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Restorative Juvenile Justice.



Terre des hommes

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Terre des hommes is the leading Swiss organisation for child relief. Founded in 1960, Terre des hommes helps to build a better future for disadvantaged children and their communities, with an innovative approach and practical, sustainable solutions. Active in more than 30 countries, Tdh develops and implements field projects to allow a better daily life for over two millions children and their close relatives, particularly in the domains of health care and protection. This engagement is financed by individual and institutional support, of which 87% flows directly into the programs of Tdh.



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Acronyms and Abbreviations.

CCL	Children in conflict with the law
ECOSOC	Economic and Social Council of the United Nations
CRC	Child Rights Convention (also called "Convention on the Rights of the Child")
PCM	Project Cycle Management
IPJJ	United Nations Interagency Panel on Juvenile Justice
RJJ	Restorative Juvenile Justice
LGBT	Sexual Minorities : lesbians, gays, bisexuals and transsexuals
NCM	Non-custodial measures (also called "alternative measures")
IO	International Organization
WHO	World Health Organization
NGO	Non-Governmental Organization
CPS	Child Protection System
Tdh	Terre des hommes (also called "Terre des hommes Foundation")
CS	Community Service (also called "community work")
UNICEF	United Nations Fund for Children
UNODC	United Nations Office on Drugs and Crime

Keywords.

Tdh Thematic Policy
Committee on the Rights of the Child
Juvenile Justice and Justice for Children
Restorative approach
Child offender, victim and witness of a crime
Reintegration
Promising Practice
Prevention of violence and crime committed by children
Prevention of institutional violence against children
Customary Justice (also called "informal justice" or "traditional justice")



For ease of reading, both boys and girls are referred to in the masculine sense throughout the document.

Promising practices:

"Promising practices" have been noted within this policy; they illustrate Tdh actions as examples of good practice in juvenile justice. Even though the efficiency of these practices has not been systematically demonstrated in all cases, they represent good results and ensure a sustainable and participative approach.



Introduction.

« The opposite of poverty is not wealth, it is justice »

Bryan Stevenson.

Since its first actions in the field of juvenile justice in the late '90s, Terre des hommes Foundation (Tdh) has followed many situations in which children have been in contact with the criminal justice systems of their country. Many of these situations were accompanied by violations of child rights.

The intervention of Tdh, which sought - initially - to ensure that every **child in conflict with the law (CCL)** benefits from the support of a lawyer and a social worker has since evolved through the capitalization of past experiences in the field.

The growing influence of Tdh on this subject is measured by the participation and outcomes of the World Congress on Restorative Juvenile Justice in Lima, Peru in 2009. **Restorative juvenile justice (RJJ)** then became the spearhead of Tdh action. It is the concept of RJJ that corresponds the best to Tdh action in the field of juvenile justice.

The pillars of the intervention are based on strong legal principles such as specialization of justice systems to treat children, restorative approach, diversion and alternatives measures to detention, respect for the best interest of the child, etc., but also psychological and criminological theories that take into account the development of the child as a whole.

The intervention of Tdh is distinct from other NGOs denouncing violations of human rights, by the fact that it does not necessarily seek to publicly denounce the malfunction in the justice system - which is otherwise laudable - but to support States, their institutions, the communities and the families to become agents of their own development.

This **thematic policy** outlines the action framework of Tdh for children offenders, victims and witnesses of crime. It falls within the general framework of Tdh "protection domain" and has strong links with other developed topics (migration, anti-trafficking, protection in emergencies, prevention of abuse against children, etc.).

Synergies also exist with **Child Protection Systems (CPS)**, whose common mission is to support and protect children's rights, and focuses on the same children who, in situations of vulnerability or exploitation, are found in contact with the justice systems as offenders, victims or witnesses of crime.

This thematic policy clarifies the scope and the intervention methodologies of Tdh in the area of RJJ. It is constantly evolving as it responds to the experiences and reflections in the field. The organization of the **World Congress on Juvenile Justice in January 2015 in Geneva** marks a step in this continual development and enriches Tdh expertise.



A photograph of a smiling man with short dark hair, wearing a blue jacket over a white shirt. He is looking down and to his left. In the background, there is a red patterned cloth hanging and a light-colored wall. The image has a textured, slightly distressed look.

1. Juvenile justice.

Some key concepts relating to juvenile justice are set out in this section to define the scope of Tdh intervention in this area.

1.1. Reasons for action.

1.1.1. The problem

the figure of 1.1 million children held in detention¹, is often advanced as a representation of the scale of the problem surrounding CCL. However, this is difficult to verify because of the capacity challenges many countries to gather statistics, but it illustrates the extent of the problem faced by CCL.

Detention is seen by many as an effective solution to the problem of juvenile violence²; however, too many children are now held in detention without the benefit of a fair trial. The involvement of their family, social workers and lawyers is often overlooked even though their role is fundamental to their rehabilitation.

Criminal science has shown³ that the detention of children is a factor that increases recidivism. Detention centers, also known as "schools of crime", promote the identification of young people with crime⁴. However, socio-educational solutions to support CCL exist; they involve multidisciplinary teams and show better results than detention, and at a lower cost.

The problems that children face are not limited to their detention. Each stage of the criminal proceedings (arrest, trial, execution) provides opportunities for violation of their rights. These violations are more frequent and severe in developing countries or in situations of humanitarian crisis and are not necessarily observable.

The lack of prevention policy by states is often observed, which neglects an important pillar in the fight against juvenile violence. Children victims and children witnesses of offences are suffering from a lack of attention in this regard, which can inhibit their access to the rights they that should be entitled to, which can lead to impunity.

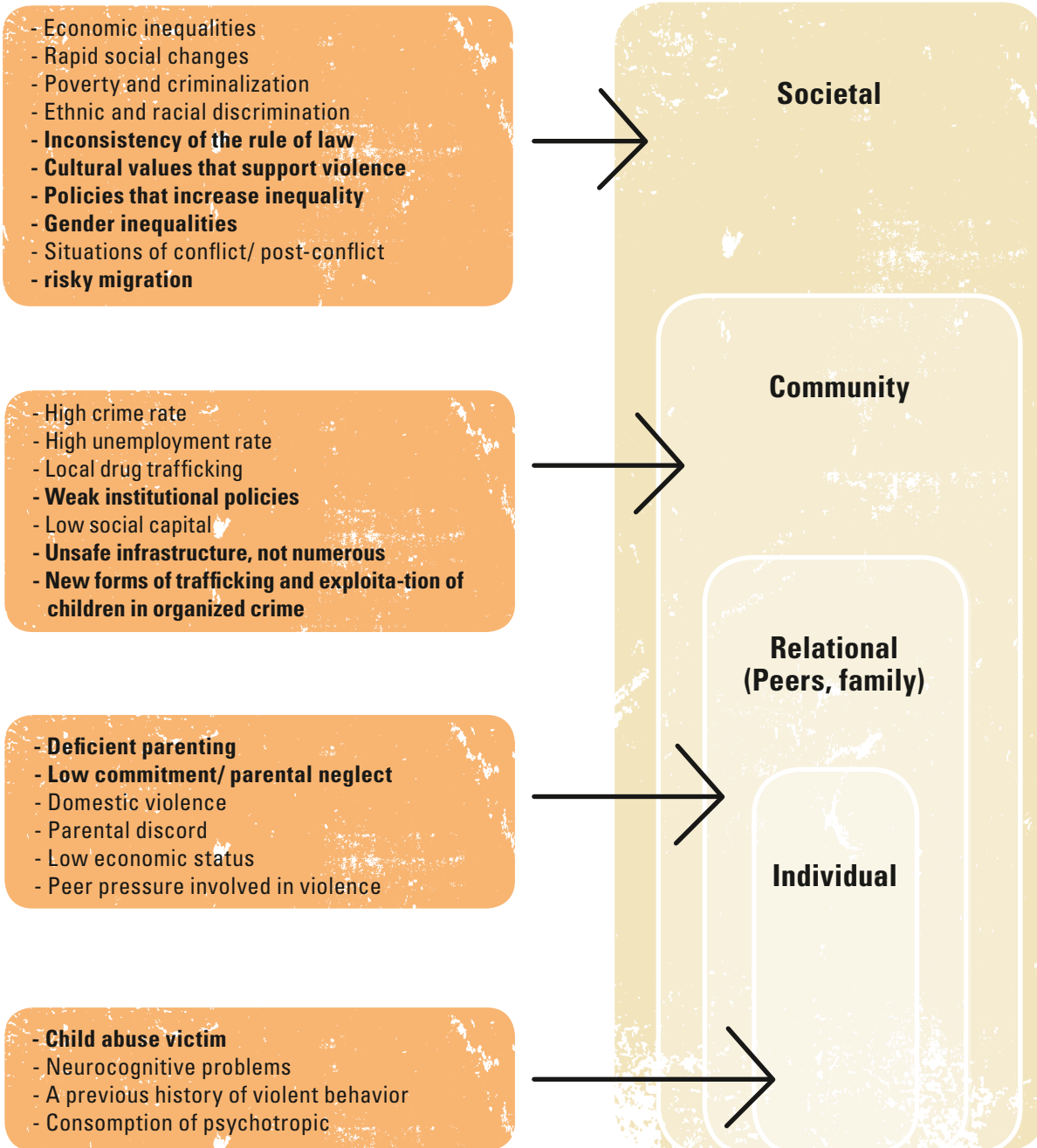
Effective reintegration is also often neglected in criminal policies, both for CCL and for child victims and witnesses. Further justice does not stop at simple procedures, restorative approach provides appropriate solutions to (re)establish the concept of justice between offender, victim and community.

An effective system of RJJ is conceived from the prevention of violence all the way through to the reintegration of the child, whether it is an offender, victim or witness. To understand this better, we must study the origins of the violence committed and suffered by young people

1.1.2. Origins of juvenile violence and juvenile delinquency

The latest models from criminal and social science disciplines⁵ enable us to classify systemically the phenomena at the origin of juvenile violence. The model adopted by Tdh highlights fundamental aspects of building a safe and protective living environment, essential for the development of the child. This environment allows the child to develop skills of non-violence needed to build a future without crossing the violent act. The graph below⁶, based on an "ecological" model identifies risk and protection factors.

