

**ENHANCING ACCESS TO JUSTICE
FOR JUVENILES IN ZAMBIA**

**AHSI/APRM CIVIL SOCIETY
Golden Bridge Hotel, LUSAKA,
Zambia**

26th August, 2010

Presented BY Henry .M. Musenge



Key findings of 2000 study on CJ

- ④ Many children arrested for petty offenses
- ④ Few children appear with legal representation
- ④ Pre-trial detentions are common
- ④ Child in conflict with the law are detained in prisons and not places of safety
- ④ Supervision of probation orders was beset by practical and theoretical problems
- ④ Detained children are not separated from adults.

Key challenges on CJ in Zambia

- Several resource constraints – all levels
- No budget line specifically for JJ administration
- Outdated legislation regulating juvenile offenders
- Untrained justice officials deal with children in conflict with the law
- High T/over of staff (police officers, prosecutors and magistrates)
- Lack of information on Juvenile Justice

Lack of information on Juvenile Justice

- ④ The Zambian Juvenile justice delivery has a problem of the absence of accessible and accurately documented data.
- ④ The problems experienced by the Zambian society make it increasingly difficult to advance the rights of a relatively small and voice-less group (juvenile offenders)
- ④ Because poverty and suffering is so vast and pervasive.



Need for change: Juvenile justice reform process

- Some international organizations are very supportive
- UNICEF has played an instrumental and stabilizing role in the juvenile justice reform process in Zambia
- strategic inputs for reforms from UNICEF include:
 - technical advice, capacity building and financial support.

Pilot Projects on juvenile justice

Three pilot projects that cover juvenile justice for Zambia are:

- 🌐 Arrest, Reception and Referral Service for arrested children (ARRS)
- 🌐 Child Friendly Court (CFC)
- 🌐 Diversion Programme operated by an NGO.

The Arrest, Reception and Referral Service (ARRS)

- Aim to centralize all arrested children in police stations, in order to ensure that resources are available and concentrated at the correct point in the criminal justice process.

STAROŚWIECKI DRAMAT

radziecki
film
kostiumowy



reżyseria:
Illa Awerbach
w rolach głównych:
Jelena Sołdziej
Anatolij Jegorow
Jewgienij Efremow
Sofia Palatowa
Podobała: Lenfilm

ARRS continued

- ④ The centralization of arrests also enables more accurate monitoring and prevents children from being "forgotten" in an outlying police station.
- ④ The ARRS make possible the detention of children separately from adults should detention be necessary.

ARRS continued

- There have been substantial inputs from UNICEF, the donor community and government to establish the ARRS.
- On a general level, it can be said that the ARRS fostered inter-sectoral cooperation and increased awareness and knowledge on juvenile justice.



Joan M, Mas 2/2007

ARRS continued

- The support from the Police's Victim Support Unit is significant in this regard.
- However, the ARRS still faces substantial challenges that primarily relate to case management and the development of key performance indicators, to enable monitoring and ensure that service delivery is improved.

Child Friendly Court

- The Child Friendly Court (CFC) in the country was first based at Chikwa Court and later moved to the Boma Court.
- All cases involving children were heard in one court staffed with trained officials, including social workers.

Child Friendly Court continued

- ⊗ This was the practice until the end of 2004 when, for reasons that are not entirely clear, the centralization of cases was suspended.
- ⊗ Cases for suspected juvenile offenders are now heard in any of the courts

Challenges of child friendly court

- The CFC was also adversely affected by skills turnover.
- Until the end of 2004, the CFC apparently functioned well and those officials that had been trained, were applying acquired skills.
- However, despite this development, juvenile offenders still need to go to one specific court.



Child friendly court continued

- 🌐 The CFC does, however, need to formalise its operating procedures and come to a closer understanding of "child friendliness".
- 🌐 The CFC also needs to fulfill a stronger oversight and monitoring role.

The Diversion Programme

- The Diversion Programme operated by' the NGO, RYOCHIN (Rural Youth and Children in Need), was borrowed from a South African NGO.

Diversion Programme

- ⦿ While the programme fills a desperate need in the Zambian criminal justice system, it is facing a number of challenges which include:
 - ⦿ Low referrals, ‘
 - ⦿ Low outputs - organizational and skills-related

Enhancing child criminal Justice

- Other notable achievements in enhancing juvenile justice have been:
- The formulation of Child Justice Forums (CJFs) and
- The crime prevention programme that were supported by UNICEF and the donor community through RYOCHIN.

