



2021 World Congress on Justice With Children

“Ensuring access to justice for all children: towards non-discriminatory and inclusive child justice systems”

PREPARATORY MEETING REPORT INDIA

INDEX

SUMMARY REPORT OF THE DISCUSSIONS.....	3
Introduction.....	4
Session 1: Access to Justice for children in time of pandemic: state of play and lessons learned	6
Session 2: Resilience of child Justice systems in India: Promoting access to justice and diversionary measures in adverse times	10
Session 3: The voice of the child in justice systems: How to empower children, and promote child friendly justice systems	14
Concluding remarks	17
Annex 1: World Congress Concept Note.....	19
Annex 2: Indian Preparatory Meeting Concept Note and Agenda.....	28
Annex 3: List of Participants.....	30
Annex 4: Comments from the Audience in the Meeting Chat.....	33
Annex 5: Policy and Practice Brief: Accelerate Release of Children from Detention; Protect Children From Covid-19.....	37

SUMMARY REPORT OF THE DISCUSSIONS

19 March 2021

13.45 – 16.00 IST

Virtual Meeting via Zoom

The **Indian Preparatory Meeting** organized by Terre des hommes ("Tdh"), with pro bono support of Baker McKenzie, under the Global Initiative on Justice with Children, was held on 19 March 2021 in preparation for the **2021 World Congress on Justice With Children**. This event is part of a series of meetings that are taking place at the regional and national levels to define key challenges and advocacy priorities in justice for children, and to present recommendations and proposals of topics, the agenda, and activities for the 2021 World Congress on Justice With Children.

The event gathered more than 70 participants, including members of the judiciary, civil society organizations, policy-makers, academics, and law firms from around the world. Due to COVID-19 related restrictions, the meeting was held online via Zoom.

The Meetings' main objectives included:

- Gathering policy makers, academics, and civil society representatives, with relevant work and influence in child justice, to identify key areas of interest around the issues of diversion, restorative justice, community integrated rehabilitation, and use of deprivation of liberty as a measure of last resort for children in conflict with law;
- **Fostering thematic priorities** and defining trends related to child justice;
- **Sharing international promising practices on specific issues**; and
- Formulating **action-oriented recommendations** for the next World Congress in 2021.

Introduction

Angela Vigil, Partner and Executive Director of Global Pro Bono Practice at Baker McKenzie, launched the meeting by emphasizing the law firm's commitment to the pro bono work, particularly in the area of child rights. She highlighted the firm's work in ensuring access to justice, protecting the rule of law, and working towards achieving the Sustainable Development Goals.

Partner and Chair of the Global India Practice at Baker McKenzie, **Ashok Lalwani**, thanked fellow organizers UNICEF India and Tdh, as well as Baker McKenzie's corporate clients, fellow law firms, and industry practitioners for participating in the meeting. Ashok also underscored Baker McKenzie's readiness to stand together and support non-governmental and governmental organizations in their efforts to seek justice for children.

The Global Initiative Coordinator of Tdh, **Cedric Foussard**, provided that the objective of the various Preparatory Meetings was to gather experts from all over the world to address the main challenges and priorities regarding child justice at a national level before the **World Congress on Justice With Children takes place online from 15 to 20 November**.

Cedric observed that **building non-discriminatory, inclusive child justice systems** is a topic that has come up in the various Preparatory Meetings, and which would certainly be a topic of importance at the World Congress, particularly given the effects of the pandemic on the child justice systems. Cedric expressed Tdh's special thanks to HAQ: Centre for Child Rights, UNICEF India, and Baker McKenzie, as well as partners and supporters of the World Congress, including UNICEF, the UN Office of the Special Representative of the Secretary-General on Violence Against Children, Penal Reform International, International Association of Youth and Family Judges and Magistrates, and the Child Rights Institute.

Bharti Ali, Co-Founder and Executive Director of HAQ, thanked Cedric for leading the Global Initiative in organizing the Preparatory Meetings, before highlighting the three key words that need to be demystified: **"Access", "Justice", and "With Children"**. With that, Bharti introduced Justice Madan Lokur, who initiated the establishment of Juvenile Justice Committees in India and has been an ardent supporter for children's rights and their right to access to justice.

Justice Madan Lokur, non-resident Judge of the Supreme Court of Fiji, and former Judge of the Supreme Court of India, gave the opening address. J. Lokur began by sharing his observation on the situation of Juvenile Justice Boards in India prior to the COVID-19 pandemic, which saw unwillingness or hesitation of magistrates to be appointed in these courts due to inadequate infrastructure and the problems of overcrowding. However, with constant endeavours of UNICEF and NGOs between 2014-2018 that organized annual programs, several child rights issues were brought into focus, which also led to setting up of Juvenile Justice Committees.

J. Lokur continued by citing by the *suo motu* decision by the Supreme Court issued on 3 April 2020 in the light of the pandemic and affected not only adults but also children. It was highlighted that by the virtue of this Supreme Court order, **64% of children in childcare**

institutions and 60% of children in observation homes were sent home. Having said that, J. Lokur posed two insightful questions:

- (i) **Why were these children placed in observation homes or childcare institutions if they had a home in the first place;** and
- (ii) Assuming that these children were placed in observation homes or childcare institutions due to domestic problems, then **why were the children sent back to the same environment that perpetuated these issues without it being changed?**

Due to the lack of monitoring and follow-up on the children who were sent back home, it is difficult to note the particular progress or situation of these children. But there was an overall increase in child labour and child marriage, along with major setbacks suffered in education. Concluding his first observation, he opined that even though the order of the Supreme Court was well intended, it came along with its own problems.

The second observation by J. Lokur was regarding the legal assistance or legal advice to children, which was completely missing. The Juvenile Justice Boards (JJBs) did not have any online hearings, which made access to justice for children non-existent. He highlighted the fact that the extent of inaccessibility is so high that recently, the Delhi Commission for the Protection of Children's Rights found out that approximately 1,000 cases in the JJBs in Delhi deserved to be terminated, as they were contrary to the law in force. Besides this, a lack of access to the internet also meant that children were unaware of their rights. Considering these facts, access to justice for children has suffered a massive setback due to the COVID-19 pandemic.

Looking to the future, J. Lokur was of the opinion that there is a need to pay close attention to **case management** and to introduce **technology** to advance children's access to justice, while acknowledging that there is uncertainty about how children would react to it, for example, regarding the comfort level of a child with online hearing and facing a camera. Another issue raised was diversion in the child justice system, which he believes India has not paid attention to at all, even though similar mechanisms exist in the civil justice system in the form of mediation. Not every child should be placed before the JJB or sent to observation homes. There is a need to pay attention to introducing diversion techniques in child justice system. On the whole, there is a need to **brainstorm collectively and to identify potential challenges and workable solutions to the issues raised by the COVID-19 pandemic.** Lastly, J. Lokur concluded with a remark on the **importance of budgeting, which has unfortunately seen a decline in year 2021,** with the current allocation to child protection reaching only 0.03% of the National Budget. If this persists, and considering the tremendous pressure building upon child rights organizations, he believes there might be a **need to obtain alternative means of funding** to support the welfare and best interests of children.

Session 1: Access to Justice for children in time of pandemic: state of play and lessons learned

Moderator: Enakshi Ganguly

Speakers: Mahesh Menon, Swagata Raha, Joydev Mazumdar

Enakshi Ganguly, Co-Founder and Advisor to HAQ, opened the discussion by reminding everyone that COVID-19 has given us the opportunities for challenging and learning, and that this Preparatory Meeting was aimed at gathering ideas on what India should bring to the table for the World Congress. Enakshi started the first session by posing a question to Mahesh Menon: How do we view access to justice during this time of COVID-19, and **do we need to take a hard relook at our overall strategies and concepts** in light of the lessons learned from the pandemic?