Major risk factors that can lead to violence (ecological model)



This model, is not conclusive, but it offers a theoretical understanding of **risk factors** that can lead to juvenile violence (those which particularly interest Tdh are marked in bold). However, it is clear that only a context-specific situation analysis of socio-economic factors of the country allows a thorough understanding of the reasons why young people find themselves in a situation of juvenile violence and in conflict with the law.

1.2. Scope of intervention.

1.2.1. What does juvenile justice mean for Terre des hommes?

The concept of **juvenile justice** refers commonly to standards, procedures, institutions for the support of children accused of or recognized as having infringed the criminal law; "CCL".

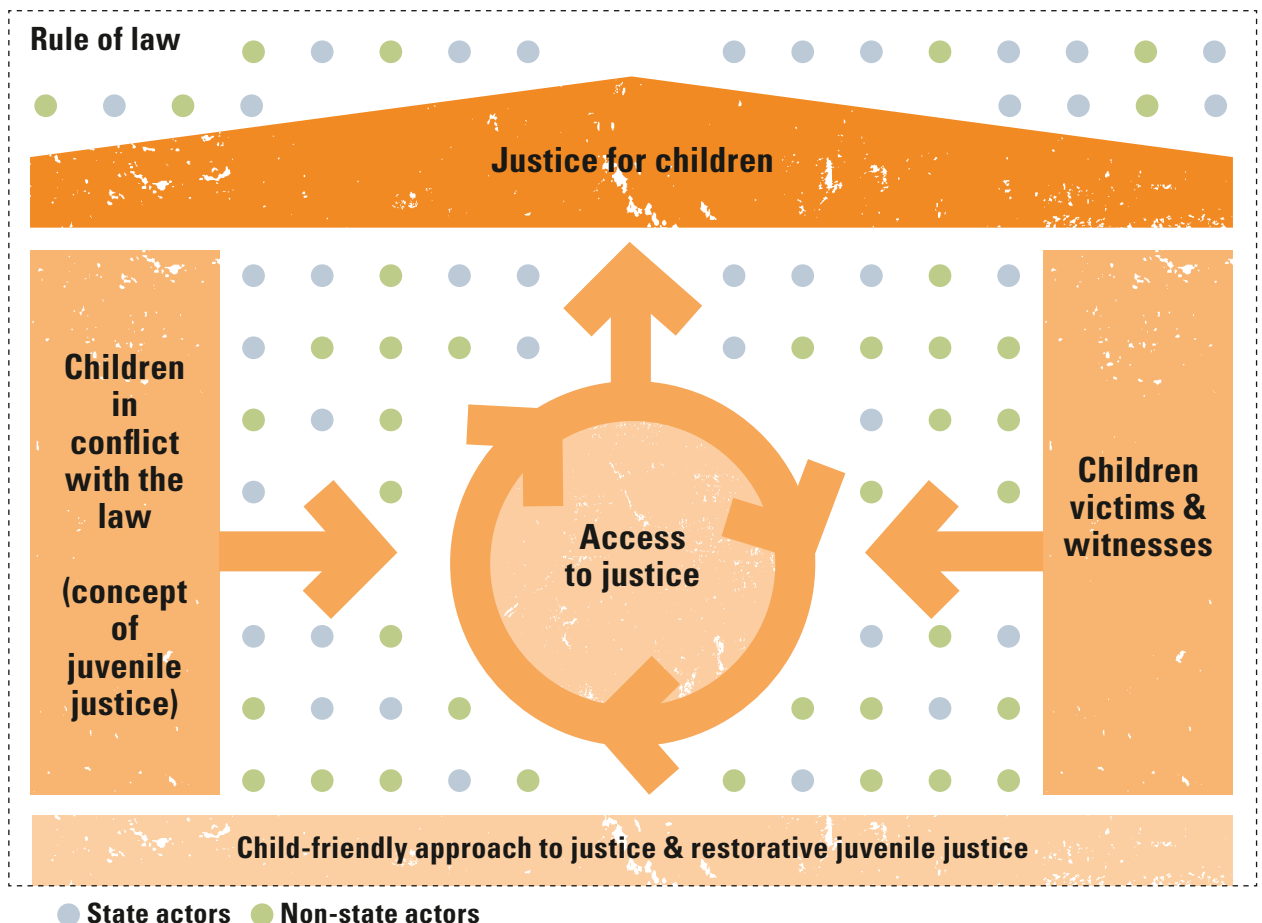
The intervention of Tdh goes further and focuses on cases in which children come into contact with the criminal justice system. It therefore includes child victims and witnesses (see below "Target groups") and intends to involve the community as much as possible.

The **RJJ** preferred approach of Tdh fits into the broader context of **justice for children** which refers to all situations in which the child is in contact with the justice system of his or her country⁷. It includes topics such as adoption, family law, and others.

The concept of **Access to Justice** - an essential element of the rule of law - is defined⁸ as "*the possibility of obtaining fair compensation promptly in case of violation of rights in accordance with international standards*". To ensure children have adequate 'access to justice', Tdh actions are based on the "**child-friendly approach to justice**" which means that justice is adapted to children, rather than just to adults. These concepts apply to both **formal justice** actors and customary justice actors.

The diagram below illustrates the key concepts used⁹ in the world of juvenile justice.

Key concepts in the field of justice for children:



1.2.2. What is a specialized criminal justice system for children?

The establishment of a criminal justice system for children through the specialization of laws and procedures, actors and institutions (a), but also through coordination of the various actors involved directly or indirectly in criminal justice (b).

a. Specialization of laws and procedures, actors and institutions

Purpose of a juvenile justice system

The purpose of such a system can be summarized as to *"prevent and address juvenile delinquency based on and in compliance with human rights and the rights of the child¹⁰"* and ***"emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence¹¹"***. For Tdh, it is an integral part of the CPS.

What are the obligations of States?

Tdh supports the principle that a juvenile justice system¹² should be set out in a comprehensive policy of the signatory countries of the Child Rights Convention (CRC) .

Art. 40-3 of the CRC states that: *"States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law"*. This requirement results in obligations summarized in the following paragraphs (strategic objectives of Tdh).

Tdh strives to strengthen the institutions in a participatory manner, taking care to avoid substitution to the obligations of the State. To achieve this goal, coordinated approach among the various actors in juvenile justice and those of child protection is required.

Promising Practice: Legislative and procedural reform by deconstruction / reconstruction of legal standards and practices (several countries in Latin America)

The methodology of deconstruction / reconstruction is a participatory technique of practice reform of judicial actors leading to the establishment of a standard procedure respecting the rights of the child and improving the coordination of actors and their practices.

b. A coordinated work between plurality of contexts and actors

Criminal justice is a reflection of the values of a society. It is a clear expression of the sovereignty of the State. Criminal law reflects the rules that apply to individual behaviors and defines what is allowed and what is not. The analysis of the criminal law of the country enables to assess its compliance with international standards on child rights.

Justice systems

Tdh's actions occur in very different state justice systems. There are several types of justice systems :

- Romano-Germanic law systems
- Common Law systems
- Islamic law systems (or Quranic Law)
- Customary justice systems
- Mixed legal systems (mixing of several systems)

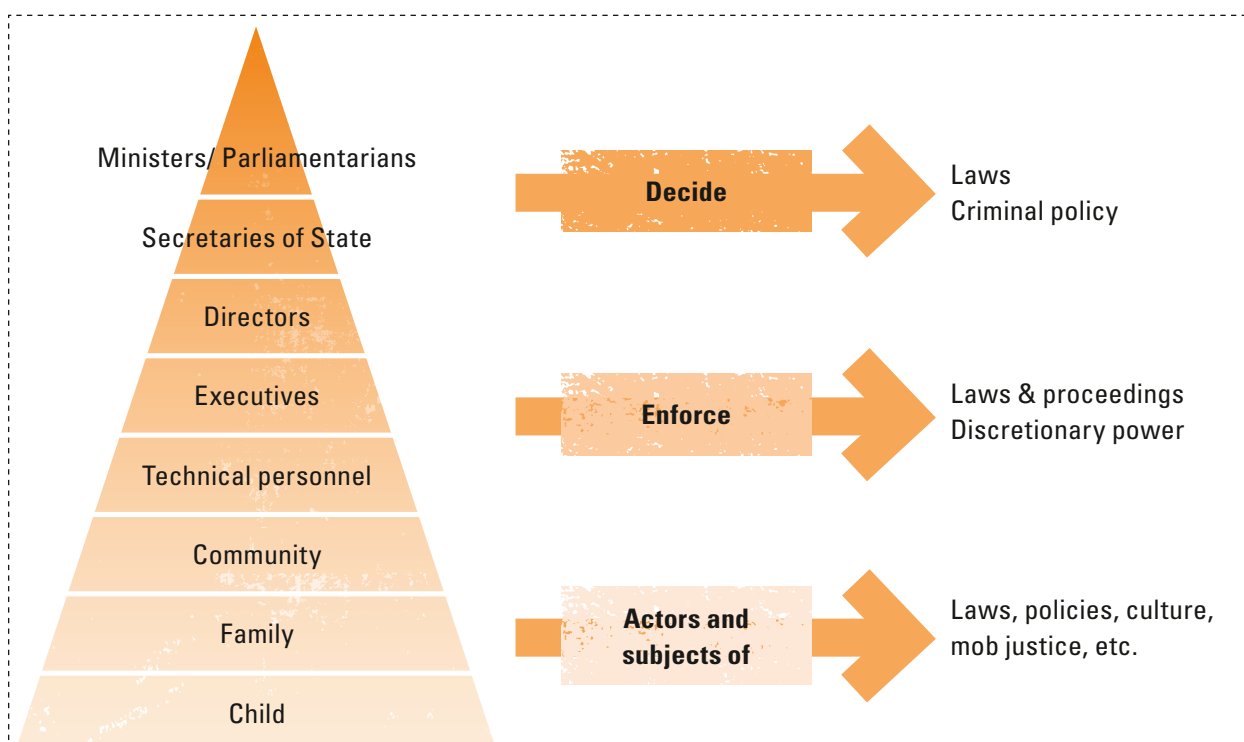
Systems differ depending on whether they are **adversarial** or **inquisitorial**, which determines the role of the actors in the criminal proceedings. For Tdh, it is important to identify how the standards are structured, the role of the protagonists and the specific rules in criminal proceedings in order to provide the most appropriate operational response.

