



©Tahy/Diego Ibarra Sanchez

Children and Customary Justice: Preliminary Results of a Quantitative Study in Palestinian Camps in South Lebanon

July 2019



Terre des hommes
Helping children worldwide.

Acknowledgements

This study is part of the Research Project “Shifting the Paradigm for Access to Justice for Children” conducted by Terre des hommes (Tdh) in the Middle East (Palestine, Lebanon, Jordan), North Africa (Egypt), West Africa (Burkina Faso) and Central Asia (Afghanistan).

This report has been compiled by the joint efforts of Tdh team: Kristen Hope, Marta Gil and Christelle Antonetti. Special thanks are due to the dedicated Tdh staff in Lebanon Delegation, namely Jennifer Troncoso, Nathalie Hobeika and Mohammad Kaddoura, in charge of the data collection and analysis in the field.

In addition, and in particular, we want to express our sincere appreciation to the customary justice actors who participated in this study as well as to the children and families whose cases form part of the research.

Design: Marion Guénard.

Note: Throughout this report no name will be reported to protect the person's identity.

@Terre des hommes 2019

This publication may be used free of charge for the purposes of advocacy, campaigning, education and research, provided that the sources is acknowledged in full.

Introduction

In many developing countries, the formal justice system (FJS) coexists often with informal justice systems (CJS and/or IJS). While formal justice system refers to laws established by a state, informal or customary justice systems refer to customs that are mainly oral legal practice, consecrated by time and widely accepted and used by a population in a given context. However, their processes are rarely documented and no data about children involved in CJS exist. It has been estimated that between 70 and 90 per cent of all disputes in developing countries, including those involving children and youth, are solved through informal or customary mechanisms (Danida, 2010) [1].

In 2012, Tdh launched a qualitative and quantitative study on CJS in several countries to better understand how the disputes involving children are dealt in these CJS. Between 2013 and 2018, Tdh has collected information on 3,241 children's cases addressed by CJS in the Middle East and Central Asia (Afghanistan, Egypt, Lebanon, Jordan and Palestine). The objective is to gather information on how children's cases are administered by customary justice actors and to document the alternative of dispute's resolution used by these actors and how children have access to justice in these specific contexts. This report presents the preliminary results of this research conducted in three Palestinian camps in South Lebanon. Between December 2017 and December 2018, 153 children's cases resolved within these Palestinian customary justice proceedings have been collected. These preliminary results will support Tdh exploring how

Between 70 and 90 per cent of all disputes in developing countries are solved through informal or customary mechanisms

to better integrate informal justice systems mechanisms in child protection programming while guaranteeing that children's rights, including the right to safely access justice, are protected.

1. Caseload

In a 12-months period, 99 cases involving children in customary justice proceedings were collected by 11 arbitrators in 3 Palestinian camps in Tyr, South Lebanon (Burj el Chamali, Rashadieh, El Buss). This represents in average 8 cases collected per month by 10% of the arbitrators previously mapped in the 3 camps (N=100). The table below represents the number of cases collected, and the total of children involved in these cases during the data collection period.

This number of cases does not represent all cases of children in contact with customary justice in Palestinian camps. Preliminary inquiries suggest the caseload to be much higher:

- i. The number of arbitrators participating in the data collection is a small proportion of those identified as solving child-related disputes in the camps [2];
- ii. During periods of conflict or increased instability in the camps, arbitrators tend to give priority to adult-related cases instead of children;
- iii. If confronted to several conflicts, arbitrators would rather prioritize solving adult cases as cases involving children can often turn into more complex conflicts involving adults from the child's family environment.

Table 1: Number of cases and number of children's cases collected in Palestinian camps in South Lebanon (2017-2018)

Total of data collected	N
Number of cases of children recorded ^a	99
Number of children involved in cases	153

a. number of cases and number of children are not equal because one case could involve more than one child.

Population in Palestinian camps in South Lebanon

Out of 73,515 inhabitants in the 3 Palestinian camps in Tyr area, 95% are Palestinian refugees from Lebanon [3], and 5% are Palestinian refugees from Syria [4] (UN Habitat, 2017). Palestinian population in the camps is very young. People aged 0 to 25 in the three camps represent 46- 50% of the total population, being the estimated proportion of people aged 0 to 12 years between 20 and 23% and the proportion of adolescents (13 to 25) 26-27% [4].

2. Demographics

Children's sex and role distribution

In formal judicial systems for minors, boys are in principle more often in contact with the law, at least as offenders. Tdh global research on customary justice systems for children also shows a prevalence of boys.