Mahesh Menon, Assistant Professor of Law at Sai University, began by elaborating on Enakshi's question on whether there is a need for us to substantially revisit all the work that we have been doing over the past few years, or whether it is a question of the **failure of the government or the system** to ensure last mile connectivity. Mahesh answered the question by primarily emphasising that **inequality should be centralised and must be made the centre of all our discussions**, particularly now that the pandemic has amplified social inequality especially for the most vulnerable groups, which include children in youth justice system. In the area of education, many children have been left behind due to the lack of access to the internet, as well as high number of dropouts that were witnessed during reopening of schools. Closure of schools at the primary level and unavailability of Anganwadi services have led to large numbers of children going hungry, as they do not have access to the midday meals and other food and nutrition delivery services. While some states have taken measures like delivering food to homes, Mahesh opined that as a country, India is really falling behind in ensuring that children do not suffer from major setbacks. There has been no thought given towards social distancing norms for children that is already difficult for them. The only equalizer or leveler that he identifies is the unfortunate fact that all **children are now at a greater risk of abuse or violence**, especially sexual abuse within the household. Although the government and the courts have pursued some actions such as the court ruling on reducing the number of children living in children's homes, there is a need for support and oversight over the children who are released.

In terms of **technology**, Mahesh pointed out that a large number of children are now spending more time online, and that parents, children, and teachers are not fully aware of how to **ensure that children have safe spaces online**. Mahesh questioned whether enough had been done or attempted in terms of **child-targeted communications**, given that a lot of that was previously targeted in schools which are closed now. Many JJBs have also not managed to transition to online working, even if they wanted to, given the lack of technological infrastructure. Mahesh highlighted his findings from an assessment he conducted with a team three years ago in two eastern States where **less than 50% of the JJBs in these states had a functioning computer and internet**. Mahesh and his team, however, did come across anecdotal evidence that some JJBs were attempting to use WhatsApp, Zoom, or even their mobile phones to conduct some of the proceedings in a limited manner. However, these technological developments come with

their own challenges like issues regarding privacy and data protection, considering that there is not yet a specific legislation in these contexts in India. Finally, Mahesh concluded with a remark on 'essential services': why has India not classified key bodies in the child justice system like the district child protection units and Anganwadi services as essential services and made efforts for opening and regular delivery of these services?

Swagata Raha, Head of Restorative Practices at Enfold India, raised five key issues when asked by Enakshi to give voice to the learnings made over the last year, as well as the effects of the economic crisis on children who are now newly entering the system:

First, there is a need to **sustain some of the good practices** that have emerged over the last year. While it has been a struggle to get the police and the courts to embrace technology, Swagata has observed that some police officials as well as magistrates are now recording statements of child victims in an online environment and at venues other than the police station. There is a need for such practices to continue even after the COVID-19 era.

Second, there is a need for **integrated service provision for children in conflict with the law**. Swagata believes that access to justice cannot be seen in isolation, and from her experience, the primary needs of the children who were hurriedly released from the observation homes were not being met, and these children had been returned to situations of extreme vulnerability. She emphasized the need to take a comprehensive approach to cover psychological, social, and legal services simultaneously.

Third, Swagata called for **upgrading the quality of legal representation offered to children in conflict with the law** because India is witnessing a backsliding of norms in juvenile justice. There have been talks of amending the law to try children between 16-18 years of age as adults even for non-heinous offences. She highlighted this as an example of backsliding, which in turn calls for an improved quality of legal services from the first point of contact and throughout the trial procedure. Swagata suggested applying the pro bono models and services of support persons that are in place for child victims to cases of juvenile offenders in a similar fashion.

Fourth, the extreme economic volatility caused by the pandemic has led to higher recidivism among children, repeatedly committing property-related offences. There are a whole host of cases where girls are pushed into trafficking and are being used to sell babies. There is a need to strengthen prevention and the coverage of social protection schemes, in order to **disrupt the pipeline where children in need of care and protection eventually become children in conflict with the law**.

Fifth, there is a lack of data collection and management and a need for efforts to gather **more data on access to justice**. For example, how many children were recently released on bail without a surety? For children whose families cannot afford bail due to poor economic conditions or the high debt levels, to what extent are rehabilitative services made available to them, considering that the lack of rehabilitation could be a ground for which a child is pushed into jail?

Swagata further emphasized that **greater resources need to be invested** in the child justice system. Access to justice is a positive obligation which requires functional JJBs and infrastructure, which was already inadequate prior to the pandemic and has gotten worse after COVID-19 hit the country.

To conclude, Swagata made remarks on the rights of the children in need of care and protection to be heard and access to justice. It is **widely assumed that the entire child justice system is geared towards ensuring the best interests of children in need of care and protection, but that is not always necessarily the case.** She highlights how these children in institutions keep languishing for years until they turn 18 or even after they turn 18, without legal representation. The Child Welfare Committees do not allow lawyers to represent these children, sometimes for trafficking concerns. Therefore, it may be time to look at the other models like guardian ad litem systems in other countries, to bring an equal focus to children who fall in the category of 'in need of care and protection' because even if these roles are assigned to probation officers or support persons, they cannot be carried out without proper resources.

Joydev Mazumdar, Executive Director at the Jayaprakash Institute of Social Change, shared information on practices and approaches taken by the Juvenile Justice Committees in West Bengal during COVID-19. He stated that even though many JJBs managed to remain operational during the pandemic lockdown, social investigation reports that are key elements for case disposal could not be conducted. Consequently, several districts have reported **10 to 15% increase in pending cases since 2018.** Moreover, the social worker members of the boards could not attend the hearings, and as a result, **no awards could be passed.** Besides this, certain districts do not have observation homes, which means that the children have to be taken to another district to be kept in these homes, which in some cases are **up to 100 kilometres away from the home district causing massive difficulties.** Joydev highlighted the fact that children in conflict with the law who couldn't be released by the Supreme Court's order had to suffer from extension of the detention period, since the online trial procedure or video conferencing procedures couldn't be resumed.

On the issue of lessons learned, Joydev re-emphasized the need to find alternative justice methods such as diversion practices for the child justice system as previously mentioned by J. Lokur. He added that although diversion practices have been recognized to some extent, it is inadequate in practice, and this can be done when the responsibility for implementation is taken up at the local level administrations. Additionally, the need for improvement of probation officers remains a challenge, as he shared that there are only 23 probation officers available to deal with 10,000 cases in the State of West Bengal. Another lesson learnt is that cases within the observation homes need individual care plans for the social reintegration of children, and the needs of juveniles who have been granted bail also need to be addressed.

To conclude, Joydev raised the issue of the increasing number of cases of Rohingya children who are reportedly being detained in West Bengal observation homes. He believes the issues regarding legal assistance and international transfer of these children should be addressed together with Bangladesh High Commission.

Enakshi summarised the discussion and shared her thoughts on the key issues raised by the panellists. Enakshi agreed with Mahesh that **better data needs to be captured regarding the structural inequality** afflicting children in India. In relation to international transfers of children, Enakshi shared that the Child Welfare Committees often adopt international transfer mechanisms in trafficking cases, but this is **still not as smooth in cases where children have committed offences.** Enakshi agreed with Swagata that it is critical to **understand the new categories of children who are now entering the system due to the economic crisis,** and also

agreed with Mahesh that more needs to be done to make online spaces safe for children. Enakshi closed the session by opining that many of the challenges faced in India are also faced all over the world, and that responses have been disparate. Therefore, there is room for lessons to be learnt from each other.

Key takeaways of the session:

- The pervasive inequality in India should form the center of all discussions on reform of the child justice system.
- More and better data need to be gathered on both children in conflict with the law and children in need of care and protection, in order to inform policy formulation and enable oversight.
- Greater focus should be placed on the different and new categories of children entering the system, so that the system can be fine-tuned to address their needs.
- The increased adoption of technology in the system should be built on, but more resources must be invested, and more effort is needed to make online spaces safe for children.

Session 2: Resilience of child Justice systems in India: Promoting access to justice and diversionary measures in adverse times

Moderator: Ruchira Goswami

Speakers: Rick Quint, Arlene Manoharan, Nimisha Srivastava, Sachi Maniar

Ruchira Goswami, Head of Department for Center for Child Rights, NUJS, Kolkata, stated that in current times, there are many more children entering the juvenile justice system as children in conflict with the law. These children are being transferred to the adult criminal justice system, which the **Juvenile Justice (Care and Protection of Children) Act 2015** ("**Juvenile Justice Act**") makes access for. This discussion is important in adverse times, not only because of COVID-19, but because of the growing trend of sending more children into the criminal justice system and leaving them to languish there. The panel discussed the current diversionary measures in India, how to improve diversionary measures using the Juvenile Justice Act, and its model rules.

