



**Report on the**

**EXPERT ROUNDTABLE ON JUVENILE JUSTICE IN UGANDA**

**Silver Springs Hotel, Kampala, Uganda**

**22<sup>nd</sup> May 2013**



## Contents

<b>1. Introduction.....</b>	<b>3</b>
Objectives and outcomes of the roundtable.....	3
<b>2. Opening Session.....</b>	<b>4</b>
2.1: Keynote address.....	4
<b>3. Session 1:The state of Juvenile Justice in East Africa.....</b>	<b>5</b>
3.1: A review of law and policy relating to Children in conflict with the law.....	6
<b>4. Session 2: Action at national level.....</b>	<b>10</b>
 Annex I: Conference agenda.....	 11
Annex II: List of participants .....	13

## 1. Introduction

The government of Uganda has made significant commitments at regional and international level including ratifying the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, which legally oblige the state to protect the rights of all children including those in conflict with the law. At the national level, there are laws, policies, standards and guidelines that form a broad framework regarding the administration of Juvenile Justice in Uganda.

Despite the above developments, there are concerns that the laws and policies in place have not been translated into effective protection of children who are in conflict with the law. The FHRI-PRI Violence Against Children report '*A review of law and policy to prevent and remedy violence against children in police and pre-trial detention in Uganda*' reveals that there are still a number of grave concerns with the current justice systems in Uganda, notably the high number of children in detention which exposes them to violence and the fact that procedural rights of children in conflict with the law and their entitlement to non-custodial and diversion measures are not systematically promoted or implemented.

It is against the aforesaid that the Foundation for Human Rights Initiative (FHRI) in partnership with Penal Reform International (PRI) and the Uganda Child Rights NGO Network (UCRNN), with financial support from the UK Department for International Development (DFID) organized the first Round Table Meeting of Experts on Juvenile Justice in Uganda which was held on 22<sup>nd</sup> May 2013 in Kampala. The meeting provided an important milestone in building momentum to address gaps in the juvenile justice system in the country by a wide range of engaged partners, institutions and individuals from government, civil society and development partners.

### **Objectives of the roundtable and expected outcomes**

The main objectives of the roundtable were:

- To bring together professionals involved in implementing, monitoring and supporting the reform of Juvenile Justice Systems in Uganda in order to discuss priorities, targets and next steps to promote diversion and restorative justice.
- To provide a platform for discussing findings and recommendations in the FHRI-PRI Violence against Children report '*A review of law and policy to prevent and remedy violence against children in police and pre-trial detention in Uganda*'
- To present an opportunity for participants to share knowledge, good practice, innovative ideas and successful projects relating to juvenile justice.

The overall goal of the roundtable was that participants would agree upon priorities and next steps to work towards promoting diversion and a restorative approach to justice for children in Uganda.

Over 35 experts on Juvenile Justice were in attendance representing civil society organizations, government, Justice Law and Order sector, and the academia. They agreed on actions to be undertaken as a way forward to practically contribute to the efforts aiming to alleviate the lives of children in conflict and in contact with the law, including promoting

rehabilitation of these children, evidence gathering, advocacy on enforcement of existing legislation and sharing best practices.

## 2. Opening Session

The event was opened by Mr. Livingstone Sewanyana, Executive Director FHRI and Ms. Joanne Honeybone, Project coordinator PRI. They both introduced the event and highlighted some of the gaps in the Juvenile Justice system alongside the progress that has been made so far to improve the system. Mr. Sewanyana acknowledged the presence of the Hon. Justice Lameck N. Mukasa Head, Criminal Division of the High Court of Uganda was also the guest of honour and thanked him for accepting to participate in the round table. He also recognized the presence of the representative from Penal Reform International (PRI) and the Executive Director, Uganda Child Rights NGO Network. He then welcomed all participants to the roundtable.

He noted that Uganda as a country experiences gross abuses and violations of children's rights. Children are so often neglected and cases of child sacrifice are on the rise every year. He also highlighted the mistreatment inflicted upon child offenders. Mr. Sewanyana expressed concern with regard to the fact that children are detained together with adult offenders and the fact that there is lack of adequate remand homes.

