



DEFENCE FOR CHILDREN INTERNATIONAL (DCI)

Contribution to the report of the United Nations Office of the High Commissioner for Human Rights (OHCHR) on the “Protection of the Rights of the Child and 2030 Agenda for Sustainable Development”

Background

Defence for Children International (DCI) is an international grassroots non-governmental organization that has been promoting and protecting children's rights since 1979, and was involved in the drafting of the United Nations Convention on the Rights of the Child (UNCRC), as well as other UN instruments and initiatives in the field of justice for children¹ and possesses special consultative ECOSOC status since 1991. DCI works in a coordinated manner through its National Sections in over forty countries worldwide, its Regional Desks, its World Service Foundation based in Brussels and its International Secretariat based in Geneva.

With the adoption of the **Sustainable Development Goals (SDGs)** the world has agreed to “leave no one behind”. The success of the 2030 Agenda will be measured by the tangible progress made in implementation on the ground, especially for the most vulnerable groups of children. Children benefit from a broad range of legal instruments (at the international, regional and local level); primarily the United Nations Convention on the Rights of the Child (UNCRC). However the most vulnerable groups of children, particularly those deprived of liberty, remain invisible and forgotten and at most risk of violence.

When working towards the effective implementation of the SDGs, it is important to remind member States of the obligations taken on under the international treaties they have ratified. Over one hundred and ninety governments have already committed to the rights and obligations outlined in the UNCRC, nevertheless children in detention remain forgotten and subject to violence.

In 2014, the United Nations General Assembly resolution 69/157 (para.51.d), agreed to implement a Global Study on Children Deprived of Liberty. This Study is to address deprivation of liberty in all its forms (criminal, migration, military detention and institutionalization), englobing those situations where children are most vulnerable and at risk of violence. We call on all stakeholders to support the effective advancement of this important initiative.

Access to justice

¹ The UN Havana Rules for the Protection of Juveniles Deprived of their Liberty adopted in 1990; the UN Beijing Rules for the Administration of Juvenile Justice adopted in 1985; the UN Riyadh Guidelines for the Prevention of Juvenile delinquency adopted in 1990; the UN Bangkok Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders adopted in 2010; the Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice adopted in 2010. DCI launched the call for a Global Study on Children Deprived of Liberty in March 2014, obtaining a formal request for the Study to be carried out in December 2014 through UNGA resolution 69/157 para.51.d.



The SDGs explicitly aim to - inter alia - “**Promote the rule of law at the national and international levels and ensure equal access to justice for all**” (SDG 16.3). Access to justice is critical as “for rights to have meaning, effective remedies must be available to redress violations”².

Furthermore, the SDGs aim to “**End abuse, exploitation, trafficking and all forms of violence against and torture of children**” (SDG 16.2). Children deprived of liberty are exposed to increased risks of abuse, violence, acute social discrimination and denial of their civil, political, economic, social and cultural rights; certain disadvantaged groups are more affected than others; and society is affected at large as deprivation of liberty tends to increase social exclusion, recidivism rates, and public expenditure.

In addition, the SDGs set out to “**End all forms of discrimination against all women and girls everywhere**” (SDG 5.1) and “**Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation**” (SDG 5.2); underscoring that the specific needs of girls need to be effectively addressed. However, deeply-rooted discriminatory attitudes and practices continue to fuel acts of gender-based violence against girls and justice systems often fail to provide girls with equal and adequate access to justice, protection, rehabilitation and redress, fostering further violence against them³.

Lastly, also linked to children deprived of liberty, the SDGs commit to “**Strengthen the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol**” (SDG 3.5). Drug related offences are very high among young detainees.

DCI has reported the lack of access to lawyers for children in preliminary research drawn from reports issued by the United Nations (UN), the European Union (EU), the European Union Agency for Fundamental Rights (FRA), and NGOs⁴. A UNICEF publication(2014) promoting children’s equitable access to justice in Central and Eastern Europe and Central Asia identified “*gaps and weaknesses in the delivery of justice to children, including procedures that are not child-friendly, too few specialized professionals and the lack of a multidisciplinary, holistic approach to providing support and assistance*”⁵. There is a clear lack of awareness regarding children’s rights among legal professionals, other responsible actors dealing with children, and among children themselves. Notwithstanding the fact that access to justice is “*not only a fundamental right in itself, but it is an essential prerequisite for the protection and promotion of all other civil, cultural, economic, political and social rights*”⁶.

DCI National Sections operating on the ground, through specific Socio-Legal Defence Centers (SLDCs), provide the missing link in ensuring that boys and girls in need of protection receive direct and immediate support, while promoting structural improvement

² UNCRC General Comment No.5 on general measures of implementation of the Convention on the Rights of the Child, 2003

³ Office of the Special Representative of the Secretary-General on Violence against Children, Safeguarding the rights of girls in the criminal justice system: Preventing violence, stigmatisation and deprivation of liberty, New York, 2015

⁴ http://www.dei-belgique.be/IMG/pdf/importance_right_access_lawyer_for_children.pdf

⁵ United Nations Children’s Fund (UNICEF), The Regional Office for CEE/CIS, Children’s equitable access to justice, Central and Eastern Europe and Central Asia, UNICEF, Geneva, 2015

⁶ Sepulveda Carmona, Magdalena, Report of the Special Rapporteur on extreme poverty and Human Rights, A/67/278, UN New-York; 09/08/2012, para. 91



through the social embedding of children's rights. SLDCs follow a child centered and human rights based approach, grounded on the following principles: i) legality, universality and indivisibility of human rights; ii) best interests of the child; iii) participation and respect for the views of the child; iv) non - discrimination; v) accountability. SLDCs also promote and implement a gender-sensitive approach as they strive to address the specific needs of girls.

SLDCs consist primarily in actively offering children, irrespective of their gender, direct socio-legal support, when their rights have been threatened or violated (individual advocacy). Such support includes information and legal advice and representation, including in court. SLDCs also include outreach functions, reaching the most vulnerable children (primarily children deprived of liberty, but also children living on the streets and children living in poor or remote areas).

SLDCs also work to achieve structural changes within the justice system (systematic advocacy). According to international standards and obligations, all justice systems should have accessible and child-friendly procedures that observe and protect children's rights and provide children with information and legal assistance while guaranteeing their best interests and participation. SLDCs provide systematic training in children's rights for professionals such as judges, police officers, lawyers, civil servants and community leaders.

Beyond legal advice, mediation and counselling, SLDCs also provide a referral pathway whereby children can be referred to other services, depending on their specific needs (health, education, etc.). To ensure that the best interests of the child are upheld, it is crucial that there is coordination between all actors.

SLDCs also serve as a preventive entity by empowering children through information and education on their human rights.

SLDCs are composed of multidisciplinary teams, including social workers and lawyers, although educators and other professionals can also be part of the team to ensure more comprehensive protection. The team is specifically trained in children's rights, juvenile justice, gender and other relevant matters applicable to children.

SLDCs have created an important system that ultimately provides children - irrespective of their gender - adequate access to justice, by on one hand providing support and information to children in claiming their rights (individual advocacy), and on the other hand by building child-sensitive justice systems (systematic advocacy). Therefore enabling rights-holders to claim their human rights, and enabling duty-bearers to fulfil their obligations towards rights-holders⁷, which together ensure children adequate access to justice.

⁷ International Development Law Organization (IDLO), "No Rights Without Accountability: Promoting Access to Justice for Children", Legal Empowerment Working Paper No.10, 2010, Anne Grandjean