In our sample, it appears that 7 out of 10 children in the sample are boys. In the Palestinian camps context, this does not mean that girls are less involved in disputes, but rather that cases involving girls may be hidden or addressed within the inner family sphere in order to protect the reputation of the girl and her family.

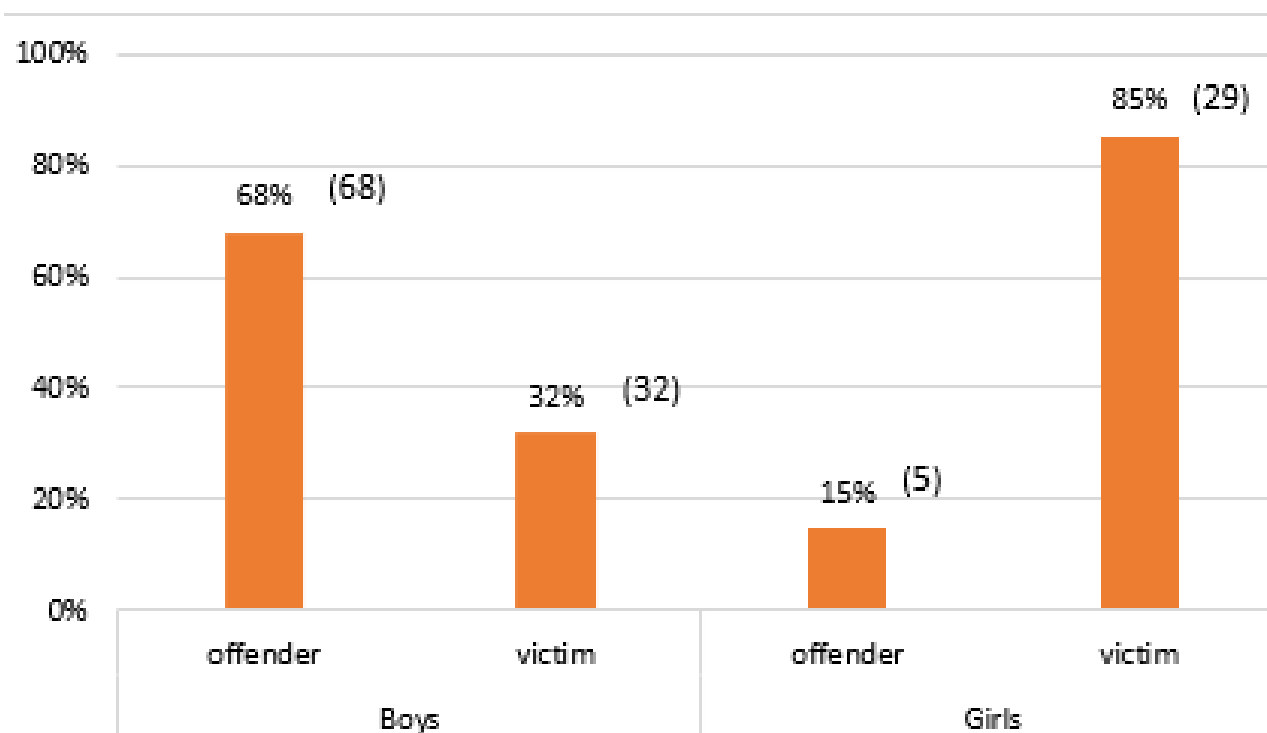
When considering the distribution by role, preliminary observations indicate that half of the children in the sample are considered offenders by the IJS actor (54%, n=73) while the other half are considered victims (45%, n=61) [5]. Boys are more often offenders than victims, while girls are more often victims than offenders [6] (see **Chart 1**), in alignment with the results obtained in the other countries investigated in the Tdh global research.

7 out of 10 children are boys which might mean that cases involving girls may be addressed within the family sphere

Concerns and programmatic responses: sexual related crimes and double victimization of girls

Observations and exchanges during data collection show that children identified as victims by the customary justice actors (especially girls in sexual-related cases: sexual harassment, sexual abuse, on-line grooming, romantic relationships outside of the marriage) may be handled as offenders during the treatment of the case. Children, and more specifically girls victims, are thus at risk of re-victimization during the dispute resolution process and outcome, linked to harmful practices based in patriarchal and social norms around gender. Programmatic responses must address this concern by applying a gender justice lens, to ensure an equitable and safer access to justice for girls involved in customary justice proceedings. Strategies for the empowerment of girls and the community at large, mobilization, sensitization and capacity building of key male influencers and leaders, including customary justice actors must be adopted and reinforced.

