 2004 that to their knowledge, 21 children had received a death sentence, and a further 14 were waiting on “death row”. In June this year, the Philippine President abolished the death penalty in her country. So what are her plans for children currently still on death row?

Contact: *Leonila Melendrez, Plan Philippines*, leonila.melendrez@plan-international.org

Child crime linked to community instability

Poverty and unstable family backgrounds are common characteristics of children in conflict with the law. Children who commit offences are more likely to have witnessed or been victims of home or community violence. Many child offences are related to drug abuse, often a sign of economic deprivation and social marginalization. In Australia, indigenous children aged 10 to 14 are detained at around 30 times the rate of non-indigenous children.

... and to economic deprivation

The impact of family economics can have a huge impact on whether juveniles go to jail or not. In Mongolia, for example, 88% of children in prison come from extremely poor families that live on less than US\$1 a day per person; 50% live on less than \$.30. The government provides a lawyer for those who can’t afford one, but their salary is so low that they are not considered good defenders. According to a World Vision 2006 survey, 10% of all boys in prison reported they were undefended in trial, although a lawyer’s presence is mandatory, and 22% said they never met their lawyer before trial. By law, a third conviction for theft, including theft of food or heating materials, leads to a mandatory minimum sentence of ten years. Contact: *Don Lord, World Vision Mongolia*, don_lord@wvi.org

Innocence no defence

Children are locked up for misdemeanors that do not seem criminal. In some countries vagrancy laws make homeless children into criminals. Children have been arrested and held in the Philippines for carrying knives or having visible tattoos, rather than any actual crime. What constitutes a crime and how could offences be redefined?

Contact: *Leonila Melendrez, Plan Philippines*, leonila.melendrez@plan-international.org

Trafficking and the law

For years, children trafficked across borders into forced labour were treated as illegal immigrants by authorities, imprisoned, punished, or dumped back on their home side of the border, highly vulnerable to traffickers once more. The six countries of the Mekong subregion have now signed an effective cross-border agreement to protect and repatriate trafficked children, as well

as to improve prosecution efforts for their traffickers. While these agreements have established a way forward to combat human trafficking, child victims of trafficking may still be housed involuntarily in institutions, often for months, so that they can act as witnesses in court when the time comes.

Contact: *Ravi Cannetta, UNICEF Regional Child Protection and Trafficking Officer*, rcannetta@unicef.org

Asian innovation taken up worldwide

In the Philippines, children’s desks have operated since 2000 in *barangay* (local municipality) police stations, where police officers (usually women) with training on children’s needs staff a special desk dealing with reports of crime or complaints against children. This successful initiative has since been launched in other parts of the world and has become a global model to combat inappropriate treatment of children brought into custody.

Contact: *Thetis Abrera-Mangahas or Allan Dow, ILO-IPEC*, mangahas@ilo.org or dow@ilo.org

Alternatives to arrest

Following the issuance of a new National Police Juvenile Policy in Papua New Guinea, police for the first time have official alternatives to arrest when dealing with children, ranging from a caution or recorded caution, through to counselling, mediation and community work. All children who are arrested in Port Moresby and Lae (these two areas account for 60% of all recorded offences by juveniles in Papua New Guinea) are taken to a central reception centre, improving consistency and transparency in the implementation of the new policy.

Contact: *Bruce Grant, UNICEF PNG*, bgrant@unicef.org

When children seek justice

Child victims of crime can find it hard to seek justice, especially when they are asked to give evidence that makes them feel ashamed or frightened, or in the face of apathetic authorities. In the Philippines, local NGO ECLIPSE pursued a legal case on behalf of a 13-year-old girl raped and stabbed on a sugar plantation where she was working. But her attacker was not arrested, nor was he forced to appear at preliminary hearings. A multi-signatory letter to the Secretary of Justice to intervene was required before the will by authorities to enforce existing laws was finally roused and the attacker put behind bars awaiting trial.