Actors in the justice systems

In its juvenile justice projects targeting so-called “formal” justice systems, Tdh actions are targeted towards the organizational structure of the State in accordance with the separation of powers:

- **Executive power:** defines criminal policy and directs the enforcement of the criminal law.
- **Legislative power:** is responsible for the development of the laws¹³.
- **Judiciary power:** controls the enforcement of the laws.

Further, Tdh also targets its actions towards the community actors within the framework of customary justice. Tdh’s actions, in particular its advocacy initiatives specifically target actors that influence juvenile justice in their respective communities. These commonly sit outside state led initiatives.



The diagram shows - **vertically** – that each actor, at their level, is subject to a targeted action for the system as a whole, in order to move towards the respect of the rights of children. A horizontal vision would highlight the institutions involved in juvenile justice: Ministry of Interior, of Justice, of Social Affairs, of education, of health, training organizations, NGOs, etc.

Promising Practice: Advocacy and technical support (several Latin American countries).

The advocacy work and technical support allows influencing actors - particularly the decision-makers, but also Tdh aims to influence public opinion by taking a systematic position in favor of RJJ in the media and large scale events.

1.3. Purpose, objectives and target groups.

Tdh's objectives for juvenile justice focus on the rights, protection and the best interests of the child as well as promoting the participation of children in any decision affecting them.

1.3.1. Purpose of Tdh intervention

Children's rights are respected by the justice systems through a restorative approach that promotes access to justice for children and a decrease in violence and juvenile delinquency.

1.3.2. Objectives of Tdh intervention

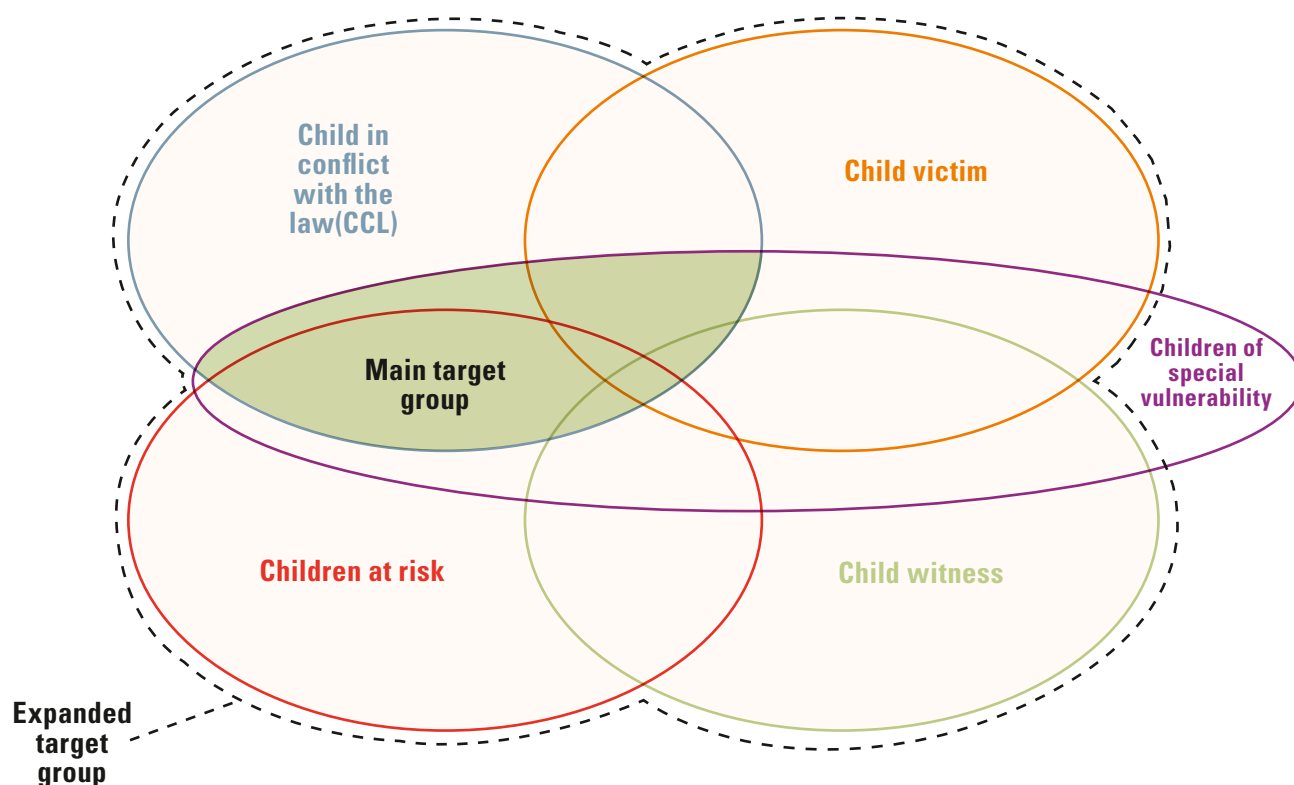
The objectives of Tdh's interventions in the field of juvenile justice are:

- **The prevention** of acts of violence committed and suffered by children
- **The protection and promotion** of children's rights in juvenile justice systems
- **The rehabilitation and reintegration** of the child offender and the prevention of recidivism

The guiding principles of Tdh are defined in Section II. The objectives of the intervention of Tdh vary according to projects and countries of operation.

1.3.3. Target groups of intervention

The *main* target group for Tdh's interventions are **children in contact with the law**, but also other children of "special vulnerability"¹⁵ are included in the *expanded* target group.



a. Children in conflict with the law and children at risk

the term “child” means any person under 18¹⁶, even when emancipated from their parents at an earlier age. A CCL is a child or young person alleged as, accused of, or convicted of having committed a criminal offense¹⁷.

Beyond CCL, Tdh includes in its interventions:

- **Children in detention** in connection with **status offences** (e.g. vagrancy, begging, etc.) and **irregular migration**, which is governed by administrative law (e.g. undocumented children, without authorization of residence)
- **Children at risk** who are not necessarily in contact with the law, but at the heart of prevention programs of acts of violence committed and suffered by young people .
- **Children in contact with customary justice systems**, as well as protection and welfare measures for them .

Minimum age of criminal responsibility and Terre des hommes intervention

A child may not be accused of, or convicted of having committed a criminal offense if he or she has not reached the age of criminal responsibility. In this respect, the Committee on the Rights of the Child recommends¹⁸ that the age of criminal responsibility¹⁹ - which differs from the minimum age of imprisonment - is brought to a minimum of 16 years. This is based on the assumption that up to that age, the child does not have the capacity to discern concretely right from wrong or to understand fully the magnitude of the effects of his acts (persons deprived of the ability to act reasonably because of his young age).

What happens when the offender has not reached the minimum age of criminal responsibility?

For the child who has not reached the minimum age of criminal responsibility and commits acts that may constitute offenses, Tdh recommends that he or she is supported outside the context of criminal proceedings, by social services which offer protective measures, educational measures and rehabilitation. Special protective measures must exist to provide a framework for action for legal and public security professionals.

Should Juvenile justice interventions on the day that a young person's has reached his or her 18th birthday?

The principle actions of juvenile justice does not cease on the day of a child has reached his or her 18th birthday; prevention programs and enforcement measures should continue to benefit young adults at least up to 21 years old, as recommended²⁰ by the Committee.

b. Child victims and child witnesses


In criminal law, the “victim” is defined as “*a passive or active actor who suffers a criminal act*”. Victims are a target group for any RJJ project of Tdh (see “restorative approach of juvenile justice”).

The concept of children's access to justice involves “*the ability to obtain prompt and fair reparation in case of violation of human rights in accordance with international standards*”. In this context, the victim has the right to compensation by the offender, whether he is a child or an adult.

Child victims and witnesses should be subject to special attention and support especially to avoid re-victimization and to avoid having to give evidence in criminal proceedings as much as possible (See below “The judicial phase”).