Chart 1: Distribution of children involved in customary justice system in Palestinian camps in South Lebanon by role and sex (N=134) [7].



Age and role in the dispute

Girls and boys of all ages enter in contact with customary justice systems. It is also the case in Palestinian camps investigated in this study. In the present sample children involved in customary dispute resolution are in average 12 years old, although a great dispersion of ages is observed. While it has not been observed a significant difference between girls' age and boys' age [8], there is a tendency between child age and child role. Indeed, victims seem to be younger (12 years old) than offenders (13 years old), although a greater sample is needed to confirm this result [9].

These results could be explained by the fact that older children are usually more in contact with the external environment. According to Lifestyle theory [10] and Routine Activity theory [11], older children may have more occasions to escape parental control and may have more opportunities to adopt an antisocial behavior towards potential and unprotected victims.

Recidivism

Recidivism has always been a concern for justice systems. This study examined the issue of children and youth recidivism in a context as specific as customary justice. 8 out of 10 children in the sample (n= 153) entered for the first time in contact with the customary justice proceedings. Among the children in contact with customary justice several times, only 16% (n=25) have been reported to be offenders in the past. Obviously, it could not be totally excluded that the children can be referred to different IJS actors, but in principle, families tend to consult the same actor because they know and trust him. Efforts must continue to design adapted prevention, response and aftercare strategies that effectively address towards reintegration.

Household socio-economic status and children educational status.

A good quality education is an essential factor to ensure a better future for children. Nevertheless, depending on the context, it could be challenging to ensure that children stay schooled. In Palestinian camps, 6 out of 10 children involved in customary justice proceedings experiment different degrees of de-schooling situations (never been to school, drop out, irregular attendance) – see **Chart II**. Analysis demonstrate that out of school children are significantly older (14 years old) than those who present a regular school attendance (12 years old) [10].

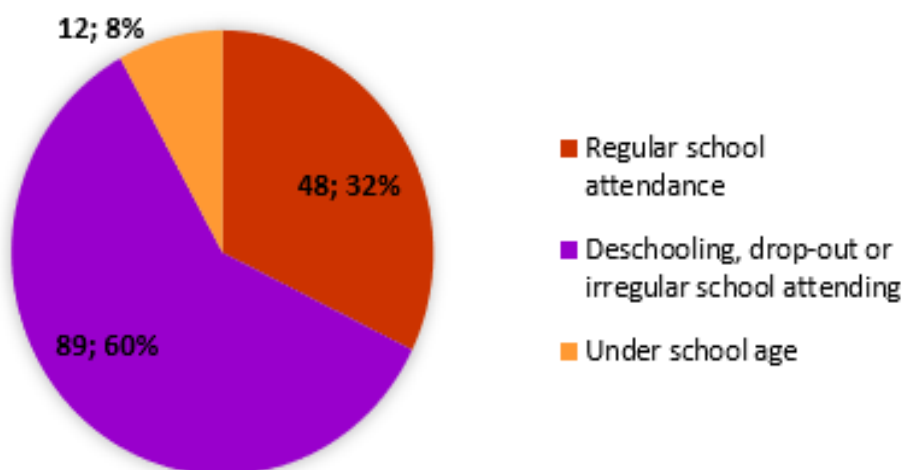
One of the reasons that could explain out of school situations as stated above is related with the fact that as children grow, they may be progressively required to

6 out of 10 children involved in customary justice proceedings experiment different degrees of de-schooling situations

contribute to the household economy at the expense of their education. It is also possible that the weak quality of the education provided in the Palestinian camps plays a role in the decision to drop out of school (e.g lack of interest, lack of progress).

Moreover, in our sample it appears that more than half of the children have parents who are unable to ensure the entry of a regular income in the household, because both parents are unemployed or are employed as daily workers (irregular incomes). Such households are vulnerable and therefore, children are exposed to several risk factors such as child labor and lack of education, both eventually link with conflicted situations with the law.

Chart II: Children in contact with customary justice within Palestinian camps in South Lebanon as per schooling situation (N=150) [12]



Concerns and programmatic responses: de-schooling and criminality

Period between 12 to 14 to be seems crucial to determine the continuation of children in school enrollment in the analyzed Palestinian camps.

Programmatic responses involving children and families at risk of de-schooling need to be designed or reinforced to ensure that parents are supported and encouraged to keep their children at the school.