Culturally in most communities, children are not supposed to be heard but rather seen (*they are supposed to be quiet*). He however stressed that a child, like any other person deserves a right to a fair hearing. He therefore, pointed out that the main objective of the roundtable was to re-energize the child rights movement and re-focus the child rights agenda in the country. He noted that even though the child rights movement has many actors like any other movement, the equal voices for the children are lacking. He expressed optimism that the roundtable would come up with a clear strategy for re-focusing the agenda.

### **Keynote Address by Hon. Justice Lameck N. Mukasa, Head, Criminal Division of the High Court of Uganda**

In his address the guest of honour, Hon. Justice Lameck Mukasa noted that the main aim of



**Hon. Justice Lameck Mukasa (left) giving the key note address**

the roundtable was to review the law and policies on Juvenile Justice, to address the challenges faced in its administration and forge a way forward. The Hon. Justice noted that children are not only those in conflict with the law-the offenders, but even those affected as victims or witnesses. He stressed that the Juvenile Justice systems must be in the best interest of the child and always the child's welfare must be paramount.

He noted that the various challenges which all stakeholders have to address include ascertaining the age of the Child, over sentencing, arrest, investigation, detention and the Lack of adequate Remand Homes. Currently, there are five operational Remand Homes, Naguru, Mbale, Masindi, Fortportal and Gulu Remand home; the Arua Remand Home is not yet operational. The Hon. Justice further stressed that even the few operational Remand Homes are not adequately facilitated.

**Actions recommended:**

- Programmes should be undertaken to sensitize the police officers on the provisions of the Children's Act with regard to arrests, interrogation/interviews and detention of children.
- Children should be sensitized about the consequences of being involved in conflict with the law; this could be done through school talks, visits to detention places and prisons.
- Studies aimed at prevention of the causes of crime which involve children either as offenders or victims be undertaken.

The Hon. Justice was hopeful that the roundtable would come up with proposals for the better implementation, monitoring, supporting and enforcement of juvenile justice in Uganda.

**3. SESSION 1:**

**Topic 1; "The state of Juvenile Justice in East Africa" by Mr. David Mugawe, Executive Director, The Africhild Centre**



**Mr. David Mugawe (right) giving a presentation on the state of Juvenile Justice in East Africa**

The presentation aimed to chart the progress made and the challenges remaining with regard to justice for children in East Africa, it also aimed to share information on law reform, case law and good practices from the East African region. Mr. Mugawe expressed optimism that the roundtable would promote action on child friendly justice in the region, and uphold justice systems that respond to specific needs of children in their justice system. He noted that despite the frequency with which children are involved in the justice processes, many justice

systems around the world do not cater for the specific needs of children and are still predominantly adult oriented.

**Actions recommended:**

- Research into all aspects of child-friendly justice.
- Exchange of practice and promotion of cooperation in the field of child-friendly justice.
- Setting up and reinforcement of information offices for children.
- Facilitation of children's access to courts and complaint mechanisms.
- The establishment of specialized services for children's cases.

- Setting up child-friendly multi agencies and interdisciplinary centers for child victims and witnesses.
- Setting up specialised, accessible support and information services.
- Ensuring that all concerned professionals working in contact with children in the justice systems receive appropriate support and training.

The session chair Mr. Livingstone Sewanyana rounded off the session by appreciating that the presenter hinted on a number of very important areas and gaps in the administration of Juvenile Justice. He advised that the participants focus ought to be on practical actions to improve access to Justice for Children.

## SESSION 2:

**TOPIC: A review of Law and Policy relating to Children in conflict with the law in Uganda, by Ms. Joanne Honeybone, Project coordinator, PRI and Ms. Diva Mukisa Project coordinator, FHRI**

The session was begun by Ms Joanne Honeybone who highlighted the Penal Reform International (PRI) priorities as reducing the use of imprisonment through use of alternative sanctions, prevention of torture, abolishing the death penalty, Juvenile Justice Reform and improving conditions for women offenders.

