

Children in Conflict with the Law

The term 'children in conflict with the law' refers to anyone under 18 who comes into contact with the justice system as a result of being suspected or accused of committing an offence. Most children in conflict with the law have committed petty crimes or such minor offences as vagrancy, truancy, begging or alcohol use. Some of these are known as 'status offences' and are not considered criminal when committed by adults. In addition, some children who engage in criminal behaviour have been used or coerced by adults. Too often, prejudice related to race, ethnicity or social and economic status may bring a child into conflict with the law even when no crime has been committed, or result in harsh treatment by law enforcement officials.

In the area of **juvenile justice**, UNICEF aims to reduce incarceration while protecting children from violence, abuse and exploitation. It promotes rehabilitation that involves families and communities as a safer, more appropriate and effective approach than punitive measures. Justice systems designed for adults often lack the capacity to adequately address these issues and are more likely to harm than improve a child's chances for reintegration into society. For all these reasons, UNICEF strongly advocates **diversion** (directing children away from judicial proceedings and towards community solutions), **restorative justice** (promoting reconciliation, restitution and responsibility through the involvement of the child, family members, victims and communities), and **alternatives to custodial sentencing** (counselling, probation and community service).

FACTS AND FIGURES

- More than 1 million children worldwide are detained by law enforcement officials.¹
- In many prisons and institutions, children and young persons are often denied the right to medical care, education and individual development.²
- In 2002, 136,000 children in the CEE/CIS region were sentenced for criminal activities, compared

HUMAN RIGHTS

According to Articles 37 and 40 of the **Convention on the Rights of the Child** (1989), children in conflict with the law have the right to treatment that promotes their sense of dignity and worth, takes into account their age and aims at their reintegration into society. Also, placing children in conflict with the law in a closed facility should be a measure of last resort, to be avoided whenever possible. The convention prohibits the imposition of the death penalty and sentences of life imprisonment for offences committed by persons under the age of 18.

to 117,000 in 1990. Russia alone accounted for 65 per cent of these numbers.³

BUILDING A PROTECTIVE ENVIRONMENT FOR CHILDREN

Government commitment and capacity

These are crucial to promote and support policies that encourage the use of alternatives to deprivation of liberty. A proper approach to juvenile justice also requires that efforts be made to prevent children from coming into conflict with the law in the first place. This is work for the entire society, not just the government.

Legislation and enforcement

National laws should be revised to conform with international standards, with legislation enacted and enforced to prevent children from being deprived of their liberty when they have been victims of abuse and exploitation, were used by adults for criminal activities or have committed status offences or petty crimes. The death penalty for children should be abolished.

Attitudes, customs and practices

Children in conflict with the law may be portrayed as 'wicked' or threatening, and presumptions of character need to be challenged. The establishment

of appropriate juvenile justice mechanisms can be difficult if public opinion favours tougher responses and harsher sentences.

Open discussion

The media can promote appropriate approaches to children in conflict with the law, including probation and community service. Objective and responsible reporting of crimes committed by children – and the abuses they face in contact with the law – can increase public support for juvenile justice.

Children's life skills, knowledge and participation

Children who come in conflict with the law need to be informed about their rights. Preventive measures can improve children's understanding of their responsibilities under the law and help them avoid conflict.

Capacity of families and communities

Capacities need to be strengthened to enable community involvement in the process of restorative justice. Law enforcement officials should be familiar with constructive approaches that make it possible to avoid formal arrest and detention of children in conflict with the law. Capacity and knowledge of juvenile judges, magistrates, social workers and police need to be strengthened and increased in the area of juvenile justice.

Essential services, including for prevention, recovery and reintegration

Services should be in place offering community-based and family-focused assistance so that children can achieve rehabilitation and avoid repeat offences.

MILLENNIUM DEVELOPMENT GOALS

Legal systems that ignore the child's age and fail to promote reintegration into the community increase the likelihood of their marginalization and poverty – thus impeding the achievement of MDG 1 to eradicate extreme poverty and hunger. Achieving universal primary education (MDG 2) is hindered as children in detention are often denied quality education. Due to the high rates of transmission in prisons, children are vulnerable to HIV infection, obstructing efforts to combat AIDS (MDG 6).

Monitoring, reporting and oversight

These are needed to determine the number of children in detention, the proportion of those awaiting trial and trends in sentencing. Monitoring can ensure that detention is neither illegal nor arbitrary, that children have access to all basic social services, and that they are not detained alongside adult prisoners and exposed to violence and abuse.

EXAMPLES OF UNICEF IN ACTION

At the **global** level, UNICEF is a member of the Inter-Agency Panel on Juvenile Justice, which aims to enhance national and global coordination in juvenile justice including by promoting ongoing dialogue with national partners in juvenile justice reform and identifying, developing and disseminating common tools and good practices.

In the **Republic of Moldova**, UNICEF supported the government in developing the new Criminal Law and the Criminal Procedure Code which provides for improved juvenile justice and brings local legislation in line with the standards of the Convention on the Rights of the Child.

In **Panama**, UNICEF provided journalists with data on children in conflict with the law in order to help dispel myths and exaggerations of adolescent crime. UNICEF also facilitated training courses on the Convention on the Rights of the Child which built capacity among journalists to report on the rights of children in conflict with the law.

Notes

¹ Defence for Children International, 'No Kids Behind Bars: A global campaign on justice for children in conflict with the law', <www.kidsbehindbars.org>.

² Defence for Children International, *Kids Behind Bars: A study on children in conflict with the law: towards investing in prevention, stopping incarceration and meeting international standards*, Amsterdam, 2003, p. 22.

³ United Nations Children's Fund, 'Child Protection: A resource package for Central and Eastern Europe and the Commonwealth of Independent States', available at <http://ceecis.org/child_protection>.

For further information please contact:
The Child Protection Section
Programme Division UNICEF NY
childprotection@unicef.org
www.unicef.org