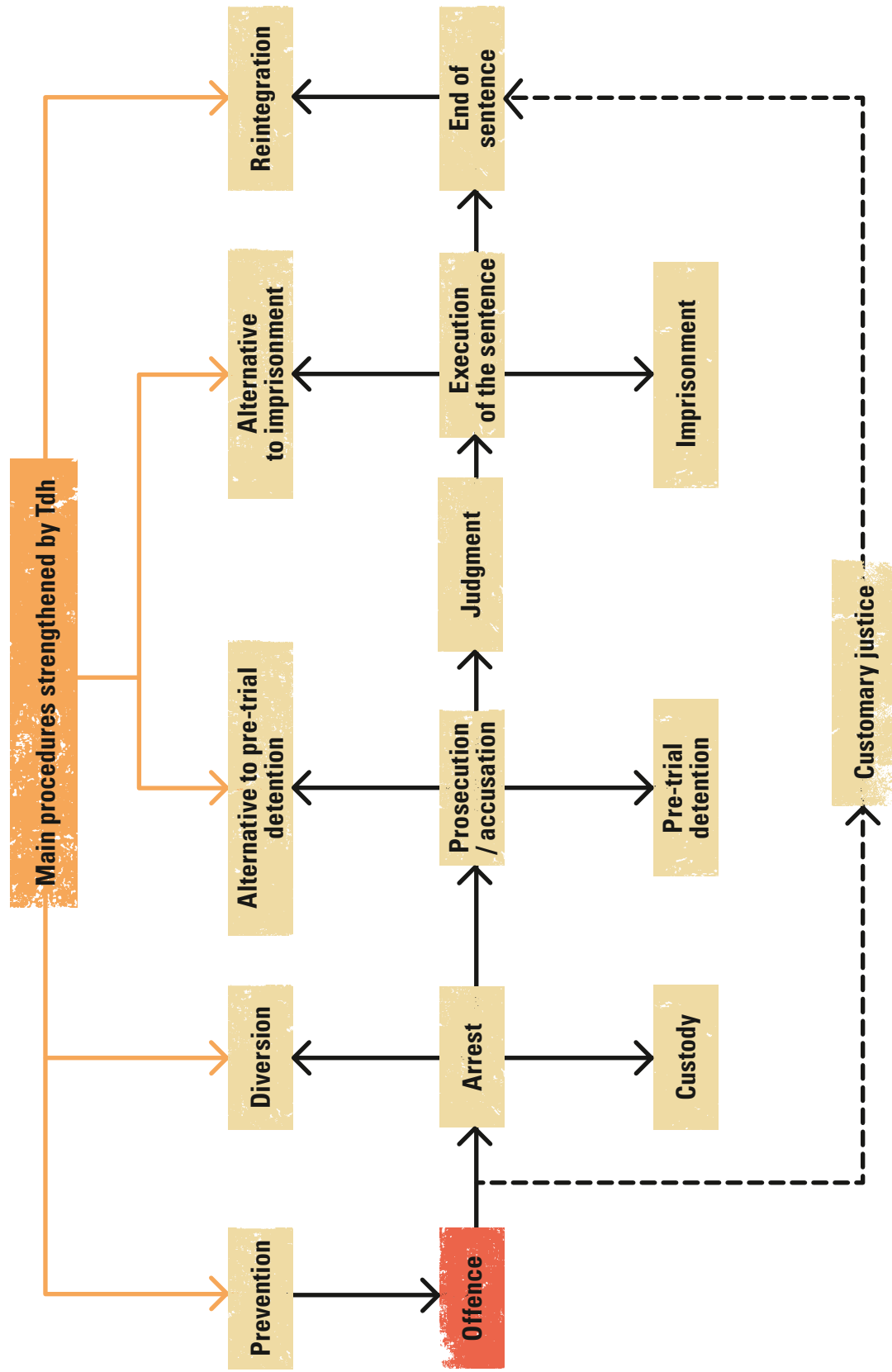


A person is shown from the back, wearing a black baseball cap with a white logo and a black sleeveless shirt with red trim. They are sitting on a green bag with a white and black pattern. The background is a blurred outdoor setting with a metal fence.

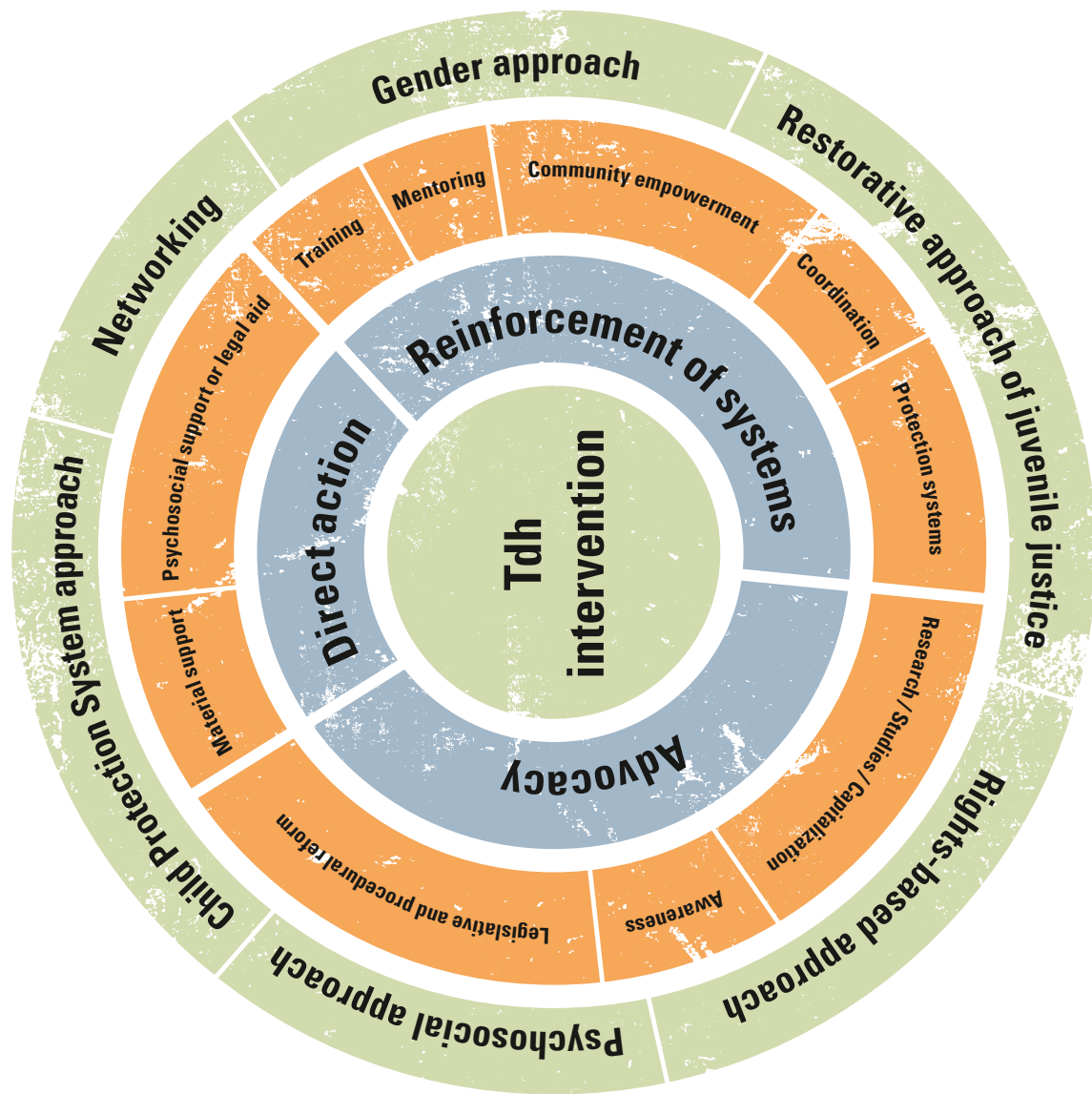
2. Tdh approaches and strategic objectives.

Tdh's interventions, detailed in this section at each stage of the criminal justice process, are based on child rights and international, regional and national standards in juvenile justice. Beyond rights, Tdh promotes a mindset, a way of understanding justice for children in a way that is appropriate to them. This mindset is reflected in its cross-cutting approaches (A) and at each step of the intervention (B).

Indicative representation of the criminal justice process.



Representation of Tdh action.



2.1. Cross-cutting approaches.

Cross-cutting approaches of the Tdh action are found at each stage of intervention and characterize it. Other principles of action inherent in the relief effort in development, such as **"Do No Harm"²³** and **sustainability** (through the principle of **non-substitution** of responsibilities of the State) also apply.

2.1.1. Restorative approach of juvenile justice

a. Definition of restorative juvenile justice (RJJ)

RJJ refers to²⁴ the treatment of CCL, where the objective is to promote the reparation of the damage caused to the individual, affected parties and society. This objective requires the active and joint participation of the child offender, the victim and other individual members of the community to resolve problems resulting from the conflict. There are several models of implementation of the approach of RJJ.

This process leads to responses such as reparation, restitution and community service (CS). The objective is to meet the responsibilities as well as the individual and collective needs of the parties, to promote the rehabilitation of the CCL and the reparation to the victim. The restorative approach is present at all stages of justice.

Promising Practice : Postgraduate Degree in RJJ (Peru)

The degree helps train skilled and knowledgeable actors in juvenile justice and ensures the spreading of the message of RJJ.

Certain conditions must be met²⁵ for an application of RJJ. The role and place of the victims are essential in the process of reparation of the damage. In the absence of victim or when they may or may not wish to participate in the reparation process, the reparation is done indirectly or symbolically.

Promising Practice : Restorative practices – restorative circles, dialogue and peace circles (Brazil)

Restorative circles and dialogue and peace circles can reduce violence in communities, schools and detention centers by promoting verbalization of interpersonal tensions and dialogue to defuse potential conflict situations.

2.1.2. Rights-based approach

The rights-based approach is based on the idea that human rights guaranteed by international instruments benefit to **rights holders** (e.g.: children) and are the responsibility of **duty bearers** (e.g.: State). Essential rights in juvenile justice can be categorized into two groups: the **general rights** of the child, with an emphasis on child participation at all stages of the process and the consideration of the best interest of the child in any decision concerning him and **specific rights of children in juvenile justice systems**.

2.1.3. Child Protection System approach (CPS)

For victims, witnesses or offenders of criminal offenses, and for children facing risks or vulnerabilities require specialized support and coordination between institutional actors, civil society, communities, schools and families. The establishment of communication platforms between justice actors and CPS actors is the key to a holistic approach which is tailored to the needs of the child response. Tdh works to improve the response and consolidate the network of CPS actors.

Promising Practice : Legislative Reform – Developing of the sectorial policy of the Ministry of Justice and protection of Children (Burundi)

Participation in the development of this Sectorial Policy reinforces the government's strategy in the field of juvenile justice, but also creates connections with the systems of child protection.

2.1.4. Networking

Networking is fundamental to improve the effectiveness of aid. It allows national, regional and international actors to coordinate their actions; avoid duplication and ensure consistent support. Tdh joined the IPJJ in 2004. The IPJJ is an interagency panel which was founded by the ECOSOC resolution 1997/30 and works for the coordination of actions of its members in the field of juvenile justice.