3. Customary justice disputes

Nature of offense and age

Studies on juvenile delinquency have demonstrate that children are over-represented in the commission of offences compared to other groups of age, but their offences are less serious and mainly concern the family and school environments [13]. Children offenders usually commit minor offenses, such fights and petty thefts. While children victims are represented in more diverse categories as maltreatment inside the family, extorsions and theft, assaults, (cyber-) harassment and sexual abuse [14]. Of course, this statement does not mean contrary tendencies could not happen.

Children victims are represented in diverse categories such as maltreatment inside the family, extorsions and theft, assaults, (cyber-) harassment and sexual abuse

Despite the fact that Palestinian camps are a specific environment, the preliminary results show that offences concerning physical integrity and property represent more than the half of the disputes dealt by the IJS actors in the camps investigated [15]. Nevertheless, there is still a significant part of disputes which are related to family law affairs (custody, divorce), sexual abuses, etc.

Relating juvenile delinquency, victimization and the nature of offense, the results show that 1 out of 2 offenders have committed a property offense, mainly theft (50%, n=34). Concerning victims, it appears that 1 out of 2 children has been assaulted or beaten (53%, n=17) by a family member, a peer or a teacher. In cases concerning sexual integrity, it has been constated that children offenders usually commit sexual offenses like sexual harassment in the street or sharing private pictures of another child.

Children offenders usually commit minor offenses, such as fights and petty thefts.

Additionally, a link can be observed between age and type of dispute: older children seem to be involved in cases attempting against sexual integrity (14 years old) and property (13 years old), while younger children are more involved in family law disputes (9 years old) [16]. This is aligned with criminology theories which set that older children or teenagers are more often outside of the household and may encounter more opportunities to engage in antisocial behavior, to infringe social norms or to be at risk to be victimized by peers or adults. Nevertheless, it has not to be ignored that family could also represent a context favorable to violence and specially concerning child abuse.

Teenagers usually have more occasions to be outside home and thus, may encounter more opportunities to engage in antisocial behavior

Being a child in a Palestinian camp in South Lebanon

Children in Palestinian Camps are confronted to various contextual circumstances that constitute classic factors of risk for the commission of unlawful acts. Hardship conditions in Palestinian camps linked to legal restrictions to access to employment and to land ownership, explain economic vulnerability, access to low quality education, high level of unemployment, high level of social frustration and violence and the lack of perspectives, especially for the youngest generations. Living in overcrowded camps, with no physical space for child friendly areas, and lack of alternative recreational and educational options make children increasingly at risk of engaging in unsupervised activities potentially deriving in antisocial behaviors linked to an unsafe use of internet, the consumption of illegal substances, use of arms, etc.

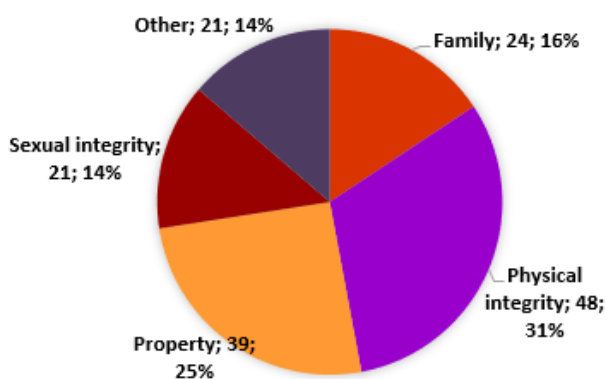


Chart III: Distribution of children in contact with customary justice in Palestinian camps in South Lebanon by nature of offense (N=153)

Table II: Mean age of the children involved in customary justice in Palestinian camps (South Lebanon) by nature of the offense (N=153)

Nature of the dispute by legal good damaged	Mean Age of children
Family-law disputes	*9.37
Physical integrity disputes (fights, assault)	11.87
Property disputes	13.36
Sexual integrity disputes	**13.81
Other	13.60

* lowest average age observed

** highest average age observed

Collaboration between customary justice actors and with formal justice actors

Customary justice actors in Palestinian camps tend to resort to other community leaders seeking for support in the resolution of the disputes, in line with the plurality of interests and socio-political affiliations existing among the Palestinian community, and the need for a partisan customary justice actor to represent each party. The results show that in 1 out of 2 children's cases, customary justice actors have involved other community actors in the resolution of the case. Among the cases solved by only one IJS actor, family law disputes seem to be over-represented. This may be explained by the fact that family law disputes may require more discretion to be solved and that members of the same family may be more likely resort to the same actor. Nevertheless, other factors could explain this observation and further investigations should be conducted in this regard.

