



**STATEMENT BY THE SPECIAL REPRESENTATIVE OF THE SECRETARY GENERAL
ON VIOLENCE AGAINST CHILDREN**

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Expert Consultation

Restorative Justice for Children

Bali,

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Distinguished participants,

Dear friends,

I would like to wish you a warm welcome and thank you for joining us in this very important expert consultation.

I would also like to extend my gratitude to the co-organizers of this meeting, the Governments of Indonesia and Norway for hosting this meeting and for placing the rights of the child in the justice system, in particular diversion and restorative justice high on their agenda at the national level and in their bilateral human rights dialogue.

We are gathered here to discuss an area of critical relevance for the protection of children's rights in the administration of justice. **Child sensitive restorative justice** is an approach to criminal offending which involves the victim, the child offender, his or her parents or guardians, social networks, justice agencies, social workers and the community.

Restorative justice programmes for children aim, through a flexible, non-adversarial and voluntary process, to rehabilitate and reintegrate the child offender to help reconnect the child with the community and to ensure that the child understands and acknowledges accountability for criminal behaviour that violates the law and injures victims and the community. These programmes are also required to give the necessary support that the victim and the child offender may require.

Restorative justice envisages success differently. Rather than accessing how much punishment is inflicted, it measures how much harm is repaired or recurrence of violence is prevented through purposeful reintegration of offenders into the community.

In reality and in grave contrast with these aims, millions of children who have entered the criminal justice system across the world have not benefited from restorative justice programmes and, in many cases, become involved with the system simply because of the lack or ill-functioning of the national system of child protection. As a result, they often face disproportionately harsh and violent punishments for minor offences such as petty crimes, status offences, survival behaviours or other behaviours that are (most often) a result of exposure to violence or

because they have been denied appropriate care or necessary treatment for mental health problems or substance abuse.

During the past few years many countries have been seriously affected by economic crisis, an increase in poverty and social exclusion particularly amongst children and families that were already living in difficult circumstances. As a result, many countries have seen an increase in crime, at times associated with gang and armed violence, which has led to a social perception that child delinquency is on the growth and is a threat to security in the community.

This perception, often exacerbated by the media and distant from reality, when criminal statistics are made available, has stigmatized and labelled vulnerable children as criminals, generated stronger social pressure to respond with a lower minimum age of criminal responsibility, deprivation of liberty as a preferred solution, and longer sentences; and overall with increased risks for children's vulnerability to violence and detention. In some cases it may be sufficient for the child to come from a district where gang violence is high or be out in the streets without adult supervision after a certain time in the evening. As a result, children's population in detention has been growing exponentially.

Yet, the Convention on the Rights of the Child and a significant number of other international norms and standards prohibit all forms of violence, cruel, inhuman or degrading treatment or punishment against children and establish the use of deprivation of liberty as a measure of last resort and for the shortest appropriate time.

To address this serious human rights gap, last year, the United Nations Office on Drugs and Crime (UNODC), the Office of the High Commissioner for Human Rights (OHCHR) and my own office developed a thematic report on the *Prevention of and Responses to Violence against Children within the Juvenile Justice System*. The report showed that deprivation of liberty is often not used as a last resort, but as a first option.

The report provided concrete measures, recommendations and strategies to prevent and respond to violence against children within the juvenile justice system. Among these important strategies, States were urged to develop and use, in the light of international standards including

article 40 of the Convention on the Rights of the Child, effective **alternative measures to formal criminal proceedings** that are child- and gender-sensitive, such as diversion, restorative justice processes, mediation, and community-based programmes.

A critical step in developing alternative measures in the criminal justice system is the adoption of appropriate **legislation**, which represents an expression of states' accountability and commitment to the safeguard of children's rights.

Legislation is also an essential building-block of a **robust national child protection system**, which needs to be supported by well-coordinated and resourced services and institutions, and pursued through a holistic approach to address the **root causes** of child offending and promote investment in **prevention** efforts in the home, at school and in the community.

Based on research and experiences from various regions, we know that by safeguarding children's rights and preventing discrimination, violence against and neglect of children, we also prevent juvenile delinquency and keep children out of the criminal justice system.

Children who have committed an offence are often in danger of further violence and exploitation, and of recidivism. In order to ensure their protection and **diversion as a first resort, rather than a last**, legislation should provide the police, prosecutors and judges with options to divert children away from the criminal justice system. Children's **right to recovery, rehabilitation and reintegration** should also be firmly expressed in legislation, thus avoiding the widely prevailing punitive approach of responses used.

Legal safeguards for children involved in the justice system apply equally in countries with **plural legal systems**, where national legislation exists alongside with customary and religious law, and where informal justice systems may be available to resolve conflicts and address situations where children commit offences. Informal justice systems can be more flexible and accessible than formal justice systems. But in many countries the interplay and tension between these different systems sometimes compromise children's rights and

perpetuate violence and discrimination based on gender, age, ethnicity or other status.

The law reform process requires consistent efforts to fill gaps in enforcement and implementation in formal and informal justice systems. Ongoing advocacy, public information and education, and capacity building are a pre-requisite to change the mindset and build the necessary skills to shift the system from being punitive towards a child rights centred approach. This process is particularly successful when promoted in a participatory way and involving key stakeholders such as governmental departments, parliamentarians, independent children's rights institutions, and key actors in civil society, including professional groups, religious communities, traditional- and religious leaders, non-governmental organizations and young people themselves.

Dear friends,

In our consultation we will share and discuss good legislative, policy and program examples from countries that are promoting a paradigm shift from punitive approaches to child sensitive restorative justice programs.

Over the next 2 ½ days, through presentations and discussions in plenary and break-out groups, we will:

- Provide an overview of available models of restorative justice for children and of legal structures that support such programmes at the national, regional and community levels;
- We will draw attention to positive developments, promising practices, as well as shortcomings and challenges in the use of restorative justice processes for children within formal and informal justice systems;
- And we will highlight legal obligations, roles and responsibilities of state institutions and the need to integrate efforts at all levels and with all stakeholders

Our meeting brings together experts from different countries and engaged in different roles, thus opening avenues for cross-regional

learning and partnerships. With a group of experts with such varied backgrounds, we will discuss the role of the key actors in promoting restorative justice for children, including law-makers, independent national children's rights institutions, the judiciary, law enforcement officials, probation officers, social workers, para-legal mechanisms, religious- and traditional leaders and civil society, including children themselves.

With your excellent experience and decisive commitment, we will no doubt have a very successful meeting. But our efforts will be pursued beyond this week, with the development of a thematic report based on the Bali Consultation and including **country experiences** from a variety of different legal, political, cultural and social contexts, and with **concrete recommendations** for the development and implementation of restorative justice for children.

The report will be shared with a wider audience through an international launch in a high level event during the upcoming General in mid-October this year.

And with your support and partnership we expect to develop a strategy for scaling-up activities in different regions to promote these very important recommendations. This meeting is a critical start in a long term process of change and there is a unique opportunity to build upon this very promising momentum.

I thank you for your participation and look forward to working with you in the coming days.

Thank you.