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# Juvenile Justice in DCI - The Story So Far

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**Helen Bayes founded Defence for Children International in Australia in 1993. A social worker by training, Helen has worked in social policy and program areas of both Commonwealth and ACT Government. She also spent some time working in the Geneva office of DCI. Helen was awarded the Human Rights Medal in 1999 by the Human Rights and Equal Opportunity Commission in recognition and National Coordinator of her outstanding contribution to promoting and protecting Human Rights. Helen was invited to deliver this talk overviewing the work of Defence for Children International to protect the rights of Kids Behind Bars - or, in more formal language, the detention (or deprivation of liberty) of children and adolescents at the at “Kids Behind Bars” DCI International Conference, Bethlehem June, 2005.**

DCI/DNI/DEI celebrated its 25<sup>th</sup> birthday last year. It is 10 years older than the Convention on the Rights of the Child. Yet it was the drafting of that Convention that was the genesis of DCI and over the years we have developed quite a special personality as an NGO:

- a clear commitment to the UN Convention on the Rights of the Child as the central framework for projects and policies
- an enthusiasm for starting innovative projects in many parts of the world
- an ideological willingness to collaborate with other interested parties: other NGOs of course, and experts, but also with governments and inter-governmental organisations, who want to improve the world for children.

We seem particularly good at developing example projects of how to promote and protect children’s rights. We often see our examples taking root much more widely than DCI itself.

Sometimes we are accused of thinking we own the Convention, but of course we don’t – and we really do know that. The Convention belongs to the whole world, and especially to all children and adolescents.

Juvenile justice has always been a high priority for DCI and we have taken many initiatives over the 26 years to protect the rights of children and adolescents who are in conflict with the law. We work at the international, regional, national and local levels to stimulate the progressive reform of juvenile justice systems and services, so that the UN Convention on the Rights of the and Child, and the three instruments of UN Rules and Guidelines about Juvenile Justice are properly implemented.

At our International General Assembly held here over the last 3 days, we agreed to put the theme of Juvenile Justice into the centre of our global actions for the coming years. So this work has been promoted from being “high priority” to being the core issue of DCI’s international work. We intend to increase the visibility of this issue in human rights forums and in international and intergovernmental arenas. We are planning further projects to explore and demonstrate good practise. And we will put concentrated energy into networking to stimulate and support the reform of juvenile justice systems so that children’s and youth rights are fully implemented.

As a human rights NGO, we tend to focus on worst-case scenarios, that is where breaches of human rights have the most serious consequences for real people. Also where significant numbers of individuals are suffering. Detention – or deprivation of liberty – by the State is such an area. It is there, behind bars, out of public view, inside closely guarded institutions - which are often house large numbers of individuals - that the human rights of young people can so easily and comprehensively be taken away – even the most basic right to survival.

Articles 37 and 40 of the UN Convention on the Rights of the Child deal specifically with detention, but let us remember that detainees do not lose their other rights by virtue of being detained. They are entitled to the whole system of rights in the Convention - all the rights relating to survival, development, participation and protection. All the rights must be protected for a JJ system to meet the requirements of the UNCROC.

Most of the breaches of rights in the juvenile justice system are rooted in traditional beliefs that young people need to be punished. I use the word 'punish' deliberately, even though we flinch from it these days. One of the strongest influences in the field of Juvenile Justice is the ordinary public's demand for punishment. And their view that a person, even a child loses his or her rights if they commit offences, so that justice means justice for the victim of an offence, or for society generally, and this can be obtained by punishing the offender.

This creates a political demand for 'punitive sentencing' rather than for help and rehabilitation. It is the public demand for *punishment* of offenders, together with commonly-held fears about crime, and intolerance of youth, that lead to the human rights suffering of 'kids behind bars'.

### **Developing International Standards**

In 1985, when the Convention was still being drafted – DCI commissioned a study of children in prisons. It demonstrated clearly that many children were imprisoned in terrible conditions, that this problem was widespread but largely invisible and that the international standards *existing then* gave these children no actual protection. This research provided the detailed picture necessary for it to help draft precise proposals for the JJ articles in the UNCROC (1989) and three further sets of UN rules and guidelines. DCI consulted widely with JJ experts, DCI sections and other NGOs for input to the drafting process. Every organisation now working for reform relies on these basic standards<sup>1</sup>, yet they are barely implemented today.

To increase awareness of these welcome developments of international law, DCI published a Kit - in English, French and Spanish - which contains the texts with explanatory introductions.

The DCI Kit has stimulated reform and training in many parts of the world.