Enhancing CJFs continued

- RYOCHIN trained stakeholders in children's rights in some selected towns so that they could establish child justice forums that would work towards the improvement of children's well-being in the criminal justice system in that particular area.
- The CJF has representation from key government officials and interested NGOs.

CJFs continued

- The forums are regarded as a key ingredient for a transformation process of the juvenile justice system.
- The training that the forums received focused on children's rights and while this was useful and contributed to general awareness of children's rights, it did not enable the forums to be effective at inter-sectoral co-operation, accurate monitoring and accountability.
- For effectiveness, additional support and training may be required.

Crime prevention programme

- The crime prevention programme that RYOCHIN implemented in 2001/2 is difficult to comment on since there is no baseline data nor detailed intervention reports.
- The programme was found to have serious design difficulties and sustained impact was therefore unlikely.

ZACZNIJ od POCZĄTKU

zabójcza kreacja muzyczna

recytacja:

Aleksandr Stęszewicz

w rolach głównych

Andrij Makarewicz

Marisela Tórtora

produkcja:

Magda 888



Juvenile justice reform

- Overall, juvenile justice reform in Zambia has enabled the development of central building blocks by:
- Introducing and ensuring acceptance of key strategies for improving the well-being of children in the criminal justice system.

Entry points for JJ programmes

- ④ The major entry points for future juvenile justice programmes will still focus on:
- ④ The arrest and referral management,
- ④ Diversion and
- ④ A child-friendly court.

Call for Law reform:

- ❁ Current legislation is outdated and is increasingly an impediment to transformation and improved service delivery.
- ❁ To enhance increased access to justice for juveniles, it is necessary that law -reforms be embarked upon as a matter of priority.
- ❁ The scope of law reform should be determined from comprehensive consultations with all interested parties

Law reform continued

- 🌐 If comprehensive reform process is not possible, certain key concepts and standards can still be reviewed.
- 🌐 In this regard, special attention should be given to the definitions of:
- 🌐 Child,

Law reform continues

- ④ Age of criminal capacity,
- ④ Custodial sentencing,
- ④ Remand period,
- ④ Diversion and certain offences.

Jean Genet Pokojówki Teatr Szwedzka 2/4



stasz

Benchmarks for success - Juvenile Law reforms

There are three requirements of equal importance.

- Firstly, good governance principles need to be complied with, with specific reference to management skills, ability to deliver services and quality control.

Success - Juvenile Law reforms

- Secondly, initiatives need to be in support of democracy and children's rights by ensuring access to justice with the rights of children as paramount.
- Thirdly, crisis points need to be addressed as priority areas, and specific reference is made to children deprived of their liberty.



The situation for OVCs

- There is need to provide adequate legal and regulatory protection for OVC by introducing comprehensive programmes to address the needs of children without parents or adult caregivers in the delivery of justice.

Strategies for enhancing Juvenile Justice

- It has been close to ten years since the Situational Analysis was conducted
- While improvements have occurred, it is in order to kick-start a reform process that is explicitly aimed at improved service delivery,
- An action plan is needed based on wide consultations at all levels of government and civil society – targeted at enhancing justice for juveniles.