Promising Practice: Coordination – Stakeholder mapping (Afghanistan)

The mapping of stakeholders from the international community and civil society actors invested in juvenile justice enables to identify activities by region, which results in a better coordination and distribution of technical support to children, communities and institutions.

2.1.5. Gender-based approach

The gender-based approach has resulted in a specialised attention to the needs of girls and boys at all stages of the PCM. The need to pay particular attention to girls and women in conflict with the law is specified in the Bangkok Rules. Indeed, the reasons that lead girls to come into conflict with the law, the offenses committed by them, the offenses that they fall victims to, as well as the treatment they receive in the justice systems can be different from those for boys. Tdh works with special attention to the rights of these populations. The gender-based approach takes into account the specific situation of sexual minorities (LGBT).

Promising Practice: Direct assistance to girls in detention (Egypt)

The attention given to girls through the project (still largely a minority in detention centers in Egypt) enables to draw attention and to protect girls who have historically been neglected in justice system reform by states and NGOs..

2.1.6. The psychosocial approach

The psychosocial approach is subject to a different thematic policy.

2.2. Strategic objectives of intervention by phase.

At each stage of the justice process, the intervention of Tdh is based on international human rights standards of the child as well as principles of RJJ. Thus, the participation of the child and the consideration of the best interest²⁸ for any decision concerning him²⁹ must be guaranteed.

2.2.1. Prevention of juvenile violence and delinquency

The experiences of Tdh in juvenile justice and prevention of child abuse over the years has led to specific fields of intervention. This is notably the case when considering interventions to preventing acts of violence committed by children and young people. Because the main actions of Tdh are based on the protection of children against all forms of violence, it also protects him or her from inflicting further violence, an act that may lead the child to face justice.

The work focuses on actions of “**universal**” prevention, such as reinforcement activities of necessary competences for the child to solve his or her daily problems through non-violence or by the use of restorative practices as a method of conflict resolution. Actions are implemented in “**selective**” or “**indicated**” prevention aimed to targeted work for children at risk or prevention of recidivism. This type of program is developed with caution to avoid the stigmatization of children who are already vulnerable.

Promising Practice: Skills strengthening activities for young people (Ecuador)

Workshops to accompany or strengthen children’s life skills and the writing of curriculum for psychosocial recreational activities to contribute to the reinforcement of individual protective factors: decision-making, autonomy, empathy, trust relationship with an adult, etc.

a. Central Role of the State in the implementation of effective prevention policies

Tdh considers that it is through the development and implementation of effective prevention policies, and increased focus on the well-being of youth³⁰, that the State can have a positive influence on reducing acts of violence committed by children³¹. In their absence or when such policies are ineffective, Tdh supports the implementation of national prevention policies, while strengthening the communities in the establishment of mechanisms for the prevention of juvenile violence.

Promising Practice : Development of a prevention and rehabilitation policy for CCL (Peru)

The development of a prevention and rehabilitation policy for CCL enables the definition of specific objectives, to provide the means and the framework to the various actors involved in the prevention of juvenile violence.

b. Role of the community, family, schools and the media

Beyond the role of the State and local authorities, who can be difficult in some settings to mobilize, Tdh considers communities, families, schools and the media as key actors in the prevention of juvenile violence. The actions of these actors have a major influence on the well-being of young people and the promotion of a culture of peace within the community. Tdh supports and enhances the skills of the actors to maximize their potential protective agents.

Promising Practice: Community approach to preventing juvenile violence (Several Latin American countries)

This participatory approach enables communities to support themselves the prevention of juvenile violence in their community, through the work of volunteers.

2.2.2. Police phase

In the police phase, the international standards apply to CCL. These binding standards³² prohibit violations of human rights and children rights during their interactions with the police and other law enforcement officers. The objective is to guarantee treatment of CCL - especially those placed in custody - *"shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age"*³³.

a. The support of children in conflict with the law

A dignified and humane treatment upon arrest

Upon arrest, the principle of a "dignified and humane" treatment of CCL by the police - and the security forces - implies several obligations³⁴ of support. Tdh monitors compliance with procedural rights during police custody and pretrial detention. It also intends to ensure contact between the child and his family, and improve the treatment and living conditions in detention: recording, separation from adults, access to legal aid, health and psychological care, water, food, hygiene, etc.

Promising Practice: An awareness-raising brochure for parents (Jordan)

An awareness-raising brochure distributed to parents of CCL (Jordan) as soon as these are arrested, enables the parents and care givers to better understand the judicial system, better support their child and reduce stigma.

Diversion and alternative measures to pre-trial detention

Since the majority of offences are minor and committed by first-time offenders³⁵, Tdh considers that the authorities should ensure the existence of a set of measures³⁶ of diversion and alternatives to pre-trial detention.

Promising Practice: Establishment of a model for non-custodial measures - Diversion (Peru)

The establishment of a procedural model for the diversion program (Peru) through a pilot project and its implementation at the national level in several phases of PCM, ensured that a majority of cases for CCL were diverted away from the formal justice system through a restorative approach.

Detention, even for a short period of time, can produce harmful and often dramatic effects on children³⁷, and also on the community as detention remains a common causal factor to increase recidivism³⁸ (see below, "Why fight against detention?").

In many countries, 50 to 70% of children in detention are at the stage of pre-trial detention, and often beyond the legal deadline. The principle³⁹ is that "preventive detention can only be a measure of last resort and for the shortest period of time", including for recidivist children⁴⁰.

Diversion and alternatives to detention should be used as a priority⁴¹. They may be performed in a judicial context or without resorting to a judicial measure⁴² and must be put in place under certain conditions⁴³.

Promising Practice: Module of reinforcement of parenting skills (Peru)

The 20 hour module of reinforcement of parenting skills conditions determines the recourse by the prosecutor to diversion measures and improves parental involvement in the support of their CCL.

b. Treatment of child victims and witnesses and access to justice

The obligation of States to protect children *"from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse"* is brought about by art.19 of the CRC.

When this right is violated, the child has the right⁴⁴ to appeal. The competent authority shall decide on the violation of this right and if so shall respond to all appeals justified⁴⁵ as well-founded. It has the obligation⁴⁶ to promote physical and psychological recovery and social and family rehabilitation of any child victim or witness.

The intervention of Tdh for child victims and witnesses aims that these rights exist in the laws of the countries of intervention and are effectively enforced by the authorities.

Promising Practice: Support for child victims and witnesses (Moldova)

The implementation of a manual of support for child victims and witnesses of offenses by the police can improve their support by police services and reduce the risk of re-victimization, while ensuring access to rights..

2.2.3. Judicial phase

In the judicial phase, the principle provides for the specialization of laws, institutions and criminal proceedings for children⁴⁷. The Beijing Rules state that *"the proceedings shall be conducive to the best interests of the juvenile and shall be conducted in an atmosphere of understanding, shall allow the juvenile to participate therein and to express herself or himself freely"*.

For CCL, and depending the countries and cultures, the objectives of the criminal sanction may vary considerably according to the model of justice that the country in question has. Tdh strives to remind all states of the consideration of **the best interests of the child** and his **participation** in any decision concerning him.

Promising Practice: Awareness – Broadcasting (Afghanistan)

Broadcasts (TV, radio) inviting general public to interact on issues related to juvenile justice and children's rights that enable public awareness on these issues.

a. The rules of a fair and equitable trial

The criminal trial has its own procedural rules that must be followed. States cannot aspire to require its citizens to respect its laws if the states itself and its institutions do not respect the human rights obligations drawn from international instruments that it has ratified.

The rules of a fair and equitable trial vary depending on criminal proceedings of the country. Some international instruments⁴⁸, (some of which are binding, others which are non-binding) protect the core of the rights of CCL. Tdh draws the authorities' attention to these aspects in its programming.

Promising practice: Juvenile justice handbook (Burundi)

The juvenile justice handbook defines the main duties applicable in criminal proceedings and serves to educate actors, including lawyers and police officers in the practical implementation of these rights.

b. Individual monitoring and evaluation system

The work to make the child aware and for the social rehabilitation begins upon arrest, extends throughout the proceedings and is conditioned by the quality of work of multidisciplinary support (see below "Execution phase"). This work is facilitated by tools for individual monitoring and the collection of statistics that allows the analysis of the effectiveness of measures

The biopsychosocial inquiry and other tools for individual monitoring

The tools for individual monitoring upon arrest until the rehabilitation of the CCL are essential because they allow professionals to ensure qualitative monitoring and communicate between them on the evolution of the situation of the child.

The biopsychosocial inquiry provides information on the social environment of the child and his or her physical and psychological health. This means that as soon as the child came into contact with the judicial system, **risk factors** that could lead to commit the offense are determined and **protective factors** that may assist his or her monitoring and rehabilitation are highlighted. The judge will then be able to take a decision considering the best interest of the child.

Promising Practice : Monitoring of CCL – “holistic” orientation program (Peru)

The orientation program of CCL during the implementation phase allows a coordinated and holistic response of multidisciplinary Justice teams with the participation of the young person, according to six areas of intervention: damage repair, health, addiction, education, employability, psychosocial care. This type of intervention that combines approaches of RJJ and protection allows a real holistic and tailored approach for the CCL.

In coordination with public health institutions, Tdh encourages the adoption of mechanisms for detecting mental disorders and illnesses that may lead to incapacity for the child's act to be rendered "criminal" (and where, instead, specialized care by the medical-psychosocial body is promoted⁴⁹).

The obligation to collect statistics at national level

The collection of quantitative statistics and analysis of qualitative information on the administration of juvenile justice is essential for the adaptation of policy, laws and procedures and for a proper allocation of resources.

Internationally recognized indicators measure the quality of juvenile justice⁵⁰. However, qualitative analysis on a case by case basis and an observations in the field to assess the rights of the child in criminal justice is also highly effective. Tdh works to constantly improve measurement indicators of juvenile justice and their appropriation by the authorities of the country of operation.