From the Halt Foundation in the Netherlands, **Rik Quint** introduced how Halt works with youngsters to provide an opportunity to rectify their mistakes and also to help to prevent them from making future mistakes. Believing in giving 'Every child a bright future', Halt is a complete diversionary measure program in the Dutch criminal law. **The foundation uses a dual mechanism combining repression and prevention simultaneously in order to successfully create a 'Halt-arrangement', whereby the juvenile offenders do not enter the criminal justice system.** Rik further explained that the cases reported to the police are referred to the Halt Foundation if they are in conformity with the Halt criteria, and then an arrangement is made for intervention through diversion, which may lead to a positive outcome or a negative one which is then reported back to the police. If the result is negative, the case is forwarded for judicial processes.

The success of these diversionary programs is revealed by figures showing that **25% of arrested children in the Netherlands are referred to Halt, which carries out around 15,000 interventions per year.** From this, **73% of these children do not recommit an offense.** Halt has developed a project with the Football Federation in Netherlands to use sports as a diversion technique for juvenile offenders.

For a Halt arrangement to be used as a diversion method, the child must meet certain criteria: (1) be between 12-18 years of age; **(2)** admit to the crime; **(3)** be a first-time offender (in some cases, arrangements are made for a re-offense); and **(4)** agree to be referred to Halt (parents must agree too). Children who are referred to Halt programs are involved in offences like truancy, shop lifting, vandalism, public intoxication, and misconduct in public transport. **The foundation follows a restorative justice approach as their element of intervention,** which includes interviews or discussions with the child about the commission of the act and personal growth, writing apology letters, teaching the children social skills, engaging them in group projects, strengthening family connections, performing community service, and paying compensation for the damages.

An **advantage of the Halt** arrangements is that it is a pedagogical alternative for traditional prosecution, with early-stage intervention and a short program of two months. The juvenile avoids a criminal record, and the victim gets financial compensation, which simultaneously decreases the State burden, as fewer cases are referred to the public prosecutor.

Arlene Manoharan, Co-Head of Restorative Practices at Enfold, commented on the Halt diversionary measure and the possibility of applying similar models in the Indian context. Arlene began by highlighting the practice of involving the family in the restorative justice process as mentioned in the Halt process, which in situations of, for example, children in street situations could act as a barrier, since the families of these children are not capable enough. Many children who undergo the Halt program do not seem to have the underlying problems faced by children in conflict with the law in India.

The Juvenile Justice Act, in 2015, was envisioned as a rehabilitative law in India apart from the adult criminal system, but the legislation itself has recently seen amendments that allow children to be sent to adult trials. **There is very little prevention methods or techniques in India's juvenile justice system, which is something that is very crucial and** provides an opportunity for greater involvement of the community to address juvenile delinquency, social reintegration, and family strengthening.

With the **constant decline in the allocation of budget for child protection**, especially in the post-COVID world, it is important for us to use our scarce resources to prevent children from entering the system. Children should be helped to understand the harm they have caused and how to repair them by giving opportunities to reflect on their emotions and behaviours in a supportive, safe environment. **There are enabling provisions and principles in India's Juvenile Justice Act for diversionary measures to be embedded in the justice system, but they are not a part of the substantive procedural provisions of the law.**

There are three potential phases where diversionary measures can be introduced. Firstly, during a child's first-offence and contact with the police. Secondly, on apprehension by the Special Juvenile Police Unit where the social workers who work with these police officers can play a key role in providing intervention through diversion like the Halt arrangement programs. Thirdly, when a child is produced before the JJB, which is a multidisciplinary body that consists of lawyers, social workers, and other professionals, vested with a duty to understand the underlying problems of the juvenile criminal behaviour and to provide solutions, in addition to being adversarial. There are many opportunities to incorporate more diversionary measures, like involvement of community-based organizations and disposal of more petty offences. Involving the community is essential, considering that the Indian juvenile justice system has a pipeline through which children in need of care and protection end up turning into children in conflict with law mainly due to social or domestic issues that can be addressed by community involvement.

Arlene concluded her remarks by raising some key questions: how is legal sufficiency supposed to be established in diversion practices, and how does the child's consent play a part in issues like self-incrimination that can be brought up later in their life? Also, how do you encourage family involvement in the diversion practices in cases where the families themselves do not agree to the terms of the diversion programs?

Nimisha Srivastava, Program Director of Counsel to Secure Justice, **mentioned that they are implementing a pilot on restorative justice in Delhi, within the juvenile justice system.** This includes working on restorative processes for children within the childcare institutions in the system.

Nimisha indicated that there is a **lack of a framework for accountability** in the system. The child making a mistake needs to be held accountable, but the issue is on how to do this without being retributive and punitive. This is not clearly articulated in the current system, and **some members of the public express anger that children who commit huge crimes are either let go or viewed as 'vacationing' in shelter/observation homes.** A restorative justice component is needed to address this misconception and teach us how to hold children, and maybe even adults, accountable without punishing them, while giving them a second chance to make amends.

The system, currently, is essentially adversarial because it draws from the Criminal Procedure Code and Indian Penal Code, so there is no space for apology or remorse from a child. We need a restorative justice model for children, which is truly Indian in nature and customised to each child's needs, including principles of informed consent, having supportive persons who are trained facilitators, and safeguards for the rights of the child in place.

Sachi Maniar, Director of the Ashiyana Foundation, commented on the Halt model and the possibility of its application in the Indian context on the commission of petty crimes by children, which commonly are theft, behavioural issues, or substance abuse problems. These minor offences are a result of factors like the **lack of adequate services of drug rehabilitation centres and other services needed to address other petty offences in India,** which are directly related to social issues like hunger and poverty. Community intervention can be one of the ways to reduce the increase in crimes due to social issues, but at the same time, India needs a more comprehensive system that addresses the key roles to be played by police officers and other stakeholders involved in the justice system.

Sachi pointed out that while working with children in observation homes in restorative circles and while establishing a restorative culture, they have realized that there is a lack of basic foundation of childcare institutions. It is difficult and challenging to ensure participation of children residing in observation homes in restorative dialogues, since most of these children are under trial and fear self-incrimination amidst communication.

At the police station level, a lot of police brutality has been witnessed along with several other issues. To implement anything that is like the Halt model requires the strengthening of social work, and a massive strengthening of the police system and the understanding of the police officers. **An external program beyond the observation homes could collaborate with the police to teach children social/emotional skills, behavioural change, and work skills.** Such programs could be the key to solving problems that children face either while entering or leaving the observation homes.

Sachi shared information on current diversionary measures implemented by the JJB, which include for example a commitment to plant trees, but may not be a helpful restorative measure because it does not meet the child's needs. Emphasis must be placed on individual care plans and must include psychological assessment, needs assessment, support for behavioural change, and job readiness. Sachi gave an example of a case where a girl was under trial for identity fraud,

and it was found that she was struggling with body image issues, to which the court ordered her to prepare presentations on identity and body image issues and deliver them in several institutions to address her own problems as well the issue in general. **We need to look at creative solutions rather than putting children in institutions and continuing the process.** We are looking at a system where at least one positive adult can accompany a child throughout their journey into social integration.

Key takeaways of the session:

- There are provisions already existing in Indian juvenile law, and juvenile jurisprudence that enable implementation of diversionary measures in India.
- Investment in the community of the child is important to build positive social, emotional, behavioural, and work skills.
- There is a need for creative solutions and individualized needs assessments for children in conflict with the law to provide for the right diversionary measure.
- It is important to strengthen the police and social work systems to handle restorative justice and diversion measures, such as building on the Special Juvenile Police Unit to be more child-centric and adequately trained.
- There is a need to create a system of accountability for children who have entered into the system without being retributive or punitive.

Session 3: The voice of the child in justice systems: How to empower children, and promote child friendly justice systems

Moderator: Simrit Kaur (Tdh)

Speakers: HAQ, Video with Voices of Children and Young People, **Dr. Rajesh Kumar, Migel Queah**

Simrit Kaur, Issue Regional Advisor for Child Protection at Tdh, began the session with the timely reminder that **children have the right to express their views freely in all matters affecting themselves**, and that this right is enshrined under **Article 12 of the United Nations Convention on the Rights of the Child**. She stressed that the effective participation of children is vital for the improvement of the justice system, and the idea is to create resilient child friendly justice systems based on the inputs of children and their experience with justice. Unfortunately, the right of children to express themselves, while understood in theory, is often tokenistic in practice.