Contact: *Alex Apit, ECLIPSE*, alex_apit@yahoo.com

Further reading

The right not to lose hope

International Save the Children Alliance, 2005

A global policy analysis report on violence against children in conflict with the law, containing examples of community-based successes and several moving case studies of children's experiences from Bosnia and Herzegovina, China, Ethiopia, Honduras, Kenya, Lao PDR, Philippines and Uganda. www.crin.org/resources/infoDetail.sp?ID=6465&flag=report

A child protection system in Mongolia

Save the Children UK, 2005

Mongolia has encountered many challenges in its transition over the past ten years, many of which have impacted on state welfare and child protection. This report summarizes those challenges and calls for revised and achievable solutions for the protection of marginalized children in both urban and rural areas.

www.vaceastasiapacific.org/images/mongolia_save.doc

Breaking rules: Children in conflict with the law and the juvenile justice process, Philippines

Save the Children UK, 2004

A detailed look at the situation in the Philippines, where community violence is high and the police response brutal.

www.vaceastasiapacific.org/images/SAVE5.pdf. Companion volumes drill down even further, analysing the challenges at a city level in Davao City www.vaceastasiapacific.org/images/SAVE4.pdf, Cebu City www.vaceastasiapacific.org/images/SAVE2.pdf and Manila www.vaceastasiapacific.org/images/SAVE3.pdf.

Child-Friendly Standards and Guidelines for the Recovery and Integration of Trafficked Children

ILO-IPEC Bangkok, 2005

This document explains to care providers what must, must not and what should be done at every stage of the recovery and integration/reintegration process for trafficked children. These guidelines are

intended to remind government officials of their obligations under international human rights standards, and include practical examples from within the region. www.ilo.org/public/english/region/asro/bangkok/library/download/pub06-04.pdf

Making their own rules: Police beatings, rape and torture of children in Papua New Guinea

Human Rights Watch, 2005

Papua New Guinea's serious crime problem is being met with a violent police response, and children are especially vulnerable to police brutality. This report uses case studies and testimonies from children to reveal the horrifying extent of the violence. As well as calling for increased commitment from the PNG government to control their police force, the report takes a controversial stance in suggesting that international communities put conditions on future aid to address the problem. <http://hrw.org/reports/2005/png0905/png0905.pdf> Online version <http://hrw.org/reports/2005/png0905/>

Detention as a last resort

UNICEF, 2003

The report calls for alternatives to imprisonment for children, including non-custodial sentences and community-based programmes designed to reintegrate juvenile offenders into society and to deal with the multiple root causes of delinquency. Eight innovative initiatives from Cambodia, New Zealand, Palau, Philippines and Thailand are highlighted, focusing on every stage of the legal process. www.vaceastasiapacific.org/images/UNICEF1.pdf

Protecting the rights of children in conflict with the law

Inter-Agency Coordination Panel on Juvenile Justice, 2005

This report entails articles of information on members of the Inter-Agency Coordination Panel on Juvenile Justice – their missions, mandates and activities, which include NGOs as well as UN

organizations; the articles also present examples of innovative practices in areas such as legal support, alternative sanctions, capacity building, and public awareness and advocacy. www.crin.org/email/crinmail_detail.asp?crinmailID=1466

“Leela agreed to testify against her traffickers. She was held in a shelter, but when the case came to trial she travelled with the police officer to the capital city, far away. Because there was nowhere for her to stay, she was placed in the jail with convicted criminals for the one week she gave testimony.”

Elaine Pearson, from *Child-Friendly Standards & Guidelines for the Recovery and “Integration” of Trafficked Children*, ILO-IPEC, 2005



Credit: Ben Johnson/World Vision

This “open prison” in Mongolia, run by World Vision in partnership with state authorities, provides a safe yet secure environment where children live together, make decisions about how they spend their time, and attend school or vocational training.

In accordance with child protection protocols, names have been changed and/or identities hidden of children who have suffered abuse.

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