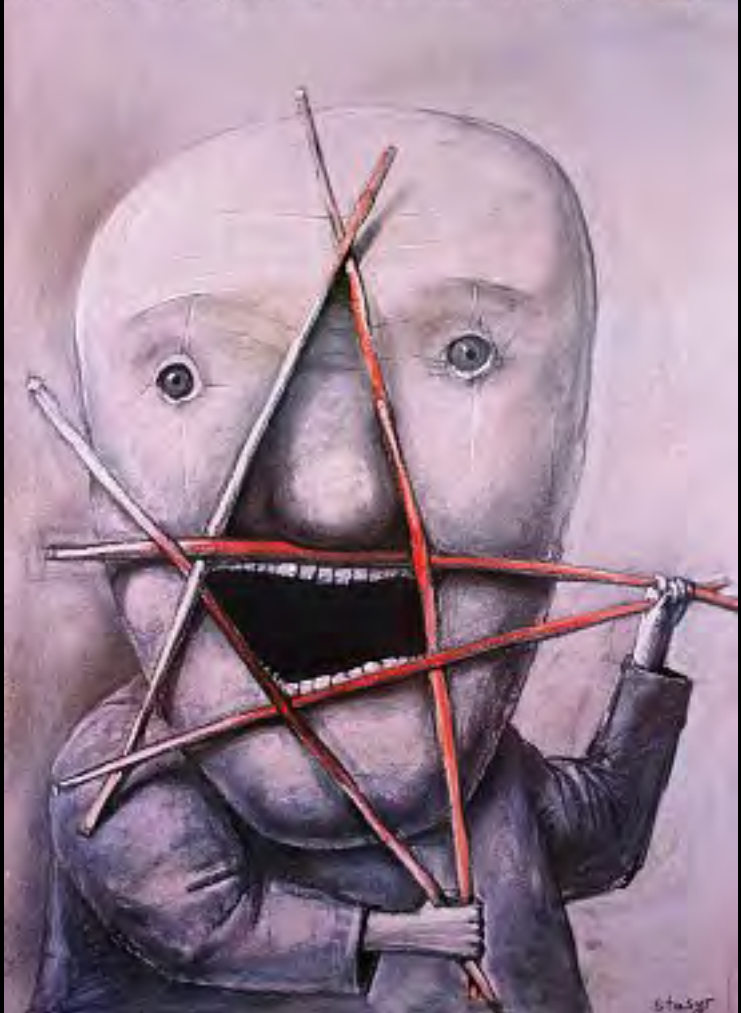
Strategies JJ continued

- **Strengthening diversion:** Diversion has been shown to be effective in avoiding prosecution and conviction and, even under the current legislative framework, it is possible to implement.
- In view of this, diversion programmes can be expanded by:
 - Training the appropriate stakeholders
 - Supporting service providers .
 - Developing guidelines for diversion, and
 - Implementing standards of diversion programmes.

key indicators needed for performance assessment

- ④ Set key indicators of performance with the involvement of officials and NGOs working with children in the criminal justice system
- ④ Be clear on what the key performance indicators for service delivery are, and
- ④ These should be monitored on a continuous basis.
- ④ Indicators should be simple, clear and should make sense in terms of relevant human rights standards and should relate to performance measurement

FURMANNY ZAVLEK ФУРМАННЫЙ ПЕРЕУЛОК КОСМОНАВТ
Иллюстрация: Андрей Завлек © 2008. Все права защищены. Фото: Андрей Завлек.



Strategies Continued

- ④ Create stability through the insertion of staff at coordinating functions
- ④ The high turnover of staff in the Zambian civil service has an adverse effect on the overall process of juvenile justice administration as training is lost .
- ④ The donor community could support placing staff into key coordinating positions for 3 years to allow maintenance and establishment of systems and procedures through development of institutional knowledge.
- ④ **Rm:**It is proposed that provincial coordinators be inserted at the appropriate rank

Other strategies

- Urgently addressing information systems
- Accurate recording and monitoring is central to delivering on a reform process.
- The current information systems fall far short in providing management with an accurate picture.
- Developing a programme of oversight will be strategically sound if an internal but independent mechanism of oversight and inspection is established, to provide reporting to Parliament on a regular basis



Government commitment

- Need to agree with government on financial support framework
- Government should welcome discussions on stable financial support for child justice reform.
- Government needs to demonstrate accepting its responsibility towards children in the criminal justice system - assumed by the signing and ratification of the CRC.

Increasing general awareness

- Give more publicity to child justice
- Despite growing awareness of children's rights, there is substantial ignorance on children in conflict with the law.
- To enhance general awareness on JJ:
- Host a regional conference aimed at developing solutions for Zambia that involves the SADC region
- Commence a media campaign that publicizes the fate of children in the criminal justice and also profiles success stories, for example, diversion or the new child friendly court.

Developing a comprehensive training programme for CJFs

- The CJFs will be a key ingredient in the transformation process
- They therefore need to understand their role clearly and have the ability to perform their key functions effectively.
- Parliament has had limited exposure to child justice and one submission has been made (by UNICEF {Head of Child Protection Section}, Child Justice Forum to the Ministry of Youth, Sport and Child Development}.

Enhancing role of parliament

- The Parliamentary committees form an important component of good governance and advocating for child justice reform, by holding the executive to account to Parliament on its performance.
- It is therefore necessary that civil society creates a parliamentary information programme regarding child justice.

Need for research and documentation

- Lack of research and documentation has led to scanty information on access to justice for juveniles in the country
- For Zambia to embark on a process of Juvenile justice transformation, it is vital to build a body of local knowledge and recorded experiences.
- A research and documentation programme will greatly enhance the quality and speed of the transformation process by ensuring that the process is knowledge- based.

Thank you