Simrit's observations were bolstered by a **hard-hitting video (prepared by HAQ, Counsel to Secure Justice, and Ashiyana Foundation)**, which sets out the social pressure and stigma, discrimination, harassment, and abuse faced by children and their families who sought help from or who were subject to the existing child justice system. The video highlights the **need for a rights-based approach to the development of the justice system and illustrates why the voices and experiences of children within the justice system must be brought to the forefront**. Experiences such as disappointing and non-child-friendly police interactions, delay in trials, lack of victim and witness protection, physical abuse and coercion inflicted by the police authorities, loss of education, and poor institutional care are indicative of the gross violation of children rights at every level and steps.

Simrit further added that children need to be empowered enough to access their rights within a child-friendly justice system and that participation of children is key to this empowerment. For participation to be effective, we should take a rights-based approach keeping in mind some fundamental principles like participation being safe (both physically and emotionally), informative, accountable, child-friendly, gender-sensitive, and culturally sensitive.

Dr. Rajesh Kumar, Executive Director of the Society for Promotion of Youth and Masses, elaborated on the **problem of substance abuse** and what more can be done by institutions and support systems at every level. Statistics provided by Dr. Rajesh suggest that the current system is inadequate, and studies conducted in the last 10 years reveal an increase in number of children who are suffering from substance abuse every year. In particular, the latest study conducted shows that **4.5 million children were dependent (i.e., requires some form of intervention and treatment) on substances**. The current system fails to support the increasing number of children who are addicted to substances, and these failures are apparent at every level:

- (i) at the family and community level, family members are often oblivious and in denial of the fact that their children may be addicted to drugs;
- (ii) at the school level, localities have created a stigma against children who abuse substances, and schools are also often in denial of the problem of substance abuse;
- (iii) at the government level, there is often insufficient funding to address the problem of substance abuse.

According to Dr. Rajesh, the **problem of substance abuse can be addressed in various stages:**

(i) early intervention is crucial due to close proximity between drug abuse and crime; (ii) treatment; and (iii) reintegration into society. However, there is very little being done at the family, school, and community levels to effect early prevention and reintegration, and this ties back to Simrit's comment on the need to empower the voice of the child, and to communicate to families and communities that the best interest of the child lies in a safe home with his or her family. Likewise, more can be done in providing treatment to children, and this follows from Dr. Rajesh's sombre observation that medical and support services are often unavailable or not available in sufficient quantity. He highlighted the fact that it is difficult to keep an accurate record of drug rehabilitation treatment or monitor the children after they are sent home due to a lack of resources, but annual reunion programs suggest that approximately 70% of children do not revert back to substance abuse problems.

Miguel Queah, Founder and Executive Director of Universal Team for Social Action and Help (**UTSAH**), explained the importance of empowering children to ensure effective participation, addressing the issue of institutional weaknesses focusing specifically on the need for **accountability and internal reform**. Recognising that the **child's right to information is enshrined in Article 17 of the United Nations Convention on the Rights of the Child**.

Miguel also stressed the importance of improving access to information. His travels to the upper regions of Assam reveal that children have limited understanding of the laws that were made for them. The narrative is often based on conversations and dialogues amongst stakeholders, practitioners, and experts, and there have been limited efforts to make the laws comprehensive for children living in communities. To achieve certain levels of empowerment, children should have adequate information about the laws which were made for them. To this end, **child-targeted communication is essential, as Indian laws are often complicated, with complex grammatical structures that seem to fall within the exclusive arena of legal practitioners**. On a separate but related note, Miguel noted that access to justice has only been achieved to a certain extent. Access generally always has to be through an NGO or third party, and these are organizations that a child in a small village might not have access to. Accordingly, the state should ensure that children and their families have access to redressal mechanisms when there is a failure of justice on the party of duty bearers.

He provided a poignant account of how police officers, the Juvenile Justice Board, and judicial officers – i.e., the duty bearers who are supposed to be the advocates and defenders of child rights – have discriminated against children, treating them aggressively and with disdain. The people who hold power within the system must be held accountable, and there is a need for concerted efforts, dialogue, and communication within the system to ensure that those in positions of

power fulfil their responsibility. In Miguel's opinion, internal reforms should include accountability for every duty bearer working in the system, starting from the accountability of the judiciary because of the reverence and respect that is accorded to them.

Key takeaways of the session:

- For participation to be empowering, it is essential that children are provided with quality access to information, and that they are involved in the decision-making process.
- A child-friendly justice system must be inclusive, and this can be achieved by bringing all the relevant actors together – we need justice with children, and not only justice for children.
- There is a need to strengthen existing institutions by raising awareness of the needs and experiences of children within the system. Moreover, the duty bearers who hold power within the system must be held accountable for their actions.

Concluding remarks

Bharti Ali concluded that the recommendations for action, to be taken up at the level of the World Congress, included the issues of **global convergence on technology and its use for access to justice for children**. Within this, it must be kept in mind the issues of inequality, such as **gender digital divide**, and overall lack of technology infrastructure that limit many children from access. Further, it was recommended that a **global policy is needed around the use of technology, privacy, and data protection of children**; to also be taken up nationally in India. Another critical issue identified at the meeting was the **support systems for children**. Although built into the law, there is a **lack of probation services and support persons for children in practice**. There needs to be more investment in child protection areas since improvement for the future cannot happen without the adequate resources. Once this environment of support is created, comes the **need for educating the children** requiring access to justice with the knowledge on how to use that space and become aware of the support available and their rights.

In summary, **a lot more focus is required on diversion and restorative justice measures**, which can be gained from international experience. The challenge is of how to incorporate those experiences into India's culture, which is an important element to the success of such restorative measures, as shared by Rik from Halt. A possible first step would be to educate children at a young age in schools.

The Advocacy and Global Learning Advisor at Tdh, **Cédric Foussard**, commented on the rich and detailed level of issues arising out of how to improve the criminal justice system for children in India and the requirement for continued investigation into old and new issues. The Halt program was established in the 1960s and started in schools, to eventually expand into the large foundation it is today. The presentation by Rik from Halt was to demonstrate what is possible to achieve in other countries. Thus, following on from Bharti's point, it would be interesting to adapt those practices in other countries' contexts.

In terms of next steps, the next meeting will be the meeting of the World Congress on Justice With Children in November. Tdh invites the participants in the meantime, before the next meeting, to present their papers and aid in research towards making the point of a need for change in access to justice for children.

Key recommendations from the Indian Preparatory Meeting:

- ◆ Review the **utilization of technology** in the child justice system, including in relation to case management, judicial hearings, and assessment of child welfare
- ◆ **Redesign diversionary programs and set out express diversionary procedures** with reference to established, successful diversionary programs in other countries such as the Halt-arrangement
- ◆ Engage stakeholders on the ground regarding the **implementation of diversionary measures**
- ◆ Brainstorm for **alternative means of funding** for the child justice system, given reduced governmental funding partly due to the COVID-19 pandemic
- ◆ Reframe discussions on the reform of the child justice system around the **structural economic inequality** plaguing children, particularly as COVID-19 has exacerbated this inequality, as well as **gender inequality**
- ◆ Design comprehensive measures targeted at children to **ensure that online spaces are safe** for them
- ◆ Address **concerns of privacy and data protection**, particularly in the context of children, when online technologies are used
- ◆ Ensure that **children in conflict with the law have access to integrated service provision**, including psychosocial and legal services
- ◆ Ensure that **children in conflict with the law have higher quality of legal representation**, or minimally have a probation officer or support person to act as guardian ad litem
- ◆ **Strengthen prevention and coverage of social protection schemes** in order to disrupt the pipeline where children in need of care and protection become children in conflict with the law
- ◆ **Increase the amount of data gathered** on children's access to justice, to better enable, for example, understanding of the new categories of children entering the child justice system
- ◆ Review the challenges posed by the **international transfer of children** to the child justice system
- ◆ Address the **problem of substance abuse by children** as one of the main factors underlying the structural inequality plaguing children
- ◆ Review policies and practical solutions for **ensuring the accountability of personnel in the child justice system**
- ◆ Produce **child-targeted communications to explain children's rights** under national and international law