### **Facilitating International Cooperation and the use of experts**

During the 1990s, work at the international level, to stimulate and support the effort of reform continued to be a high priority for DCI. In that first decade of the Convention, the UN Committee on the Rights of the Child recommended comprehensive reform of juvenile justice systems to more than half of the States Parties that reported to it. The Committee repeatedly stressed that there was a great need for international cooperation by technical experts to reform Juvenile Justice around the world.<sup>2</sup>

To answer this need, DCI established the International Network on Juvenile Justice (INJJ) in 1997. The INJJ is a co-operative network of experts – individuals, academic bodies and NGOs – which can serve the needs of governments and others working on improvements to JJ law and administration.<sup>3</sup> By 2001, the Network had grown to 275 partners worldwide who were available to offer expert advice to others in need of it. Because of resource difficulties, the inter-active elements of the INJJ are currently suspended, but while it was fully operational, we responded to hundreds of such requests each year. We also developed a model training manual and delivered training in Uganda and Macedonia. The website has back issues of the Network newsletters and a huge annotated bibliographical database. The importance of such facilitating and co-ordinating work is reflected in DCI's membership of the United Nations Co-ordination Panel on Technical Assistance in Juvenile Justice<sup>4</sup> and our role as convenor of the Sub-group on Juvenile Justice, which is an arm of the NGO Group for the Convention on the Rights of the Child.

### **Socio-Legal defence for children and young people**

At the national and local levels, however, equally important work is done by DCI's sections in providing free legal advice and defence to children and adolescents. These services are offered with a profound respect for the young person's views and preferences. They invariably mean having an open door for those who come to DCI offices, as well as DCI lawyers visiting detention centres and prisons to

check whether children are being held with adults, whether they have enough food, whether they are safe from violence and sexual exploitation, and to offer assistance to them to make complaints and appeals.

Such services help young people, but - also importantly - they collect information about the ways in which social change, social institutions and laws create problems for young people. In 2000, we launched a 3-year program to establish Socio-legal Defence Centres for children in 7 countries, Albania, Bolivia, Colombia, Ghana, Macedonia, Sri Lanka and Uganda. These countries were selected to demonstrate the potential of this approach to helping children and adolescents in different settings. The centres are staffed by interdisciplinary teams of lawyers, social workers and psychologists.

Another recent initiative is in Latin America, where six DCI sections<sup>5</sup> are working in a regional alliance to promote alternatives to detention. Many other DCI sections do work which is prompted by issues arising in their own countries. The section to which I belong, Australia, successfully campaigned in the late 1990s against Government plans to privatise some juvenile detention centres. The child rights framework was the very basis of that campaign. The Netherlands Section has recently done a study of child rights concerns in relation to restorative justice.

Lastly, I will mention briefly, the global campaign “No Kids Behind Bars” which is being led by an international team, supported and co-ordinated by DCI Netherlands. This very recent initiative will be covered in detail in a plenary session tomorrow morning. Other DCI projects that I have mentioned will be covered more fully in parallel workshops.

The need for law reforms and good practice improvements in this area has never been more urgent than it is now. The use of detention seems to be gaining wider public and political support, but at the same time, research is exposing the damage that detention does to young people’s physical, emotional and moral health, and its impact on their life prospects.

At the heart of the problem is the failure of many States to grasp the reasons for having a special system of justice for children and young people. Reform proposals are also handicapped by the lack of sympathy for young offenders, especially boys, who are in the majority. Ordinary community attitudes seem extremely resistant to change, even though research shows detention is ineffective and damaging. It does nothing but alienate young people from society and

cripple their creative spirit. What a tragic loss to humanity!

## Footnotes

<sup>1</sup> The UN Standards Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) 1985, the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) 1990 and the UN Rules for the Protection of Juveniles Deprived of their Liberty (JDL’s) 1990.

<sup>2</sup> The INJJ has analysed of the Concluding Observations issued by the Committee on the Rights of the Child to more than 140 State Parties on the subject of juvenile justice, from 1993 to 2000. The research looked at the number of States found to need ‘comprehensive reform’ and the number urged to end inhumane treatments such as torture, flogging, death penalty and life imprisonment. Altogether, the Committee has recommended to 57 States that they seek technical assistance.

<sup>3</sup> The INJJ was launched at a Seminar on “Children in Conflict with the Law” held in Senegal in January 1997 which was attended by 130 participants from 44 countries, as well as UN representatives and other international NGOs. The participants shared information about the rights violations of detained or imprisoned children and young people in each country. It was made abundantly clear that ‘Kids behind Bars’ suffer in similar ways regardless of the country, continent or culture of the country.

<sup>4</sup> The Panel was established in 1997 by the UN Economic and Social Council. It consists of representatives of the Committee on the Rights of the Child, the Office of the UN High Commissioner on Human Rights, UN Crime Prevention and Criminal Justice, UNICEF, UN Development Programme plus other inter-governmental, and regional organisations and NGOs. It assists the States Parties to the Convention on the Rights of the Child that have been given a recommendation to seek technical assistance in juvenile justice.

<sup>5</sup> In Argentina, Bolivia, Chile, Colombia, Costa Rica and Uruguay



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