Promising Practice : Computerization of procedures – Kaikaia (Nicaragua)

The IT tool Kaikaia (Nicaragua) coupled with justice reform (methodology of deconstruction-reconstruction) improves the monitoring of CCL in the execution of sentences, facilitates the work and coordination of actors and allows obtaining reliable statistics in real time. Kaikaia allows monitoring at the central level of promising practices (or bad) of decentralized actors.

2.2.4. Sentencing phase

The outcome of the criminal proceedings is a legal decision applicable to the CCL. Tdh is particularly interested in sentencing practices as they can often determine the rehabilitation of the child. In all cases, these decisions must be made based on the **best interests of the child**⁵¹ and other children's rights enshrined in the CRC and other international instruments (see below, "The rights-based approach").

The key to success for Tdh is the support by multidisciplinary teams (a). In principle, the implementation of these decisions must take place in an open environment (b), and where detention is unavoidable, Tdh works to ensure that the detention setting meets certain requirements (c).

a. Support by multidisciplinary technical teams of monitoring

An effective judicial response, which seeks to address aspects of the child's life in a restorative way and in order to aid his or her rehabilitation, is effective if it is done by professionals. In detention or open environment, the support by multidisciplinary teams is an essential element to empower CCL and promote their social and family rehabilitation.

Tdh works towards training of these actors, improvement of their procedures and techniques of support, their recognition by other actors in the justice and child protection systems, and the coordination of multidisciplinary work.

Promising Practice : Procedure manuals for justice professionals (Nicaragua)

The manuals of procedures for legal professionals are reference books for actors of a justice system that respects the rights of the child.

When the sanctions or repair measures are implemented in the community, systems for regular monitoring should be organized to ensure their proper implementation. Attention needs to be paid to following the implementation efforts of community actors who have been trained.

Promising practice: Protective measures – Foster care (Burkina Faso)

Tdh helped the establishment of a mechanism for foster care that can be used by the judge as sentences when the social inquiry report shows that the offense was committed due to a poor family environment for a proper development of the young person.

b. Alternatives measures to imprisonment

Tdh encourages States to enhance their legislative provisions to include alternatives measures⁵² to imprisonment. These measures are aimed at promoting the rehabilitation of the child⁵³. They must be combined, with education and protection measures be revised at any time by the competent authority. Detailed guarantees, included in the rules of Tokyo⁵⁴, must surround the use of alternatives measures to imprisonment.

Promising practice : Community service (Burkina Faso)

Community service CS is implemented at lower cost through voluntary partnership of different institutions, including Health and Social Promotion Centers in which young people provide work as compensation to the community. For example: cleaning of premises, food and hygiene of elderly people, etc.

c. Custodial measures: dignity as a decent minimum

In certain circumstances, which must remain the exception, detention is a conceivable measure, especially when the CCL is a direct and imminent danger to himself and to society. Art. 37 of the CRC defines the rights of the child in detention and these are supplemented by a large collection of international instruments.

Why fight against detention?

Detention, which is always a measure of last resort and for the shortest possible time, is unfortunately in many countries the rule⁵⁵. Detention has many negative effects for both the child and society. Following are the most significant effects:

- Desocialization of the child due to his or her removal from family, school and community
- "Criminal contamination"; detention can become a "school of crime" where children in fact be more prone to criminal offending through negative peer association
- Risk of physical and psychological abuse and exploitation
- Risk of violation of the right to education
- Health and living conditions contrary to his or development and human dignity

- Increased risk of generating or stimulating disorders and mental illness
- Increased risk of recidivism after release compared with non-custodial measures
- Stigma during and after detention

Detention is not the solution and Tdh works to promote non-custodial measures. To avoid the negative effects of detention, Tdh supports the detention administration to put in place mechanisms to prevent abuse, the establishment of protocols of individualized monitoring, access to health, education, training and leisure, contact with family, etc.

Promising practice : Awareness raising – Movie on alternatives to detention (Burkina Faso)

A short film to raise awareness of juvenile justice can spread a positive message about RJJ and non-custodial measures.

Prevention of abuse in detention

The risk of violence suffered by children, whether in custody, pre-trial detention, prison or semi-open institutions are numerous and generally ignored. These risks include violation of physical or psychical integrity, sexual abuse, neglect, etc. Tdh seeks to identify these violations to eradicate them.

Promising practice: Inspections of detention centers (Guinea)

The annual independent inspections and reports of Tdh shared with the government can draw the attention of the authorities on the conditions of detention and the worst violations of children's rights.

Tdh encourages the authorities to put in place measures to prevent violence in the institution, through:

- **Training of prison staff** (including administrative staff) to individualized support for children.
- The establishment of a **child protection** policy and its implementation in closed or semi-open institutions.
- **Regular independent inspections** in order to verify compliance with this policy and the conditions of detention of children.
- A **mechanism of complaint** or reporting so that children can alert the authorities of the existence of abuse.

Promising practice: Legislative reform – Decrees on protection in detention (Guinea)

The development of decrees on "protection in detention" established, 1. A policy of child protection, 2. A complaints mechanism for children in detention and 3. Independent inspection mechanism to prevent abuses of children in detention centers.

Living conditions in detention

When imprisonment is the result of a judicial decision, it is intended to deprive the child of his or her freedom of movement and to separate him or her from the rest of the society whilst undergoing rehabilitation. But this shall not affect any other rights⁵⁶. A holistic approach to children's rights must ensure the conditions of detention meet various standards, where particular care is taken to ensure the rights of the most vulnerable populations: girls⁵⁷, children of prisoners, sick people, orphans, minorities, etc.

International standards for the protection of children deprived of their liberty define points of attention that should be checked during inspections of detention centers:

- Physical and mental health and hygiene (dental, gynecological care, etc.)
- Education, professional training and work
- Psychosocial support
- Sport and recreational activities and leisure
- Family visits and outings
- The respect of confidentiality and protection of privacy
- The provision of a clean and comfortable living area (bedding, clothing, air, etc.)
- Access to a lawyer
- Separation of children in pre-trial and in sentenced detention
- Separation of adults and children
- Case files management (individualized and confidential)
- Support for children with disabilities (multiple disabilities)
- Safety (fire prevention, etc.)
- Religion and spirituality
- Disciplinary proceedings

Tdh works with authorities to enhance dignity in detention and ensure conditions of detention in accordance with international standards. It also seeks to "humanize" the centers and help the authorities to prepare children for freedom and social rehabilitation, which begins during the detention.

Promising practice: Active and participatory methodology (Nicaragua)

The MAPA Methodology enables planning recreational activities with young people to improve their life skills. The methodology is applicable in universal, selective and indicated prevention initiatives.

Promising practice: Detention Centre Outings (Jordan)

Outings outside the detention centers in public places (municipal swimming pool, museum visits, etc.) with their supervisors (where staff and children wear civilian clothes) allow young offenders to humanize their relationships with their supervisors and to keep a contact with the society.

2.2.5. Social rehabilitation, the key to prevention of recidivism

One of the main objectives of juvenile justice is the rehabilitation of child offenders, victims and witnesses of crime. Rehabilitation achieved by justice should not be limited to a short intervention at the end of the proceedings; it must be prepared at all stages of the criminal justice system and beyond the end of the sanction.

The main factors of a successful rehabilitation of the child are:

- **Participation of the CCL to help** defining and implementing his life project.
- **Psychosocial support** by a trained professional, throughout his or her sentence and following the sentence (where possible over several years) in order to stabilize and facilitate the realization of his life project.
- **Educational and vocational rehabilitation**⁵⁹: it can be realized with the participation of a network of professionals (volunteers) agreeing to host the young trainees / workers.
- **The family's participation** in building the future of the child and a favorable socio-emotional environment.
- **The participation of communities** to reduce stigma and reduce recidivism.
- **The collection and analysis of statistics** by the authorities to adjust policies of prevention of juvenile violence.

Promising practice: Participation of the child and raising public awareness about the cause of CCL (Several Latin American Countries)

The participation of representatives of young and older CCL within different socio-cultural, political fora, or events on juvenile justice serve to inform policymakers and the public on the conditions of children in justice systems.

2.2.6. Customary Justice

Different systems of customary justice present realities that are very different and difficult to conceptualize in few sentences, however, it may be defined as "a system of customs, norms and practices that are repeated by members of a particular group for such an extent of time that they consider them to be mandatory"⁶⁰. The terms of "informal" or "traditional" justice are sometimes also used to describe the work in this area.

Tdh focuses⁶¹ on the treatment of children in customary justice systems because in many countries, they are the main mechanisms of conflict resolution⁶², and that the rights of children are sometimes violated. This work cannot be done without setting limits, represented by systems that infringe the rights of the child.

The actions of Tdh in customary justice systems - currently in a research and pilot actions phase - aim to achieve the following objectives:

- Understand customary justice systems in order to identify good practices and harmful practices;
- Promote the rights of the child in these systems and communicate in a manner consistent with local customs and traditions;
- Working with customary justice actors to strengthen the rights of the child in these systems;
- Strengthen links between formal justice and customary justice where relevant, while making formal justice systems more accessible to populations.




The situation analysis is based on the respect for the rights of children in general⁶³, including those defined in the "UN Common Approach to Justice for Children March 2008", and the principles of restorative justice as set out in resolution 2005/20 of ECOSOC "Basic principles on the use of restorative justice programs in criminal matters".

Promising practice : Forum Theatre (Palestine)

Forum Theater allows young people to raise awareness of the actors in the community and customary justice for the violations of rights they may encounter in the customary justice systems, while allowing them to better themselves through theater.





3. Support to juvenile justice systems in practice.

Based on the methodology of Project Cycle Management, several specific factors relevant to this theme must be taken into account at each of the key steps: The project study can usefully rely on intervention methods (A) and activities that have been proven over many years of intervention (B).



3.1. An adapted project management methodology.

The strategic planning of the intervention follows the project cycle management (PCM) tool as described in the **Tdh Manual of Project Cycle Management**. The key stages of the PCM must be adapted to the specific problems of juvenile justice.

