



INTERNATIONAL CONFERENCE

Crime prevention and resocialization of children in contact with the criminal justice system



Santiago de Chile, 28th and 29th of November 2016

Concept Note

Organizers: Ministry of the Interior and Public Security, Ministry of Justice and Human Rights and National Council for Children of the Government of Chile; Office of the Special Representative of the Secretary General on Violence Against Children (SRSG VAC); UNICEF.

Sponsors: United Nations Office on Drugs and Crime (UNODC) and International Juvenile Justice Observatory (IJJO)

Since the ratification of the United Convention on the Rights of the Child (CRC) almost all Latin American governments have committed themselves to legal reforms in the field of children in contact with criminal justice systems. In many cases, such legal reforms have included express regulations for police and judicial detention, the recognition of specific principles based on the CRC (such as non-discrimination, the use of deprivation of liberty as a last resort, due process, and other), the legal determination of minimum and maximum ages of criminal responsibility, the regulation of alternatives to incarceration (such as remission, mediation and others), legal representation for young offenders and

judicial/administrative mechanisms for supervising and monitoring the rights of children deprived of liberty.

Despite these positive steps, regional organizations and national and international human rights institutions have documented serious violations of the rights of children in contact with criminal justice systems in the Region. Such difficulties include, among others: police violence, a widespread and disproportionate use of deprivation of liberty (both as a cautionary measure and as sanctions); overpopulation in centres of detention; cruel, inhumane and degrading treatments that remain unpunished; lack of sufficient resources, programs and institutional capacities for the use of alternatives to incarceration (including restorative justice programs) and; insufficient independent mechanisms for monitoring and supervising the rights of children deprived of liberty. At the same time, juvenile justice systems remain under constant pressure to revert some of their basic principles and rules and move towards more criminalization and incarceration.

While academic and political debates in the field of juvenile justice have been prominent, less attention has been given to the growing number of crime prevention policies, laws and programs that are emerging in Latin America. Additionally, there is little information about the effectiveness of current crime prevention policies on the desistance from crime in children and adolescents. The same can be said about the lack of systematization and analysis on successful resocialization programs for children in contact with criminal justice systems.

Crime prevention and resocialization of children in contact with criminal justice.

The international community has developed a set of guidelines for the development of a comprehensive policy, and integrated into the CRC, both for the prevention of juvenile delinquency prevention and crime against children themselves. The Guidelines of the United Nations for the Prevention of Juvenile Delinquency (the *Riyadh Guidelines*) set a clear framework for action: it is necessary to focus on the child, who must play an active and participatory role in society and not be considered mere objects of socialization or control. The Guidelines set out a broad framework for program development and prevention policies at all levels, particularly at the level of government's agencies, as well as the identification of the fundamental stages of the process of socialization of children: family, education, community and the media. In turn, the Guidelines urge States to provide "high priority" to social policies as a priority and essential component of a policy of crime prevention,

establishing the subsidiary and residual character of deprivation of liberty in the case of children.¹

The Riyadh Guidelines are complemented, among other sources, with the United Nations Strategies and Practices Model to End Violence against Children in the field of crime prevention and criminal justice (the *Model Strategies*). The Model Strategies develop and specify some important aspects of the United Nations Guidelines on the Prevention of Crime, particularly with regard in social, community and situational prevention of crime prevention in relation to children². In particular, the Model Strategies emphasize the need to recognize the prevention of victimization of children as a fundamental part of crime prevention policies. To do this, policies for crime prevention should include specific strategies for the eradication of all forms of violence against children, including solid legal frameworks and general and special social programs to prevent and respond to crimes suffered by children, including the effective punishment of aggressors.

Given the negative effects that contact with the criminal justice system has for children, the Model Strategies also recognize that an important and very effective way to reduce the number of children in custody is through the use of restorative justice programs, non-coercive treatment programs, education and alternatives to judicial proceedings (diversion), as well as the provision of support to the families of young offenders. Consistent with this vision, the Model Strategies reiterate the need to ensure that deprivation of liberty is used only as a last resource and for the shortest appropriate period possible³.

Social reintegration of children in contact with the Criminal Justice System: Towards an exceptional use of custody and the full social inclusion of children in society.

Children in contact with criminal law, including child recidivists, have the right to be treated in ways that promote their

¹ See, also, Committee on the Rights of the Child, CRC, OG N-10 (children's rights in juvenile justice), par. 18.

² Strategies for social crime prevention are designed to enhance the welfare of the target group. By increasing access to social goods such as health, a safe and healthy environment, employment and education, the objectives of social crime prevention reduce the factors that impel marginalized citizens to resort to crime as a viable career opportunity. The community crime prevention, in turn, aims to change the living conditions of neighborhoods suffering deprivation and low levels of social cohesion, which are high risks to get involved in crime or are their victims. Finally, situational crime prevention tends to reduce opportunities and incentives for transgressors, maximizing the risks of being caught and minimizing the benefits of crime through such techniques as good environmental design of public spaces and housing, and providing assistance to victims

³ This principle has been recently reaffirmed (April 2015) at the XIII Congress on Crime Prevention and Criminal Justice (*Doha Declaration*).

reintegration and the child's assuming a constructive role in society (art. 40 (1) of CRC). The arrest, detention or imprisonment of a child may be used only as a measure of last resort and for the shortest appropriate period of time (art. 37 (b)).