Contacts for further information

For any further information, please contact:

- Cédric Foussard, Global Initiative Coordinator, Terre des hommes Foundation (Cédric.foussard@tdh.ch)
- Kyra Angelina Marwaha, Head of Multi Country Delegation - India & Nepal, Terre des hommes Foundation (kyra.marwaha@tdh.ch)

With the support of:

**Baker
McKenzie.**

For more information on The World Congress on Justice With Children: www.justicewithchildren.org

Annex 1: World Congress Concept Note

WORLD CONGRESS ON JUSTICE WITH CHILDREN

A one-week online event on child justice

15 to 20 November 2021

“Ensuring access to justice for all children: towards non-discriminatory and inclusive child justice systems”

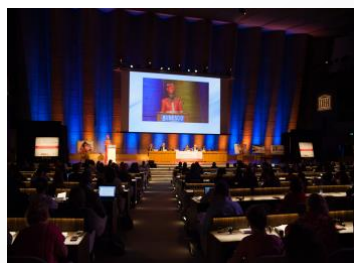
ABOUT THE WORLD CONGRESSES ON JUSTICE WITH CHILDREN

World Congresses on Justice With Children provide dedicated and **interactive spaces for children and youth, policy makers and justice system stakeholders, academics, civil society and UN representatives**, and other experts and practitioners. They are designed to:

- **Promote fair and appropriate justice systems** for and with children worldwide.
- Provide space for professionals to **exchange best practices, foster scientific cooperation, formulate policy recommendations, and raise awareness of** justice for children.
- **Support the operational implementation of international instruments and standards** related to the rights of children and young people in conflict with the law.



The **last World Congress** took place at the UNESCO headquarters, in Paris-France (May 2018), with the theme “**Strengthening Justice Systems for children: Challenges, including disengagement from violent extremism**”.



Over 3 days, nearly 1,000 people from 100 different countries participated in 28 workshops and more than 10 plenary sessions. A key output was the Paris Declaration on the prevention of child involvement in violent extremism. See: <https://justicewithchildren.org/world-congress/>. Previous Congresses were held in Geneva (2015), co-organised by the Swiss Federal Ministry of Justice, and in Lima (2009), focusing on restorative justice for children.

The World Congresses are organised by the **Global Initiative on Justice With Children** to address the most current issues related to **children in contact and/or conflict with the law**. The **Global Initiative is led by** a consortium of international organisations, including **Terre des hommes, Penal Reform International, International Association of Youth and Family Judges and**

Magistrates and **International Institute for the Rights of the Child** (IDE). The Global Initiative is articulated through a double-pronged approach:

- a Justice With Children Global Milestone through the **World Congresses on Justice With Children**
- a global community of practitioners mobilised through the [Justice With Children online platform](#)

The next World Congress will take place online from the 15th to 20th of **November 2021** and is hosted by the federal Mexican Supreme Court of Justice, with technical support from UNICEF, the Office of the Special Representative of the Secretary-General on Violence Against Children (OSRSG-VAC), The Office of the High Commissioner for Human Rights (OHCHR); and the United Nations Office on Drugs and Crime (UNODC). The Congress receives Pro-bono support from Baker Mackenzie and is held under the auspices of the Council of Europe. Its theme is **“Ensuring access to justice for all children: towards non-discriminatory and inclusive child justice systems”**

“State Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.”

- Article 2, United Nations Convention on the Rights of the Child

Context:

Children in contact with justice systems – as victims, witnesses, or offenders – need special care and protection. These children are amongst those who are the most vulnerable to having their rights violated. They may face deprivation of liberty that harms their physical and psychological well-being; be denied the right to legal representation and fair judicial proceedings; be separated from their parents, family, or guardians; and experience stigma from the communities that prevent their reintegration and healing. In addition, they may experience **discrimination from the justice system itself**.

Many children across the globe, in diverse contexts and settings, face multiple and intersecting forms of discrimination due to a range of factors, including ethnic and/or religious origins; disability; socio-economic status; gender, gender identity, and/or sexual orientation; migrant status; or their status as survivors of human trafficking. Discrimination typically results in social exclusion and the lack of access to services and resources.

Both the Universal Declaration of Human Rights (UDHR) and United Nations Convention on the Rights of the Child (UNCRC) identify equality and non-discrimination as fundamental principles for respecting, fulfilling, and protecting the rights of children. Non-discrimination is a common principle and foundation for almost all legal instruments, in both national and international law. However, structural discrimination, inequalities, and power dynamics act to constrain or restrain equitable access to rights for all children. This is a daily reality for many children, who – not only

excluded from basic services – are significantly more likely to be caught up in justice systems with weaker procedural safeguards, undermining the principles of equality and exposing them to a vicious cycle of social exclusion.

Discrimination also profoundly impacts children's rights to have their voices heard and their opinions listened to, particularly in matters that affect them. There is very little information about **children's perspectives or voices** in justice systems, on how they see or cope with discrimination and address it, and to what extent such discrimination impacts their ability to be treated equally with dignity and respect. Interviews with children undertaken to inform the UN Global Study on Children Deprived of Liberty revealed that children are acutely aware of discriminatory practices, with many reporting that they had faced harassment, stigmatisation, low self-esteem, and exclusion, all of which have negative consequences for the child's holistic development.

2021 World Congress Preparatory Meetings:

A total of 13 Preparatory meetings were held between 2019 and 2021, in person and virtually, both at the Regional level (including in North America, the Middle East and North Africa, Europe) and at the National level (including in Cambodia, China, India, Lebanon, Pakistan, Singapore, Thailand and the United States of America) to discuss and define the main topics and priorities for the 2021 World Congress. Participants demonstrated a particular interest in **the implementation of Article 2 of the UNCRC**, which focuses on the child's right to non-discrimination and equality. This will be the focus of the 2021 World Congress, which will explore the situation of children in contact with the law in the most vulnerable situations, such as children from religious and ethnic minorities, LGBTQIA+ children, girls, migrant children, children with disabilities, and all those who experience discrimination in the administration of justice.

2021 World Congress Main Objective:

To address this complex issue, the 2021 World Congress will focus on **exchanging practice-oriented strategies to:**

- Reduce discrimination that undermines access to – and the quality of – justice systems; and
- Ensure that all children are guaranteed equal treatment in the eyes of the law.

It will share **promising practices** from diverse contexts and settings that tackle discrimination, prevent situations that lead children and youth to commit offences, and reduce child and youth contact with the justice system. It will showcase examples of effective responses to prevent recidivism through programmes focused on restorative justice, rehabilitation, and reintegration.

The 2021 World Congress will offer a dedicated space for **policy makers and justice system stakeholders, academics, civil society and UN representatives, children and youth** and other experts and practitioners to explore these challenging issues and to enhance our knowledge of – and commitment to the creation of – fair and appropriate child justice systems globally. It will provide technical expertise to support the operational implementation of international laws and standards related to the rights of children and youth in conflict with the law.

2021 World Congress Agenda:

Co-organised by the federal Mexican Supreme Court of Justice, the 2021 World Congress expects thousands of experts and child delegates to participate from all across the world. Over five days, academics, policy makers, judges and magistrates, and civil society representatives will participate in and contribute to global and regional plenary sessions and action-oriented workshops consisting of panel discussions, certified trainings, and policy-oriented working group meetings.

Based on the results of the different Preparatory Meetings, the 2021 World Congress will focus mainly, but not exclusively, on the following sub-themes:

- Systemic racism and the disproportionate criminalisation of children from indigenous, ethnic, and other minority groups;
- Discrimination due to gender, sexual orientation, and gender identity: fostering a gender justice approach;
- Discrimination experienced by children and young people affected by migration, including refugees, unaccompanied foreign children, and children of foreign parents;
- Discrimination due to disability and health conditions;
- Discrimination due to substance use and abuse;
- Criminalisation of children's online behaviour;
- Age limits and status offences;
- Ensuring that the voice of the child is heard in child justice systems;
- Fulfilling children's rights in the contexts of legal pluralism;
- Building resilient child justice systems in times of crises and pandemics; and
- Tackling violence within child justice systems and ensuring child-friendly approaches for child victims, offenders, and witnesses.