She provided a background of PRI's work on Juvenile Justice Reform as; diverting children from the adult justice system, promoting alternative sanctions to imprisonment; restorative-based justice and improving conditions of detention and ending violence against children in detention. She introduced some of PRI's briefings and reports and also shared PRI Juvenile Justice Examples and best practices from other countries.

This information was provided to participants on USB's and can be found on the PRI website <http://penalreform.org>



**Participants at the roundtable on Juvenile Justice in Uganda**

**FHRI-PRI report “A review of law and policy to prevent and remedy violence against children in police and pre-trial detention in Uganda”**

The aim of this presentation was to present the findings in the PRI-FHRI report “*A review of law and policy to prevent and remedy violence against children in police and pre-trial detention in Uganda*”

The report was part of a larger research that covered eight countries including Uganda and Tanzania. It aimed to identify policy and legislative



measures already in place to prevent and detect violence, to assist victims and to make perpetrators accountable, highlight significant gaps in provision and make recommendations for improvements.

The eight areas of focus of the report are: Evidence available, Use of detention as a last resort, Detention for the shortest possible time, Prevention measures at the Police Station, Prevention measures during Court proceedings, Prevention measures during pre-trial detention facilities, Independent monitoring of police and pre-trial detention facilities and Measures to ensure accountability.

The presenter highlighted the recommendations in the report which include the need for Children in adult prisons be removed and relocated to remand homes, Age determination procedures to be established and implemented in Court systems, status offences to be identified as welfare issues and dealt with by social welfare, use of existing diversionary powers be increased through training. The presenter further noted that policies and standards for the National Rehabilitation Centre to promote child correction and rehabilitation should be established and children allowed access to education. The time limit for detaining a child in police custody should be strictly enforced regardless of severity of offence to avoid the remanding of children for longer hours.

## **Plenary discussion**

The following issues/recommendations emerged during the plenary discussion

### **1. Evidence**

- Universities and colleges have for long been absent from the child rights struggles. He stressed the need for universities and colleges to actively play a role. Civil Society could propose thematic research areas and make them known to the college of humanities so that the college can help with evidence gathering
- More research should be conducted on Juvenile Justice issues and reports submitted to the Human Rights Committee of Parliament or the Uganda Human Rights Commission (UHRC). The participants were further informed that reporting doesn't end with the Uganda Human Rights Commission (UHRC), but that child rights actors need to come up with reports to international bodies as well. Participants cited the challenge as lack of proper coordination of the various relevant actors which hampers success.

### **2. Use of detention as a last resort and for the shortest time possible**

- **Rehabilitation/Reintegration:** There is a need to have rehabilitation centres in all the regions of Uganda, with adequate well trained personnel. There should be also be focus on what contributions child rights actors can make to create rehabilitation programs in rehabilitation centres.

- **Minimum age of criminal responsibility:** Ms. Abby Skeans (Children Justice Initiative) highlighted the need to follow up on implementation of the database and indicators system of recording information on children in detention which was set up in Ministry of Gender Labour and Social development but is not operational.
  - Civil Society and Government should sensitize communities on the benefits of birth registration through channels such as radio and television. The five thousand shillings fee (5, 000shs) for birth registration should be scrapped since it is expensive and can hardly be afforded by the masses.
  - The importance of using the already existing statistics to aid the cause, for example reaching out to the Uganda Bureau of Statistics (UBOS) to obtain information on the current population of Uganda, considering the fact that the National Population Census is in the offing.
  - The need for medical history, personal history, criminal, psychological background, civil society should work together with the Ministry of Gender, Labour and Social Development to access such information.
  - Collective advocacy; time is ripe to bring on board, the police, judiciary and all other relevant stakeholders on juvenile justice agenda. Civil society should come up with a campaign like a one year to call for collective birth registration. A participant proposed the need to give timeline to the relevant authorities to finish birth registration.
  - **Capacity Building for Local Councils;** In order to ensure use of detention as a last resort and for the shortest possible time, a member noted the need for functional Local Council courts. The country currently lacks functional Local Council courts and therefore there is need to urgently lobby Government to have local council elections so as to have people who can be trained.
  - Center for Justice Studies and Innovation (CJSI) has been identifying local councils which are not functional and has been providing training. They have also been providing training to community volunteers to handle cases of children in conflict with the law. There are many Community Based Volunteers who are willing to voluntarily work with child rights movements, there is a need to identify and train them. Community Based Volunteers (CBVs) would need to be guided on what to do in regards to diversion and their area of operation should be broadened to handle child victims and witnesses
  - Coordination in the field. A participant suggested the need to identify organizations in a specific area and use community structures to inform the volunteers in that area of the various organizations to contact on a range of issues that affect children.
- 3. Prevention measures at the police station, during court proceedings and in pre-trial detention**



