

PENAL REFORM INTERNATIONAL



10 Point Plan

For Juvenile Justice

A contribution to the Committee on the Rights of the Child Day of General Discussion on "State Violence Against Children", Geneva 22 September 2000.

INTRODUCTION

The following Plan focuses on ways of reducing violence within juvenile justice systems around the world. The plan builds on the relevant international instruments: the UN Convention on the Rights of the Child, the Standard minimum Rules for the Administration of Juvenile Justice and the UN Rules for the Protection of Juveniles Deprived of their Liberty.

Penal Reform International (PRI) believes that a proper administration of juvenile justice cannot be achieved without a strong education and social welfare system. Helping young people in conflict with the law to become law abiding adults is much more the job of parents, teachers, social workers and psychologists than it is police, courts and prisons.

PRI believes that juvenile offending should be dealt with as far as possible outside the formal criminal justice and penal systems. It is important to ensure that alternative systems- particularly those involving institutional care- take proper steps to protect children from violence and abuse.

Arrest and Interrogation

- 1) Arrest of children (defined as those under the age of 18 years) should be a measure of last resort and detention in police custody should be for the shortest time and in no case more than 48 hours. Use of police bail or bond with or without surety should be encouraged. Those arrested by the police should be separated from adults and held in child friendly rooms rather than conventional cells. Questioning should be undertaken by selected and trained officers in the presence of parents, guardians or other appropriate adults. Children should be informed of their rights.

Age of Criminal Responsibility

- 2) Countries should set as high a minimum age of criminal capacity as possible and children below this age who are accused of crimes should not be taken through the criminal justice system. Measures should be found for dealing with such children that provide them with appropriate services whilst protecting their rights.

Diversions

- 3) There is a need for diversionary community alternatives to prosecution when children admit their offences. Warnings, cautions and admonitions can be accompanied by measures to assist the child at home, with education and with problems or difficulties. Conferences which involve the victim and members of the community may be particularly useful provided that there are safeguards to protect the well being of the child. Prosecuting authorities should develop guidelines to assist diversion in the lower courts.

Pre Trial detention

- 4) Children should, where possible, be released into the care of their families to await trial in their own homes. Conditional release should be accompanied by measures to support and supervise the child and family. A maximum time limit should be set for keeping a child on bail according to age and offence. Pre trial Detention should not be used for children other than in exceptional circumstances and under 14's should never be detained in prison establishments. Where it is used it should be for the shortest time, with a cut off period for which a person may be held awaiting trial, after which the child should be released on bail. Bail and other forms of conditional release should be accompanied by measures to support and supervise the young person and their family. Separation from adult detainees and strict monitoring of the conditions of children detained pre trial are imperative.

Alternative Sentences

- 5) A wide range of alternative sentences are needed particularly those which emphasise the values of restorative justice and seek to meet the needs of young people which are leading them into crime. Intensive programmes should be developed for more persistent and serious young offenders. Fostering and

residential placements in educational and treatment facilities should be available where necessary.

Youth Courts

- 6) Special child courts/tribunals with less formal proceedings should be established for dealing with under 18's. Such courts should be held in camera and the presence of the parent/guardian is important. Judges should receive special training and concern themselves with the application of sanctions and measures as well as just sentencing. Sentencing should be based on a careful assessment of the needs of the young person as well as the circumstances of the offence. Legal representation should be encouraged and where a child is facing the possibility of a custodial sentence the state should automatically provide immediate legal support and aid.

Custodial sentences

- 7) Custodial sentences should be used as a last resort and for the shortest time, and used only in exceptional cases. Small open facilities with minimal security measures should be developed for children serving such sentences. Education and rehabilitation should be the main priorities. Decisions about the placement of young offenders in establishments should balance the need to maintain family contacts with the need for specialist regimes. A minimum age for placement in prison establishments should be set and should be no lower than 14.

Detention Facilities

- 8) Separate facilities should be used for children who are detained namely no mixing with adults. In large prison establishments, adult prisoners should not be used as guards in the unit where children are held. Regimes should be constructive with education, sporting and cultural activities provided during the day and in the evenings. Adequate numbers of staff should be trained and vetted. Non-governmental organisations should be encouraged to play a full part in the life of the institution. Facilities should have an anti-bullying policy and systems for mediating disputes between detainees. Appropriate methods of discipline, control and restraint should be used based on the minimum necessary use of force. Records should be kept and inspected of such incidents. Needs and risk assessments should be undertaken on admission with more serious offenders separated from less serious ones.

Inspection

- 9) Systems of independent scrutiny and inspection should be established for institutions for children. These should comprise government inspectors and representatives of the local community. Complaint systems with an independent element should be in place. Independent visitors should be encouraged to befriend young people and advocate on their behalf. Non-governmental organisations working on human rights issues should play a role in monitoring institutions for children or any other institutions where children are held. Matters for scrutiny should include the rights to privacy for children, to make complaints, to be held in open

institutions unless security is necessary for the safety of the child or the public, the right to contact with family and the right to access educational, leisure, health and rehabilitative programmes.

Family Links

- 10) Every effort should be made to encourage contact between detained children and their families and communities. Visits should take place in private settings and children should be permitted to make visits to their family homes. Plans should be developed to assist the reintegration of the child into their family and community when they are released from detention. Reintegration programmes should be developed to help children move back into, and become contributing members of their communities.