However, and in stark contrast with these standards, thousands of children are detained for long or indefinite periods of time, lacking genuine opportunities to gain access to justice and to challenge the legality of their detention and being neglected in their needs for care, treatment and protection. While deprived of liberty, they may be exposed to violence by other detainees and by staff, including bullying, psychological violence and sexual abuse, as well as corporal punishment, flogging and other forms of inhuman sentencing, alongside the risk of self-harm.

It is, therefore, necessary - as part of a comprehensive policy for juvenile justice - to develop and implement a wide range of measures to ensure that children are dealt with in a manner appropriate to their well-being, and proportionate to both their circumstances and the offence committed. These should include care, guidance and supervision, counselling, probation, foster care, educational and training programs, and other alternatives to institutional care (art. 40 (4)).

While these minimum conditions for ensuring effective resocialization are particularly relevant for children who are in custody, they are not confined to this particular group. Any children or adolescent sanctioned by the criminal justice system, even after the full execution of his/her sentence, should have access to programs specially designed to ensure their sense of dignity, develop those skills that enable him to desist from crime and enjoy a full social reintegration. Accordingly, the Standard Minimum Rules of the United Nations for the Administration of Juvenile Justice (the Beijing Rules) emphasize the importance of providing facilities, services and other necessary assistance as may further the best interests of the child throughout the reintegration process. This involves the deployment of necessary efforts to provide juveniles, at all stages of the proceedings, with necessary assistance such as lodging, education or vocational training, employment or any other assistance, helpful and practical, in order to facilitate the rehabilitative process. (24.1).

The Global Study on Children Deprived of Liberty: Latin American and Caribbean contributions.

As implementation of the 2030 Agenda starts, countless children are being left behind, including those deprived of their liberty. Children in vulnerable situations, including those who have run away from domestic violence, those who live on the street and those who

are victims of trafficking, prostitution, organized crime or conflict situations, are at special risk. Still others may end up in detention as a result of mental health and drug abuse or because of their status as migrants or asylum seekers.

Held in closed institutions, psychiatric centres or adult prisons or awaiting trial for long periods of time, these children often lack genuine opportunities to gain access to justice and to challenge the legality of their detention or to benefit from education and vocational training and long-lasting social reintegration. While deprived of liberty, children are at heightened risk of violence, including harassment, sexual abuse and torture. They may also be subjected to violence as a form of discipline, punishment or sentencing.

Responding to these serious concerns, the General Assembly, in its resolution 69/157, invited the Secretary-General to commission an in-depth global study on children deprived of liberty including good practices and recommendations for action and to submit the conclusions of the study to the Assembly at its seventy-second session. The study will help to consolidate data and sound evidence to inform policy and law, develop capacity-building initiatives for professionals and promote a change to stigmatizing attitudes and behavior towards children in detention, as well as promoting alternatives to it.

Considering the need to support the elaboration of the Global Study on Children Deprived of Liberty, the Government of Chile (through their ministries of Interior and Public Security, Justice and Human Rights and the National Council for Childhood), UNICEF and the Office of the Special Representative of the Secretary General for violence against children (SRSG VAC) have seen fit to convene an international conference in order to discuss laws, policies and programs for crime prevention and resocialization of children in contact with criminal justice systems. The organizers expect that the academic and professional debates published as a result of this conference, will contribute concretely to the improvement of the prevention of crime and violence against children, desistance from crime and the effective social inclusion of children and adolescents in contact with criminal justice systems in Latin America and the Caribbean.

Main issues to be discussed during the conference.

The Conference will be structured around two main components: a) Academic conferences by leading experts and; b) Discussion on national experiences by government's officers from Latin America and the Caribbean.

a) Academic conferences will pay attention to the following aspects:

- International and regional frameworks on the prevention of violence against children in the field of crime prevention and the criminal justice system (UN and EC).
- Deprivation of liberty and its impact on resocialization of children in contact with criminal justice systems.
- Risk management and early intervention programs
- Diversion and crime trajectories in young offenders
- Restorative justice and alternatives to custody
- Desistance from crime and resocialization programs.
- Girl's awareness and participation in crime prevention and resocialization policies

b) National experiences, in turn, will attempt to provide a view on regional trends on:

- National laws, policies and institutional frameworks in the field of prevention of violence in the field of crime prevention and the criminal justice system: state of the arts.
- National and local programs on crime prevention for children and adolescents: theoretical foundations and key components
- National and local programs on resocialization of children and adolescents in contact with criminal justice systems: theoretical foundations and key components
- Available evidence on the impact of crime prevention and resocialization programs on reduction of violence and desistance from crime.
- Instruments and institutions for measuring and monitoring the effectiveness of crime prevention and resocialization programs.
- Coordination between crime prevention and resocialization programs with child protection systems and national policies to eradicate violence against children.