- A representative from the high court introduced J-FASTER (Judiciary facilities Access to Speedy Trial and Efficient Resolution), under which the High Court has been conducting sessions in Kampala, Masindi and Mbale where plea and sentencing bargaining is experimented. Within this initiative there is need to involve the police, social workers, prosecutors, defence counsel and NGOs who can play a role through advocacy, monitoring cases, identifying community placement and being friends of court.
- It was also agreed that there is need to lobby Government for child friendly detention facilities within the police station.

#### **4. Accountability and Monitoring**

- Staff dealing with children in conflict with the law should be trained in child rights and all the provisions outlined in the children act. Available partners like PRI should be utilised for their expertise in this.
- However training alone is not enough; there should be a link between training and implementation.
- Uganda Human Rights Commission (UHRC) should be engaged on specific issues such as accountability

#### **5. Best Practices**

- The need to popularize best practice. A lot of good practice has been happening in Uganda yet few actors are in the know. There is need to share these best practices and have them embedded within the system, for example CJSI and Save the children have a pool of resources that need to be captured and put in the central data base. It was noted that there is a need to ensure that every service provider who can manage to handle a Management Information System (MIS) has one.
- Ms. Jo Honeybone stressed that Penal Reform International (PRI) can share best practices from other countries and provide guidelines; training tools and also provide training and advocacy at regional and international level.
- The idea of sharing information through **East Africa Criminal Justice Civil Society e-network** which is being set up by FHRI and PRI was agreed upon.
- Available resources and stakeholders such as the National Council for Children, Ministry of Gender, Labour and Social Development (MoGLSD) should be fully utilized in order to maximise potential. For purposes of evidence based advocacy, participants stressed the need for information from the police, National Council for Children among others. Mr. David Mugawe (Executive Director, Africhild) noted that the Civil Society tends to alienate themselves from Government and yet there is need to work together with Government and to engage other relevant stakeholders with the goal of pushing the agenda forward.

- Child Rights activists need ensure that child rights are on the agenda for upcoming elections.
- There are a number of proposals laid down in the Children's Act and the Sentencing Guidelines that need to be included in the proposals in the agenda.
- Children and the whole community must to be involved as we forge a way forward. Children should be involved in their own issues and we should ensure meaningful participation of children by sensitising them and creating platforms to allow them to express their views.

#### **4. Session 4: Recommendations for action at national level**

Participants agreed to work together on practical ways to follow up on recommendations made in the FHRI-PRI report '*A review of law and policy to prevent and remedy violence against children in police and pre-trial detention in Uganda*'. These actions are aimed to address the eight areas of focus of the report which are: Evidence available, Use of detention as a last resort, Detention for the shortest possible time, Prevention measures at the Police Station, Prevention measures during Court proceedings, Prevention measures during pre-trial detention facilities, Independent monitoring of police and pre-trial detention facilities and Measures to ensure accountability.

The deliberations culminated into the following resolutions being adopted as actions to follow up.