Specific topics of the sessions will be defined in collaboration with the Scientific Committee and the Child and Youth Advisory Group of the World Congress. The call for abstracts was launched in the summer of 2021.

How to Participate

For the first time, access to the Congress will be possible online, which will provide greater access to the programme for professionals who cannot travel and will facilitate greater participation of children. We hope to reach a wider audience and to allow greater participation and involvement via digital tools. A recording will also be made available.

Partners

Terre des hommes Foundation – Helping children worldwide



Terre des hommes Foundation (Lausanne) is the largest Swiss organisation for child relief. With delegations in over 30 countries and its expertise in the domains of health and child protection, Terre des hommes offers practical solutions and a better future for over one million children and their mothers each year. This engagement is financed by individual and

institutional support, of which more than 85% flows directly into the programs. Terre des hommes was founded in Lausanne in 1960.

Penal Reform International



Penal Reform International (PRI) is an independent nongovernmental organisation that develops and promotes fair, effective and proportionate responses to criminal justice problems worldwide. It promotes the rights of detainees to fair and humane treatment, and campaigns for the prevention of torture and the abolition of the death penalty and works to ensure both just and appropriate responses for children and women who come into contact with the law.

International Association of Family and Youth Judges and Magistrates



IAYFJM is a worldwide organisation, dating to before the first World War and formally established in Belgium in 1928. It is dedicated to the study and exchange of information on issues concerning children and young people in need of care and protection and/or in conflict with the law, and their families. It aims to identify, publicise and promote best practice in these fields. The languages of the Association are French, English and Spanish.

International Institute for the Rights of the Child



The International Institute for the Rights of the Child (IDE) was created in 1995. It is a recognized training centre in children's rights for all professionals working for and with children in Switzerland and abroad. The IDE is active in numerous awareness-raising activities to promote children's rights and to enforce the Convention on the Rights of the Child. As a scientific centre, it is solicited by numerous networks of experts and institutions working for the respect of children's rights.

With technical support from:



The Special Representative of the Secretary-General on Violence Against Children is an independent global advocate in favour of the prevention and elimination of all forms of violence against children, mobilizing action and political support to achieve progress across the world. The mandate of the SRSG is anchored in the Convention on the Rights of the Child and other international human rights instruments and framed by the UN Study.



UNICEF is mandated by the United Nations General Assembly to advocate for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential. UNICEF is guided by the Convention on the Rights of the Child and strives to establish children's rights as enduring ethical principles and international standards of behaviour towards children.

UNICEF works in the world's toughest places to reach the most disadvantaged children and adolescents – and to protect the rights of every child, everywhere. Across more than more than 190 countries and territories, we do whatever it takes to help children survive, thrive and fulfil their potential, from early childhood through adolescence.

Before, during and after humanitarian emergencies, UNICEF is on the ground, bringing lifesaving help and hope to children and families. Non-political and impartial, we are never neutral when it comes to defending children's rights and safeguarding their lives and futures.

And we never give up.

unicef | for every child



The Office of the High Commissioner for Human Rights (UN Human Rights) is the **leading UN entity on human rights**. The OHCHR represents the world's commitment to the promotion and protection of the full range of human rights and freedoms set out in the [Universal Declaration of Human Rights](#).

The mission of the OHCHR is to work for the protection of all human rights for all people; to help empower people to realise their rights; and to assist those responsible for upholding such rights in ensuring that they are implemented.



The United Nations Office on Drugs and Crime (UNODC) is a global leader in the fight against illicit drugs, transnational organised crime, terrorism and corruption, and is the guardian of most of the related conventions. UNODC has the mandate to support Member States in preventing and responding to crime and violence and strengthening their justice systems, including the specific mandate to support Member States in ensuring that children are better served and protected by justice systems. Under the framework

of the Global Programme to End Violence Against Children, UNODC provides technical assistance to Member States at global, regional and country levels in the areas of crime prevention, child victims and witnesses, juvenile justice as well as children recruited and exploited by terrorist and violent extremist groups.



The Organisation for Economic Co-operation and Development (OECD) is an international organisation that works to build better policies for better lives. Its goal is to shape policies that foster prosperity, equality, opportunity and well-being for all.

Together with governments, policy makers and citizens, the OECD works on establishing evidence-based international standards and finding solutions to a range of social, economic and environmental challenges.



The Pathfinders are a group of 39 UN member states, international organizations, global partnerships, civil society and the private sector. Their work is to accelerate action to implement the SDG targets for peace, justice and inclusion (SDG16+). The Sub-group "Justice for Children, Justice for All" offers a new starting point to place children at the heart of an emerging global movement for justice.

Hosted by:



The Supreme Court of the Nation of Mexico is one of the depositary bodies of the Judicial Power of the Federation, in terms of the provisions of Article 94 of the Political Constitution of the United Mexican States and the Organic Law of the Judicial Power of the Federation.

It is the highest Constitutional Court of the country and heads the Judicial Power of the Federation. One of its responsibilities is to defend the order established by the Political Constitution of the United Mexican States; to maintain the balance between the different branches and spheres of government, through the judicial resolutions it issues; in addition to resolving, in a definitive manner, matters of importance to society.

Under the Auspices of:



The Council of Europe is the continent's leading human rights organisation. It works with its 47 member states to strengthen human rights, democracy and the rule of law throughout the continent and beyond.

It has successfully developed a rights protection system, the best-known mechanism of which is the European Court of Human Rights. The Court was established under the European Convention on Human Rights which has been ratified by all the member states of the Council of Europe.

With pro-bono support from:

**Baker
McKenzie.**

Baker McKenzie is an international law firm present in 47 countries. Its pro-bono department aims to deliver first-class legal services to the underserved and disadvantaged by fostering an environment that encourages and promotes service and promotes and sponsors activities that provide opportunities for all Firm personnel, independently, and in partnership with clients, in order to contribute to the well-being of the communities in which they practice and live.

Contact:

Cedric Foussard, – Global Initiative and World Congresses Coordinator cedric.foussard@tdh.ch

Internet: www.justicewithchildren.com

Twitter: @with_initiative

Annex 2: Indian Preparatory Meeting Concept Note and Agenda

WORLD CONGRESS PREPARATORY MEETING

INDIA

Virtual meeting

19 March 2021

Context:

From 2019 to 2021, several Preparatory meetings have been held to promote the Global Initiative on Justice with Children at the regional and national levels, and to identify the most relevant topics for the **2021 World Congress on Justice With Children**.

Four Regional Preparatory Meetings have already been organized, including in Merida-Mexico for North America and in Buenos Aires-Argentina for Latin-America. Due to the COVID-19 pandemic, two of the regional meetings were arranged virtually in Central America, with the support of the UN Latin American Institute on Crimes and Drugs, and in Europe with European Union institutions.

The pandemic has also thrown some light on the status of children in conflict with law in India, including the need for enhancing measures that use diversion and other measures of reducing dependence on deprivation of liberty. While temporary measures were possible to undertake as a result of some judicial orders from the Supreme Court of India, these are not sustaining in the long run in the absence of the understanding and investments in models for demonstrating these practices.

The Preparatory Meeting for India aims at:

- Gathering policy makers, academics, and civil society representatives, with relevant work and influence in child justice, to identify key areas of interest around the issues of diversion, restorative justice, community integrated rehabilitation, and use of deprivation of liberty as a measure of last resort for children in conflict with law,
- **Fostering thematic priorities** and defining trends related to child justice,
- **Sharing international promising practices on specific issues,**
- Formulating **action-oriented recommendations** for the next World Congress in 2021.

This virtual meeting will constitute a unique opportunity to define key challenges, trends, and advocacy priorities in child justice. Recommendations and proposals of topics, the agenda, and activities for the 2021 World Congress on Justice With Children will be formulated and then proposed by participants of the Indian Preparatory meeting.