Regarding the coordination with the Lebanese State justice stakeholders, this tendency is inverted. Only in 2 out of 10 children's cases, Lebanese State justice actors (including Lebanese Security Forces, lawyers and statutory social workers) have been involved in the resolution of the case. Due to the very few cases where coordination or collaboration between the two justice systems was observed, it is not possible to confirm if this "justice hybridity" between the two systems is influenced, for instance by the seriousness or even by the type of

the offense, where a more specific analysis would be required.

More girls than boys benefit from a follow-up of their cases

In terms of referrals to the child welfare sector, only 2 out of 10 children involved in customary justice proceedings had their case followed up [17] after the dispute was solved. Data show that more girls than boys benefit from a follow-up of their cases [18] (mainly by a child protection actor or a school counsellor), which is probably related to girls being more represented as victims in the sample (and in a higher proportion involved in sexual related offenses). From a programmatic approach and in order to ensure the rehabilitation of the child, the follow-up of boys and offenders is not to be overlooked.

Duration of the proceedings

Alternative community conflict resolution mechanisms often reach solutions quicker than formal justice system does. It is one of the factors that drive individuals to resort to informal justice system.

In the camps investigated, cases were mainly resolved in less than 1 week independently of the nature of the dispute [19] (median = 5 days). The rapidity of the proceedings represents one advantage of customary justice systems against formal justice systems.

Situation analysis: Referral mechanisms for Palestinian children

Referrals within Palestinian camps

The lack of trust among the Palestinian community on the capacity and seriousness of local NGOs to appropriately deal with cases, especially in terms of confidentiality, hinders the **access to adapted services for children**. Moreover, coordination efforts among child protection actors in the camps seem insufficient as customary justice actors are often **unaware of the existing referral mechanisms in the camp** (i.e. Child Protection Networks) and the service providers and services available. Customary justice actors, children and families lack basic knowledge about children rights, child protection minimum standards and positive parenting strategies to promote protective factors among children.

Referrals to Lebanese State Justice system

In the absence of a reconciliation process at the end of the civil war, mutual mistrust contribute to maintain limitations for Palestinian to access certain rights in Lebanon, and helps to explain Palestinian populations' reluctance to rely on Lebanese institutions, which contributes to the prevalence of the **use of informal justice mechanisms by Palestinian communities** and the **lack of referrals** towards national child-welfare services. Some of the customary justice actors participating in the study described the State justice structures and proceedings as 'inadequate to respond to the needs of Palestinian children' and explained that, 'unless the victim or the family of the victim requests it', the general tendency in Palestinian camps is for child welfare and legal cases not to be referred to the State. Moreover, most of the customary justice actors participating in the study, but also children and families, acknowledge lacking a **basic understanding of the Lebanese child protection legal framework**, including the national legal referral pathway applying to children entering in conflict (alleged offenders) and in contact with the law (victims, witnesses). **Lack of institutionalized coordination mechanisms** between child protection structures and justice actors is exacerbated by the historical status of Palestinian camps in Lebanon by which Palestinian authorities and political factions are granted de facto the control over the camps so that Lebanese authorities refrain from entering.

Child participation in customary justice proceedings

Child participation is one of the main components of the child-friendly justice approach promoted by Tdh. For this reason, in this study, child participation in CJS has been analyzed in 3 different phases of the conflict resolution process (see questions asked to the IJS actors below):

- i) gathering evidence - Did the child give an account of events?
- ii) during conflict resolution - Did you ask the child his/her view on how to solve the dispute?
- iii) after conflict resolution - Did the child give his/her opinion about the outcome of the case?

During the process of gathering evidence, the age of children influences whether they are asked or not to give an account of events: children who do not give an account of the events are younger (9 years old) than children who have given it (14 years old).

Child participation at this stage is not influenced by sex or by the type of dispute. Child participation during the resolution of the conflict follows a similar pattern: children who did not give an account of the events were

younger (11.5 years old) than those who have given it (14 years old).

Child participation in giving her/his opinion about the outcome shows a similar pattern concerning to the child age: children consulted were older (14 years old) than children considered to not able yet to express themselves (11 years old). Interestingly, at this stage of child's participation, girls tend to be asked more frequently than boys whether they are satisfied with the IJS actors' decisions [20]. Girls being more often victims than offenders and being more involved in offenses related to their sexual integrity may explain why they are more consulted than boys at this stage.

This assumption is to be further discussed with IJS actors to better understand what could be the reasons behind these preliminary results.