1. **Research:** Participants agreed to build evidence on child justice issues to inform advocacy and programming. Suggested areas for immediate research include; understanding background and motivation of offenders, context and motivation for abuse and gaps in legal frameworks for children. Participants further stressed that actors should generate information on child justice that can inform the reports to the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. This should be done in partnership with CSOs, academia/Universities and relevant government departments.
2. **Birth Registration campaign;** Participants moved to organize a Birth Registration campaign involving multiple stakeholders; taking advantage of ongoing national processes such as the National Population Census, Demographic Health Surveys among others. There should be identification of the champion for this initiative.
3. **Promotion of coordination among child justice actors;** Participants agreed to build a strong, vibrant Network on Juvenile Justice, exploring and tapping on the diverse in-country resources and initiatives. 'Friends of children in court' as a network should be strengthened.
4. **Legal reform and harmonization of laws;** Participants noted the need to expedite the Amendment of the children's Act, amendment of the Birth Registration Law,

Harmonization of laws related to children- cross referencing provisions in the different pieces of legislation when handling matters of child justice.

5. Participants agreed to undertake capacity development and training curriculum for actors in the Justice Law and Order Sector. Roll out training of professionals in different areas; identify strategies of monitoring and tracking application of skills developed and strengthening feedback mechanisms after the trainings.
6. Participants resolved to organise a regular Forum/roundtables of Experts focusing on specific strategic issues affecting children. The fora will involve experts from all sectors (state and Non-state actors).
7. **Document and Promote Best practice;** Participants appreciated that there are a lot of initiatives that need to be documented and shared for learning and scaling up. Some examples include; Juvenile Justice Sessions, Day Care facilities for children of prisoners, Child friendly court systems, PRI successful initiatives in other countries. The **East Africa Criminal Justice Civil Society e-network** which is being set up by FHRI and PRI was agreed upon as a means of sharing best practices.
8. Scale up preventive measures to address the underlying causes of juvenile offenses and general violence against children. Actors agreed to undertake initiatives that involve children as change agents. This will be done by sensitizing children about the consequences of being in conflict with the law through school talks, visits to detention places and prisons.
9. Participants resolved to regularly engage with government organs to address key challenges in child justice system; Such Government organs include Ministry of Gender, Labour and Social Development (MGLSD), Ministry of Justice and Constitutional Affairs, National Council for Children (NCC), Uganda Human Rights Commission, and the Uganda Police.

## **Closing session**

The event was closed by Mr. Livingstone Sewanyana who thanked the participants, partners and organisers of the event.

## Annex I: Roundtable agenda



### ROUNDTABLE ON JUVENILE JUSTICE IN UGANDA

DATE: 22<sup>ND</sup> MAY 2013

VENUE: SILVER SPRINGS HOTEL, KAMPALA

TIME	SESSION DETAILS	PRESENTER	SESSION CHAIR
8:30am - 9:00am	Registration of Participants		FHRI
9:00am–10:00am	Opening session Welcome remarks	Mr. Livingstone Sewanyana: Executive Director, FHRI	
	Key note address.	Justice Lameck Mukasa Head, Criminal Division of the High Court of Uganda	
10:00am –10:30am	Coffee Break		
10:30am –11:10am	Session 1: “ <i>The state of Juvenile Justice in East Africa</i> ”; <i>Where are We?</i>	Mr. David Mugawe: Executive Director Africhild	Mr. Livingstone Sewanyana:
11:10am-11:25am	Open Discussion	All Participants	

			Executive Director FHRI
11:25am–12:40pm	2: <b><i>“A review of Law and Policy relating to Children in conflict with the law in Uganda”</i></b>	Ms. Joanne Honeybone: Project coordinator Penal Reform International  Ms. Diva Mukisa: Project coordinator FHRI	
12:40pm-1:00pm	Open Discussion	All Participants	
<b>1:00pm-2:00pm</b>	<b>Lunch</b>		
2:00pm–4:00pm	Session 2:Panel Discussion  <b><i>Way forward; “Action at National Level”</i></b>	Mr. David Mugawe: Social Policy Expert -Child Justice  Mr. Livingstone Sewanyana: Executive Director FHRI  Ms. Daizy Muculezi: Advisor Child Rights Governance Save the Children	Stella Ayo Odongo  Executive Director UCRNN
<b>4:00pm–4:30pm</b>	<b>Closure and Departure</b>		

**Annex II: List of participants**

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