AGENDA – 19 March 2021

13.45 to 16.00 ICT

13.45 – 14.00 (IST) Connection of Participants

14.00 – 14.20

Welcome addresses

- **Bharti Ali**, Haq
- **Cedric Foussard**, Tdh
- **Angela Vigil**, Baker McKenzie
- **Ashok Lalwani**, Baker McKenzie

Introductory remarks

- **Former Judge of Supreme Court of India**, Justice Madan Lokur

14.20 – 14:50 Access to Justice for children in time of pandemic: state of play and lessons learned:

Moderator: Enakshi Ganguly

Speakers: Mahesh Menon, Swagata Raha, Joydev Mazumdar

14:50 – 15.20 Resilience of child Justice systems in India: Promoting access to justice and diversionary measures in adverse times

Moderator: Ruchira Goswami

Speakers: Rick Quint, Arlene Manoharan, Nimisha Srivastava, Sachi Maniar

15.20 – 15.40 The voice of the child in justice systems: How to empower children, and promote child friendly justice systems

Moderator: Simrit Kaur (Tdh)

Speakers: HAQ, Video with Voices of Children and Young People, Dr. Rajesh Kumar, Migel Queah

15.40 – 16.00 Conclusions:

- **Tannistha Datta (UNICEF)** (10 minutes)
 - **Bharti Ali (HAQ)** (10 minutes)
-

Annex 3: List of Participants

Organization	Name	Title / Function
Organizers		
Terre des hommes Foundation	Anna Sambo	Deputy Operations Manager
	Cédric Foussard	Global Initiative Coordinator
	Paola Reyes	Intern
	Paulami De Sarkar	Programme Manager Child Protection
	Shreya Das	Programme Associate-Child Protection
	Simrit Kaur	Issue Regional Advisor for Child Protection
International Institutions		
International Association of Youth and Family Judges and Magistrates	Avril Calder	Immediate Past President, Advisory Council Member
UNICEF India	Evangeline Manohar	Child Protection Officer
	Murali Krishna	Child Protection Officer
	Shruti Prasad	Child Protection Officer (UNV)
	Tannistha Datta	Child Protection/ADAP Specialist
Non-Governmental Organizations		
Ashiyana Foundation	Sachi Maniar	Director
Centre For Constitutional Rights Research And Advocacy	Sandhya Raju	Managing Director
Counsel to Secure Justice	Nimisha Srivastava	Programme Director
Enfold India	Arlene Manoharan	Co-Head of Restorative Practices
	Swagata Raha	Head of Restorative Practices
HAQ: Centre for Child Rights	Bharti Ali	Co-Founder & Executive Director
Independent Thought	Vikram Srivastava	Founder
iPartner India	Aditi Bakshi	Program Manager
	Sumedha Sharma	Country Director
Jayaprakash Institute of Social Change	Joydev Mazumdar	Executive Director
Mental Health Foundation, Kolkata	Sreemoyee Sen Ram	Co-Founder, Joint Director
	Parmeet Kaur Soni	Consultant Clinical Psychologist
NHRC India	Diana Thomas	Research Consultant
Purpose	Harpreet Bhullar	Project Manager
Rise Against Child Sexual Harm & Abuse	Sarbopriya Das	Member
RAHI Foundation	Soma Roy Karmakar	Programme Director, Kolkata

Society for Promotion of Youth and Masses	Dr. Rajesh Kumar	Executive Director
Stichting Halt	Rik Quint	Senior Advisor
Tata Trusts	Abhijeet Nirmal	Manager Child Protection
The Hummingbird Foundation	Aparajita Dhar	Country Head
Universal Team for Social Action and Help	Miguel Queah	Founder and Executive Director
Law Firms and Corporate Organizations		
Ashu Thakur & Associates	Ashu Thakur	Founder & CEO
Baker McKenzie	Angela Vigil	Partner, Executive Director of Global Pro Bono Practice
	Ashok Lalwani	Partner, Chair of Global India Practice
	Adrianna Fuentes	Pro Bono Admin. Asst.
	Hannah Murray	Trainee Solicitor
	Nidhi S	Senior Business Development Manager - Global India Practice
	Philippe M. Reich	Partner, Head of Antitrust, EU and Trade Law Practice in Switzerland
	Tay Zhi Yuan	Trainee Solicitor
	Yap Yong Li	Trainee Solicitor
Cyril Amarchand Mangaldas	Anmol Chaudhary	Associate
	Apeksha Sonawale	Associate
	Avni Singhvi	Associate
	Biplab Lenin	Principal Associate
	Janhavi Seksaria	Principal Associate
	Jesika Babel	Associate
	Keshav Zarpkar	Head - BD and Client Strategy
	Krithika Radhakrishnan	Associate
	Mayank Udhvani	Associate
	Nandini Gangal	Principal Associate
Dalberg	Kapil Kanungo	Senior Consultant
J. Sagar Associates	Ayisha Mansoor	Senior Associate
	Jaya Kumar	AGM - BD
	Madhvi Datta	Senior Associate
	Mahima Gherani	Associate
	Ongmu Tshering	Partner
	Sahil Shah	Principal Associate
	Shrey Bhardwaj	Associate
	Uttara Kolhatkar	Partner
Juris Corp	Pratish Kumar	Partner
	Saurabh Sharma	Principal Associate
Kfintech Private Ltd	Neeraj Verma	Head legal and Compliance
	Alina Arora	Partner

Shardul Amarchand Mangaldas & Co	Radhika Madhukallya	Intern
	Shailja Tiwari	Corporate Communication Intern
	Theresa Dsouza	Secretary
	Urvashi Datwani	Regional Head – Corporate Communication
Suraksha	Ritu Bala	Counsellor
Universities		
Centre for Child and the Law, National Law School of India University	Neetu Sharma	Coordinator
Centre for Child Rights, National Law University Odisha	Kannayiram Subramanian	Senior Programme Coordinator
Center for Child Rights, National University of Juridical Sciences	Ruchira Goswami	Assistant Professor, Head of Department of Center for Child Rights
National Forensic Sciences University	Prarthana Vaidya	Masters Candidate
Sai University	Mahesh Menon	Assistant Professor of Law
Independent Experts		
Amrendra Srivastava	Independent Child Protection Consultant	
Enakshi Ganguly	Co-Founder and Advisor to HAQ	
Karuna Bishnoi	Consultant	
Madan Lokur	Former Judge of Supreme Court of India	

Annex 4: Comments from the Audience in the Meeting Chat

Manna Biswas: Thinking about solutions: 1. If online technologies are part of the solutions, then how do we ensure all children have access to internet. 2. What can be alternative solution to internet-based solutions.

Mahesh Menon: 1. There again a state lead process is unavoidable, when it comes to last mile connectivity. Some states are doing this : <https://kfon.kerala.gov.in> 2. It's difficult to think of a general substitute. Has to be highly contextual. For instance, for education 2. Some states have used internet along with television radio (even community radio) to hold classes - with some opportunity for physical one to one meetings with children. When it comes to judicial proceedings, a full substitute for physical presence is hard to think of - better case management to ensure de-crowding or even the courts moving to the sub-district level (like mobile courts) will have to be thought of.

Annadurai: I think of two solutions. One is our institutions have to embrace technology as there is no other choice. We face the problem of gender digital divide on the one hand and on the other govt institutions do not have access to technology & digital resources. The second solution is building the communities. Many times, institutions like schools are first closed in any disaster situation. So, sustaining the efforts through community support and participation should be another solution.

But largely children did not have access to justice during pandemic. Since many of these protection institutions were not functioning, child marriages increased (also the marriage expenses were less). Child labour has increased by 280% in Tamil Nadu during pandemic (according to a study conducted by Campaign Against Child Labour).

Avril Calder: In England and Wales evidence coming in about remote hearings--lack of good communication between parties; lack of good technology; lack of understanding of what is going on in hearings, not always understood that the hearing was a court hearing, and lack of a quiet and private family space in which to tune in to hearings.

Bharti, HAQ: I found something similar in South Africa too Avril. Unfortunately, despite certain positive provisions in the law, this has not become a practice in India. It requires investment of resources.

Swagata Raha: Domestic transfers were also impacted. There are children still languishing in the Children's Home for lack of escorts.

Avril Calder: Thank you Swagata for mentioning children in need of care and protection. In England and Wales, the Family Court Advisory and Support Service, CAFCASS, has professional Guardians ad litem without whom Family Courts simply could not deal with care applications.

sreemoyee ram: Hi, just want to flag one issue- adolescent mental health is complex and I am glad the need for case management and individual care plan are highlighted. The need for child advocates is also much needed.