Due to the reduced size of the sample, no link can be established between the different stages of child participation and the nature of the dispute. Likewise, further analysis is needed to evaluate the desirability bias that can influence IJS actors' responses and to ensure that child participation is complete at all stages of the proceedings and safe for them.

Conclusion

This report highlights the preliminary results on children involved in alternative dispute resolution processes handled by customary justice actors in three Palestinian camps in South Lebanon. This paper aims at providing evidence-based analysis and recommendations for stakeholders and child protection agencies to build appropriate and contextualized programmatic interventions. The objective is also to raise awareness about the state of children's rights in Palestinian camps, especially those entering in contact with the law as victims and offenders.

Customary justice actors participating in this study dealt with children of all ages involved in disputes of all nature, including religious, criminal (i.e. theft, assault, sexual abuse), and infra-criminal affairs (i.e. parental or school discipline).

The precarious living environment in the camps represents a challenge in order to prevent children from being exposed to risk factors associated to juvenile criminality and victimization (i.e. high school drop-out levels,

low-income households). Despite this specific context, the data tend to show that Palestinian camps follow regular global criminology patterns regarding juvenile delinquency and victimization. Indeed, boys in Palestinian camps are more often offenders than victims and commit usually petty crimes, while girls are overrepresented among victims, and more specifically in sexual related cases. Nevertheless, the sample used in the analysis does not represent all children cases dealt by informal justice system in Palestinian camps.

The collaboration between customary justice actors and formal justice actors is quasi-inexistent and referrals are not systematic which may hinder both the protection and the reparation of victims as well as the rehabilitation of children offenders. Developing strategies to enhance safe referral pathways among customary justice actors, community-based child protection networks and with formal justice participation is essential. Investing in capacity building initiatives addressing customary justice and child protection actors appears as relevant to enhance the rights in children in justice proceedings.

Endnotes

1. Danida (2010). How to Note: Informal Justice Systems
2. The sample only includes 3 Palestinian camps out of the 12 existing in Lebanon.
3. Palestinians from Lebanon (PRL) are Palestinians who fled to Lebanon during the 1948 Palestine War, and their descendants were born in Lebanese territory.
4. Palestinians from Syria (PRS) are people of Palestinian origin most of whom have been residing in Syria after they were displaced from their homeland during the 1948 Palestinian exodus and who fled to Lebanon during the Syrian civil war starting in 2011.
5. Nineteen children were removed from the sample for this analysis because the IJS actor did not assign them a role as offender or victim.
6. $\chi^2=29.060$, $p \leq .001$, $V=.466$, $Y=-.850$
7. See endnote 5.
8. . The p-value is over the limit of 0.05 ($p=.086$).
9. $F=18.659$, $p \leq .001$, $\eta^2=.121$.
10. Hindelang, M. J., Gottfredson, M. R. & Garofalo, J. (1978). Victims of personal crime: An empirical foundation for a theory of personal victimization. Cambridge, Mass: Ballinger.
11. Felson, M. (1997). A "Routine-Activity" Analysis of Recent Crime Reductions. *The Criminologist*, 22/6, 1-3.
12. Three children have been removed for this analysis because the customary justice actors ignored the child's schooling status.
13. Junger-Tas, J. (1994). Delinquency in Thirteen Western Countries: Some Preliminary Conclusions. In J. Junger-Tas, G.J Terlow, M. Klein (Ed.), *Delinquent Behavior Among Young People in the Western World*. Amsterdam: Kugler 370-380.
14. Gottfredson, M. R. (1984). *Victims of Crime: The Dimensions of Risk*. London: HMSO.
15. The disputes were analyzed per type of offense in each case.
16. $F=5.767$, $p \leq 0.05$, $\eta^2=.135$. Differences between groups were observed with LSD test.
17. "Follow up" meaning "referral to child welfare actors".
18. $\chi^2=8.510$, $p \leq 0.05$, $V=.237$, $Y=.511$
19. $F=1.527$, $p=.197$.
20. The results indicate that over 47% ($n=18$) of the girls have given opinion on the outcome; only 26% ($n=30$) for boys - $p < 0.05$, $V=.198$, $Y=.437$.



©Tdh/François Struzik



Siège | Hauptsitz | Sede | Headquarters
Avenue de Montchoisi 15, CH-1006 Lausanne
T +41 58 611 06 66, F +41 58 611 06 77
www.tdh.ch, info@tdh.ch, CCP/PCK: 10-11504-8



Terre des hommes
Helping children worldwide.