3.1.1. Situation analysis

To be systematic and inclusive, the situation analysis should be based on a comprehensive stocktaking and a detailed analysis including particularly the following:

- **Periodic Report of the Committee on the Rights of the Child**, it enables prioritization of action in connection with the obligations of the State.
 - **Analysis of crime and violence** in the country or region showing the main offenses, the perception of crime in the society and the role of media.
 - **Analysis of criminal policy and criminal law**, as well as their use in practice, separating in analyzing the situation of girls and boys.
 - **List of governmental and non-governmental actors working in juvenile justice**, influential formal and customary practices, and the perception of RJJ.
 - **Assessment of needs perceived** by professional actors, communities, families, etc.
 - **Estimation of available resources**: human and financial, evolution capacities of the system, political will, etc.
- Ideally, children should be involved at all stages of the PCM; but avoiding manipulation (see in this regard Hart's ladder⁶⁴).

3.1.2. Strategic planning

Priorization of action

Juvenile justice reform represents significant challenges at different levels. The risk for Tdh projects is that by attempting to work across many areas, this can run the risk of efforts being diluted. Prioritization of outcomes should - on the basis of the situation analysis - take priority action on the most flagrant violations of children's rights and / or those that affect the greatest number of them.

Planning phase by phase

When objectives are too far from the reality of the system, it is advisable to plan the objectives for each phase. The situation analysis should be updated at each phase.

The participation of governmental and non-governmental partners to the strategic planning

The interest and willingness of governments, as well as the absorption capacity of justice systems, must be taken into account in strategic planning because they determine the fulfillment of the objectives of the proposed reforms. Strategic planning should be participatory and include government and non-governmental partners. Government involvement in strategic planning allows ownership of the project by partners and facilitates its implementation. The signing of partnership agreements specifying common objectives and commitments of each party is essential. Agreements should define common results to be achieved and the means to achieve it.

Links with academic institutions

Creating links with academic institutions promotes the sustainability effects of the initiative, and helps to create an exchange between government actors, development actors, and researchers and academics. The nature of these links can be variable: pilot project, development of training curriculum, longitudinal research, applied research, practices analysis, etc.

Partnership possibilities include links with: are multiple: police academies, law schools, and faculties of social sciences (psychology, sociology, anthropology). Universities are a breeding ground for young professionals who can also be offered work placements

3.1.3. Monitoring

Monitoring is an essential step to achieve the objective and expected results while taking into account the changing context, strategies, actors and sometimes unexpected effects of the project. Monitoring is a process that produces information and allows for debate in order to guide decision making and general project management. This includes documenting learning, communication and advocacy processes. Monitoring also ensures accountability towards populations, partners and donors.

The monitoring system must be adapted to the project and context of intervention – in other words it is custom made. However, some organizations provide indicators that can help the definition of the information needed to monitor projects. At the international level, UNICEF and UNODC propose 15 indicators for juvenile justice. Although they have been criticized by some stakeholders they remain the only internationally proposed monitoring initiative in the field.

The standard 14 "**Minimum Standards for Child Protection in humanitarian intervention**", developed especially by Tdh also define indicators for juvenile justice applicable in a situation of crisis.

Tdh's thematic indicators are used to assess the progress of projects across the thematic. A non-exhaustive list of additional indicators is provided in the appendix. The elements particularly important for Tdh to analyze are:

Qualitative elements of public policy

1. Existence of a juvenile justice system separate from the one of adults
2. Existence of policies and programs to prevent violence and delinquency
3. Separation of children from adults in detention centers
4. Existence of a child protection policy, inspection mechanism and complaint mechanism in detention places.
5. Existence of diversion measures, criminal mediation, alternative to pre-trial detention, alternatives to imprisonment.

Quantitative elements

1. Number of children arrested during a given period
2. Average duration of custody
3. Percentage of children in custody
4. Percentage of children receiving non-custodial measures
5. Percentage of children in detention after the court decision (imprisonment)
6. Percentage of children sentenced (detention or alternative measures) and receiving individualized psychosocial and educational support
7. Percentage of reparation accomplished through mediation or alternative measure
8. Average duration of detention after the court decision (imprisonment)
9. Percentage of children receiving education or training in detention
10. Percentage of released children who receive post-detention support

3.2. Activities by field of intervention.

Below is a non-exhaustive list of activities implemented by Tdh in juvenile justice. These activities are not categorized by each phase of the juvenile justice system, as they may involve different phases according to the operational strategy of the country.

A balanced project provides activities for capacity building or system reinforcement and advocacy, as well as awareness. Activities that include giving direct aid, in substitution of the State, must be performed exceptionally and under precise planning. They may make sense to demonstrate their usefulness and feasibility to the government, but they should be conducted in close partnership with the involvement of the authorities.

Direct action.

Material support

Results expected	Modus operandi
(Re)start the implementation of educational, vocational or recreational activities in CCL support centers or in the communities	Material support for the implementation of educational, vocational and recreational activities or in detention centers (open or closed) of rehabilitation.
Assist in implementation of new policies or legislation improving the implementation of juvenile justice.	Material support to the establishment of courts or judicial services for children and dissemination of laws and criminal procedures which are respectful of the rights of the child. Material support for sentencing for the implementation of non-custodial measures .
Improving the dignity and living conditions of children in detention and prove commitment of Tdh in favor of CCL.	Material support for the improvement of living conditions in detention (rehabilitation, WASH, etc.)
Support the main right holders in the juvenile justice systems.	Distribution of material in particular, academic or professional resources to child perpetrators, victims, witnesses and children at risk or their families.

Direct action.

Psychosocial or technical support, or legal aid

Results expected	Modus operandi
Ensure access to justice for child perpetrators, victims or witnesses.	Provision of assistance and /or legal assistance services to child perpetrators, victims and/or witnesses (or their families).
Monitor the living conditions in detention according to minimum international standards and draw the attention of juvenile justice actors to the key needs of CCL in these institutions.	Visits or inspections of detention or rehabilitation centers, reporting to the government.
Psychosocial support for CCL when the supply of service is non-existent or fragmented.	Individual or collective monitoring of children by active-listening, referral, case management, individual life project activities, and psychosocial recreation activities, etc.
Reinforcement of life skills of young people within prevention measures, as well as rehabilitation and reintegration initiatives	Preparation and implementation of a training based on a curriculum of reinforcement of life skills for young people including: games, sports, theatrical or artistic expression activities, etc.
Strengthen the capacity of families to supervise children at risk or CCL.	Training and / or individual or collective support for families or foster families: individual interview, group work.
Prevent violence and juvenile delinquency by restorative activities	Discussions groups, dialogue circles , restorative circles, peace circles, etc. in an institution or in the community.
Support the reintegration of children to prevent recidivism, when government mechanisms are absent or deficient.	Preparing for freedom through the development of a life project and support for its implementation: work and family integration. Preparation of the community for the return of the young person to reduce stigma and facilitate the integration (discussions).



Reinforcement of capacities and systems.

Training⁶⁵

Results expected	Modus operandi
Raise awareness among actors of the justice for the principles of RJJ, the psychosocial approach, children's rights, etc.	Multidisciplinary awareness workshops ensuring actors' participation through simulations or case studies, analysis of existing practices sessions, and possibly the drafting of action plans.
Integrate principles related to juvenile justice in the long term in the initial training of actors in juvenile justice.	Development of training curriculum or training program in partnership with organizations of initial training (police schools, law school, Faculties of Law, etc.).
Disseminate the principles of RJJ to actors in office.	Training of trainers for the dissemination of good practices and principles consistent with the rights of the child, RJJ, etc.
Improve the support for children in conflict with the law, child victims and child witnesses.	Manuals or guidelines for the support of children at different stages of the judicial process.
Create an interest among actors of juvenile justice and reward "champions" who manage to reform juvenile justice in their country.	Cross-border visit or exchange of professionals . The visit may lead to the drafting of an action plan to reform of juvenile justice.
Train a large number of actors in juvenile justice.	Online training on RJJ (on-going project).

Mentoring of social workers or multidisciplinary teams

Strengthen the skills of social workers or multidisciplinary teams in the judicial phase .	In situ mentoring for social workers to case management or social inquiry report support .
Strengthen the skills of social workers or multidisciplinary teams in the phase of execution of non-custodial measures .	In situ mentoring for social workers in the execution of non-custodial measures , or open institutions: focus on care and support of young people.
Strengthen the skills of social workers or multidisciplinary teams in places of detention .	In situ mentoring for social workers for the monitoring of CCL or the support in detention, or in a closed institution .
Strengthen the skills of social workers in the reintegration phase .	Mentoring for social workers for the rehabilitation of CCL or referencing through protection systems.
Strengthen the skills of community-based organizations in support of CCL, child victims and child witnesses.	Strengthen community-based organizations for the reception of CCL (vocational training, criminal sanction, rehabilitation, and reintegration).
Improve monitoring system of cases and social inquiry report (computerized or paper).	Activities of review / creation of tools for case monitoring or social inquiry or creation of computer tools (for example: Kai-kaia) through a participatory workshop with the support of a consultant.

Community empowerment

Organizing restorative activities in communities, schools and detention centers enables to reduce violence.	Training of communities, schools and detention centers to the restorative approach for conflict resolution.
Strengthen social and life skills of children to reduce risk factors and increase protective factors in order to prevent violence and juvenile delinquency.	Supporting communities in the preparation and implementation of a training curriculum based on the reinforcement of life skills of "children at risk" or "vulnerable" children: games, sports, theatrical or artistic expression activities, etc.

Reinforcement of capacities and systems.

Mobilizing teenagers around activities of prevention of violence creates a dynamic in these groups that enables to curb the dynamics of violence and juvenile delinquency.

Organization of teenagers & community mobilization in favor of RJJ, or rights of the child, or the fight against violence: sports, recreational activities, self-managed groups, games, development of micro-projects, etc.

Strengthen the **community and schools as actors for the prevention** of violence and juvenile delinquency.

Development of **participatory plans for prevention** at the community level and in schools.