Prarthana Vaidya: Besides issues that came with the pandemic - TRIAL OF CHILD AS AN ADULT

One issue which is particularly problematic in the Indian Juvenile Justice System is the implementation of Section 15 of the Juvenile Justice Act:

This section says that for children accused of heinous offences shall be examined by the JJB & psychosocial workers to assess - 1) whether the child had physical capacity, 2) whether the child had mental capacity, 3) whether the child had an understanding of consequences of offence and also 4) the circumstances in which the child committed the offence.

This involves forensic psychological assessment to find the mental maturity of the child. However there is not standard method for assessment of such maturity even in the field of clinical psychology.

This leads to a situation where the child does not get the benefit of presumption of innocence and there is no access to justice because there exists no scientific and due process even available under the law by which a child is tried as an adult.

Bharti, HAQ: Is there a standardised tool for psychological assessment that can give same results when used on a child by two different experts? Should children's consent be mandatory before they are subjected to psychological assessments that can take away the privilege against self incrimination? Should experts whose assessment reports are relied upon not become witnesses in the case? These are critical questions to ask globally in systems that have introduced judicial waiver relying on psychological assessments.

Swagata Raha: Agree with you Bharti. The larger question is whether such assessments can be used to deprive children of their protection under juvenile justice. Another question is the continued criminalisation of children for status offences like consensual sex with other minors.

Cedric Foussard: There are plenty Tools but as far as i know Nothing standardised at international level, happy to follow on this as we have a project on need assessment of Children and part of it is focusing on psychological assessment.

Prarthana Vaidya: Diversionary procedures are also needed in India for such children who are found innocent after the JJB inquiry but who had been apprehended and kept in remand homes etc. The after-care plans and rehabilitation support for them is very important but missing.

These would not be net-widening and additional procedures, but they are needed to ensure healthy reintegration of the children found innocent. They already suffer labelling and social marginalisation etc from merely being kept in remand homes etc. This is needed to prevent them from going down the criminal path.

Arlene Manoharan: the Social Background Report, in my view needs to be much more than a Social report, but also a Psycho-Socio-Educational-Legal- Financial Assessment of the child and the child's circumstances. The quality of these assessments is really very poor, and this is really a matter of concern, particularly given that these reports inform the binding orders of the JJBs, and

could even provide crucial information that may be viewed as mitigating factors, and during the Preliminary Assessment to determine whether a child is to be treated as a child or as an adult, given that the transfer system is now part of the law in India. Also, the law enables the JJB to also consider whether a child in conflict with law can be treated as a child in conflict with law and refer the child to the Child Welfare Committee. The following groups of children may be treated as children in need of care and protection and not children in conflict with the law:

children recruited or used by a non-State, self-styled militant group or outfit declared as such by the Central Government, or used by any adult or an adult group for illegal activities either individually or as a gang (Rule 9(3), JJ Model Rules, 2016 read with Section 83, JJ Act, 2015);

administered narcotic drugs or psychotropic substances or found under its influence; (Rule 56(2), JJ Model Rules, 2016) In the case of Delhi High Court Legal Services Committee v. Union of India (Delhi High Court, 2014), it was held that children found to be involved in any aspect of trafficking or prostitution must be treated as children in need of care and protection. I have another question for reflection - Will diversion exclude more children from interventions undertaken with potentially greater state intervention and monitoring by and through JJBs, given Section 8(3)(b) which vests a duty on the Board to “ensuring that the child’s rights are protected throughout the process of apprehending the child, inquiry, aftercare and rehabilitation?”

Prarthana Vaidya: This discussion is also in context of the panel discussions saying that the Indian JJ system itself is designed as a system of diversion. Once a child is apprehended, he is seen to have ‘entered’ the system. Then We need to also include the ‘exit’ of the child from the system. Not just after serving the punishment, but also after completion of trial and acquittal. Aftercare and reintegration processes are needed at both points of exit.

Swagata Raha : Support services and diversionary processes are distinct in my view. The latter is intensive and required considerable preparation as well as intervention. I understand the point about offering support to children who are found innocent, are we planning to rely on the existing system to deliver these services?

Nimisha Srivastava: I agree that support services and diversionary processes are separate. But I was speaking in terms of a larger understanding of how we are addressing the issue children getting into crime, even a diversionary process will need to have elements of support, along with accountability - that is what will ensure that we are addressing holistically the issue of recidivism - for example, helping the child understand the impact of their actions, and also ensuring that their family supports them to stay in school, access other rehabilitative services etc.

Angela Vigil: How do we make space for acknowledgement and apology for children and still preserve their rights and due process in the child rights system? How about no court in the first place when offenses are petty and behavioural. A social service-based community response. Not law enforcement.

Prarthana Vaidya: RJ processes such as Circle Processes and Reconciliation Commissions could possibly be solutions we can consider.

Bharti, HAQ: Do we have an environment where victims want to join an RJ process? RJ requires huge investment of time and resources in building a culture for it. We are instead buying for

blood, wanting eye for an eye. A trial is completed in 16 days awarding death penalty to a 20-year-old for sexual assault of a 5-year-old. Can we afford an objective analysis of this recent judgement from the Rajasthan Court, or will we be trolled and subjected to harassment for seeking objective analysis?

Arijit Adhikary : The process of diversion starts rights from the first contact of the child with the system, i.e., with police. It has been observed that a large number of children with alleged involvement in petty / serious offences are being apprehended and detained across the country as per the recent NCRB data...rampantly violating the very principles & spirit of the JJ Act, 2015. In a recent case of the custodial death of a child in police station of West Bengal, the Division Bench of Hon'ble Calcutta High Court directed the State Police Department and the JJ Committee to come up together in imparting training of the police officials at all levels on Rules (WB JJ Rules) related to "Pre-production action of police" that majorly deals with non-registration of FIR in cases of petty/serious offences.... the order further directed the ADG (Training) Home Department, West Bengal to take this forward.

Annex 5: Policy and Practice Brief: Accelerate Release of Children from Detention; Protect Children from Covid-19

During the COVID-19 pandemic, Terre des hommes has called on States to release all children from immigration detention and accelerate the release of children deprived of liberty in criminal justice or protection facilities. Urgent attention should be given to the implementation of non-custodial measures to ensure children's safe reintegration into families and communities.

To see the statement produced by Terre des hommes:

<https://www.tdh.ch/en/statements/release-children-detention-COVID-19>

In addition, a joint product of Terre des hommes and pro bono volunteers from the law firm of Baker McKenzie, was a Policy and Practice Brief that summarizes the global legal precedents to be considered when evaluating the legality of children in detention under circumstances such as the COVID-19 crisis. In this brief, we summarized international legal instruments and regional mechanisms that are relevant to evaluating the circumstances of children in these settings and present a set of policy recommendations, illustrated by practical examples of rapid response actions to realize children fundamental human rights. To assist the professionals handling the cases of children in conflict with the law during the COVID-19 crisis, we partnered with various organizations to compile three sets of clear, short and practical operational guidelines for professionals.

To read the Policy and Practice Brief:

<https://justicewithchildren.org/wp-content/uploads/2020/06/Policy-Practice-COVID-19.pdf>

To assist the professionals handling the cases of children in conflict with the law during the COVID-19 crisis, a group of organizations and experts have partnered to compile three sets of clear, short and practical operational guidelines. Those operational guidelines for professionals are divided into three chapters addressing the following three broad categories of professionals who interact with children in conflict with the law: Social Workforce, Security Forces and Legal Professionals.

◆ **Social Workforce – operational guidelines**

https://justicewithchildren.org/wp-content/uploads/2020/06/Operational_Guidelines_for_Social_Workforce_COVID19_Global-Initiative-on-Justice-with-Children.pdf

◆ **Operational Guidelines for Security Forces – operational guidelines**

https://justicewithchildren.org/wp-content/uploads/2020/06/Operational_Guidelines_for_Security_Forces_COVID19_Global-Initiative-on-Justice-with-Children.pdf

◆ **Legal professionals – operational guidelines**

https://justicewithchildren.org/wp-content/uploads/2020/06/Operational_Guidelines_for_Legal_Professionals_COVID19_Global-Initiative-on-Justice-with-Children.pdf