



DEFENSA DE NIÑAS Y NIÑOS INTERNACIONAL DNI
DEFENSE DES ENFANTS INTERNATIONAL DEI
DEFENCE FOR CHILDREN INTERNATIONAL DCI

APPEAL FOR JUVENILE JUSTICE TO BE EFFICIENT, SPECIALIZED, FAIR AND RESPECTFUL OF RIGHTS

On the occasion of the Twelfth United Nations Congress on Crime Prevention and Criminal Justice, from April 12-19, 2010 in Salvador, Brazil, Defence for Children International (DCI), the international movement for the rights of children and adolescents, with consultative status with the UN Economic and Social Council and the undersigned organizations, calls upon States to take immediate action to ensure the functioning of effective, specialized, fair and respectful Juvenile Justice Systems:

GENERAL CONSIDERATIONS

Children and adolescents are the principal victims of violence in the world. As pointed out by the conclusions of the United Nations Study on Violence against Children, the settings in which violence is particularly significant are: family, school, community, and state institutions.

One area that starkly reflects the reality of violence in State Institutions is Juvenile Justice, referring to the State's response in dealing with cases of crimes attributed to, or committed by adolescents.

While there are international instruments¹ ratified by the majority of States to ensure that criminal cases are resolved effectively, efficiently, fairly, respectfully, and in a specialized way without infringing upon fundamental rights, in practice these standards are not met.

International instruments establish the specialization of Juvenile Justice Systems according to their socio-educational content, considering the age of the subjects, and the imposition of non-custodial sanctions as preferable to freedom deprivation. Likewise, they emphasize that States should respond to crimes by striving to achieve an appropriate balance between the rights of adolescent perpetrators of the crime, the rights of victims, and society's interest in public safety and crime prevention.

¹ United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("Beijing Rules"), Convention on the Rights of the Child, The United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), General Comment No. 10 of the Committee on the Rights of the Child.

Even though States have developed specific legislation on Juvenile Justice in accordance with international principles, there is still a need to develop more actions to establish specialized justice systems.

The recurring recommendations of the Committee on the Rights of the Child and other international reports show that states have failed to fully implement the socio-educational sanctions established in international commitments. Neither have they allocated enough resources for a comprehensive and effective implementation of these measures. On the contrary, they maintain the use and abuse of freedom deprivation, as exemplified by the overcrowding of prisons.

It is known that there are ongoing and serious rights violations, particularly against adolescents, such as killings, torture, cruel, inhuman, and degrading treatment, arbitrary or illegal detention, in addition to the well known grave conditions in detention centers. These situations have been identified in the Study on Violence against Children in the 2009 Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment, in a number of reports by the World Organization Against Torture and in other international and national studies.²

In this context, we see justice systems operating in unsuitable conditions, generating more violence, while at the same time social concerns about the situation of insecurity become ever more pronounced. This reality shows that no effective response is being offered to conflicts generated by the crimes. On the contrary, it weakens the rule of law while commitments to the specialization of the Juvenile Justice system in accordance with international standards remain unfulfilled.

APPEAL

In response, the undersigned organizations demand that States do the following:

- Make greater commitments to the eradication of the violent practices within Juvenile Justice Systems, ensuring the observance of international standards and establishing mechanisms for regular monitoring with the participation of civil society organizations.
- Apply international standards for the specialization of Juvenile Justice to thereby put into operation justice systems that are truly fair and effective and efficient in resolving the conflicts generated by the crime.
- To train and professionalize all players in the system: judges, prosecutors, advocates, authorities and professionals who implement measures, police, teachers, etc. in order to streamline the whole justice system.

² World Report on Violence against Children (2006), Provisional Report of the Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment (2009 – A/64/215).

- Implement Juvenile Justice Policies framed by the guidelines of the Convention on the Rights of the Child, General Comment No. 10, and other United Nations instruments.
- Ensure that policies on Juvenile Justice are specialized in nature, which are expressed in their socio-educational content, understood as the assumption of responsibility for crimes and their consequences through comprehensive programs with a multidisciplinary perspective, consistent with and targeted towards achieving better social, family, school and community integration that involves adolescents and their families.
- Consider raising the minimum age of criminal responsibility and maintaining the maximum age at 18. There is no reliable information to indicate that lowering the minimum age reduces levels of crime and insecurity.
- Develop a social policy for adolescents that is inclusive and allows for suitable processes of socialization through family, school, and the community avoiding the criminalization of youth.
- Prioritize investment in public policies on children and adolescents, promoting comprehensive national protection systems to combat inequality and social exclusion and the inequality of opportunities, improving the mechanisms for collecting, analyzing and using data that enable greater efficiency in addressing the causes of conflict with criminal law and social vulnerability of children and adolescents.
- Adopt development models that are inclusive, just, and equitable to provide the experience of human rights and open up opportunities for all sectors of the population.
- Establish policies for mass media to present the phenomenon of adolescence, crime, and public policy from a perspective of accountability and inclusion avoiding the criminalization of the adolescent population.

The assumption of these commitments by the States will contribute to the specialization of Juvenile Justice, to a reduction in the use and abuse of prison and the development of nonviolent and really effective proposals for resolving conflicts produced by the commission crimes.

This is why we the undersigned organizations urge the State authorities in charge of Juvenile Justice to take the necessary measures to implement the changes that will contribute to a better respect of the rights of children and adolescents in conflict with the law.