Strengthen local actors or partners in their advocacy actions.

Support of local actors or partners in the establishment of a quality advocacy **strategy** and support for its implementation.

Coordination

Improve coordination among key actors of prevention to improve the implementation of prevention policies for violence and juvenile delinquency.

Coordination of public actors & civil society around the theme of prevention of violence and juvenile delinquency.

Improve coordination between actors or the production of strategic plans or methodological documents, including the establishment or improvement of non-custodial measures.

Multidisciplinary workshops with case simulations. They do not always provide the desired durability. They are most effective when they are organized by and in the institutions premises involved.

Identify the roles and services provided by actors working in the field of juvenile justice, in order **to improve the coverage of needs**.

List of the service providers involved: location, type of services, resources, target groups, etc.

Create a **dialogue** and improve responses offered by the various institutions of juvenile justice or service providers.

Organization of coordination mechanisms, round tables, etc. **at the level of State institutions or between informal and formal actors.**

Improve the effectiveness of advocacy and answers provided by the suppliers of non-governmental services in the field of RJJ.

Organization of coordination mechanisms, round tables, etc. **at the level of civil society, NGOs and IOs.**

Protection & Protection systems

Improve the **case management**, referencing and rehabilitation of CCL and vulnerable children in systems of child protection.

Identification / training / reinforcement of **local points or local networks** to reporting and referencing cases of violence against children.

Strengthen the **mechanisms of prevention of abuses** against children in detention places.

Development of **child protection policies and training for the institution personnel** responsible for the detention of children (custody, detention center, etc.)

Establishment of a **mechanism of individual complaints** for children to report abuse in detention centers.

Establishment of a **mechanism of independent inspection** in detention centers (regular visits and recommendations to the authorities).

Improve the **referencing** of CCL and children in danger, and **offer information on** the rights of these children and the **services of child protection** available.

Reporting mechanism and / or information by phone such as a hotline (Line "116").



Advocacy.

Research / Studies / Capitalization

Results expected	Modus operandi
Improve knowledge or techniques of Tdh on specific issues related to juvenile justice.	Study or research-action in the field of juvenile justice.
Improve expertise of Tdh in the long term and create an interest from academics in subjects in connection with RJJ.	Research partnership with institutions or research organizations for conducting research of "evidence based" impact studies, training curriculums, etc.
Improve knowledge of Tdh on juvenile justice systems , practices of actors, political issues and violations of child rights.	System Assessment and situation analysis.
Improve knowledge of Tdh on the implementation of projects .	Capitalization on juvenile justice projects .

Awareness

Influence the perception of communities on the themes proposed to ensure greater ownership of concepts related to child protection and facilitate the work with decision makers.	Raise awareness of populations or communities to juvenile justice, RJJ or rights of the child through radio and television media campaigns, theater forums, groups of discussion, etc.
Create a dialogue between actors of juvenile justice that are usually not in contact and raise interest in issues relating to juvenile justice, but also spread the message to policymakers and neophytes of juvenile justice.	Training workshop / multidisciplinary awareness : RJJ, non-custodial measures, appropriate treatment for children, child rights, etc.
Raise awareness of actors to the cause of children in customary justice systems and improve the participation of children .	Organization of the Forum Theater methodology to enhance the participation of children.
Raise public awareness to the concepts of RJJ and the rights of the child .	Organization or participation in radio or television broadcasting, writing newspaper or specialized press articles.

Advocacy.

Legislative and proce-dural reform & direct technical assistance (incl. NCM)

Results expected	Modus operandi
Initiate new NCM in systems where they do not exist (initial phase).	Pilot actions on NCM in substitution and in partnership with the authorities.
Modelling of diversion mechanisms or implementation of non-custodial measures (beyond the pilot phase).	Development of models for non-custodial measures or RJJ approach (including actors training modules).
Improve mechanisms for the administration of juvenile justice and the rights of children in contact with the law.	Advocacy with governmental actors on RJJ and its principles through collective and individual meetings and the participation in political and strategic key events.
Capitalize on best practices , and eliminate harmful practices in the field of juvenile justice, including existing NCM.	Systematization & capitalization of good practices : guide of good practices, manual, etc.
Improve laws, procedures or policies relating to the administration of juvenile justice or child protection.	Advocacy and / or technical support for legal, procedural or political reform in relation to the administration of juvenile justice or child protection.



- ¹ UNICEF, *Progress for Children, A report card on child protection*, No. 8, September 2009.
- ² Sur l'utilisation des mots. Tdh accepte le mot délinquance pas délinquant, infraction pénale et infracteur: ok. Parler d'enfant en situation de délinquance car transitoire.
- ³ Par exemple: Wermink H., Blokland A., & al., "Comparing the effects of community service and short-term imprisonment on recidivism: a matched samples approach". in J. Exp Criminol, DOI 10.1007/s11292-010-9097-1. Publié en ligne le 19 juin 2010 sur www.springerlink.com
- ⁴ C'est l'effet "Pygmalion" décrit dans: Maruna S., Lebel T.P., Mitchell N., Naples M., "Pygmalion in the Reintegration Process: Desistance from Crime through the Looking Glass". *Psychology, Crime and Law*, 2004, 10(3), p.271-281.
- ⁵ OMS, *Prévention de la Violence: Les faits*, Malte, 2013. http://apps.who.int/iris/bitstream/10665/92490/1/9789242500844_fre.pdf
- ⁶ Modèle écologique empreinté à Etienne G. Krug & al., *World Report on Violence and Health*, World Health Organization, Geneva, 2002, 360 p., http://whqlibdoc.who.int/publications/2002/9241545615_eng.pdf?ua=1
- ⁷ Les situations dans lesquelles les enfants sont en contact avec la justice pour des raisons de migration, d'adoption, d'exploitation ou de trafic sont traités dans d'autres politiques thématiques de Tdh.
- ⁸ Rapport de la Haut-Commissaire des Nations Unies aux droits de l'homme. Accès des enfants à la justice. Assemblée Générale des Nations Unies, A/HRC/25/35, 16 déc. 2013. <http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=531458be4>
- ⁹ Le schéma a été produit en se basant sur le rapport annuel du Haut-Commissaire des Nations Unies aux droits de l'homme sur l'accès des enfants à la justice A/HRC/25/35 du 16 décembre 2013 et l'Approche de la justice pour les enfants commune aux entités du système des Nations Unies, Document de travail, mars 2008.
- ¹⁰ Observation générale n°10 du Comité des droits de l'enfant sur « Les droits de l'enfant dans le système de justice pour mineurs », Genève, CRC/C/GC/10, 25 avril 2007.
- ¹¹ Article 5.1 des règles de Beijing.
- ¹² Observation générale n°10 du Comité des droits de l'enfant sur « Les droits de l'enfant dans le système de justice pour mineurs », Genève, CRC/C/GC/10, 25 avril 2007.
- ¹³ Avoir des contacts avec les commissions en charge de la justice juvénile ou de la protection de l'enfance est un avantage significatif dans un projet de justice juvénile.
- ¹⁴ Cf. Tip Sheet de la DDC: http://www.deza.admin.ch/ressources/resource_fr_92757.pdf
- ¹⁵ Les vulnérabilités spéciales couvrent: les enfants de détenus, la consommation de drogue, les filles et mères, les étrangers réfugiés & migrants, les enfants en domesticités, les enfants exploités par le crime organisé, les mendiants, les enfants soldats, les minorités ethniques, les LGBT, les enfants en situation de handicap, de maladies chroniques, du VIH/Sida, etc.
- ¹⁶ Article 1 de la CDE.
- ¹⁷ Règles de Beijing, article 2-2-c.
- ¹⁸ Cette lecture est soutenue par les règles de Beijing article 3-2 commentaire b: « On s'efforcera d'étendre les principes incorporés dans le présent ensemble de règles à tous les enfants auxquels s'appliquent des mesures de protection et d'aide sociale ».
- ¹⁹ Observation générale n°10 du Comité des droits de l'enfant sur l'administration de la justice pénale pour les mineurs §30 et s.
- ²⁰ L'âge de l'enfant se détermine en principe par le certificat de naissance. Les certificats de naissances sont des actes d'état civil essentiels permettant l'accès au droit à l'identité. Ce droit est un droit fondamental de l'enfant. Les Etats ont l'obligation de mettre en œuvre des lois et procédures systématisant la rédaction de certificats de naissance. A défaut, des mécanismes efficaces de détermination de l'âge de l'enfant par des méthodes médico-légales.
- ²¹ Observation générale n°10 du Comité des droits de l'enfant sur l'administration de la justice pénale pour les mineurs §30 et s.
- ²² Cf. Robert Cario, *Victimologie. De l'effraction du lien intersubjectif à la restauration sociale*. 4e Ed. L'Harmattan, 2012.
- ²³ C'est ainsi que les règles de Beijing rappellent que « les Etats membres s'efforcent de créer des conditions qui assurent au mineur une vie utile dans la communauté, propre à encourager chez lui pendant la période de sa vie où il est le plus exposé à un comportement déviant, un processus d'épanouissement personnel et d'éducation aussi éloigné que possible de tout contact avec la criminalité et la délinquance ».
- ²⁴ Définition provenant de la Déclaration de Lima (2009) suite au Congrès Mondial sur la Justice Juvénile organisé par Tdh.
- ²⁵ Résolution 2005/20 ECOSOC: Principes fondamentaux concernant le recours à des programmes de justice réparatrice en matière pénale.
- ²⁶ Cf. article 3 de la CDE et l'Observation Générale n° 14 du Comité des droits de l'enfant. Dans le cadre de la justice juvénile, cela se traduit notamment par l'obligation pour les autorités judiciaires de:
 - Prendre en considération l'intérêt supérieur de l'enfant dans toute décision le concernant,
 - Motiver dans chaque décision, de quelle façon l'intérêt supérieur de l'enfant a été interprété pour arriver à cette décision,
 - Expliquer à l'enfant les raisons pour lesquelles une mesure ou une décision est prise à son encontre.
- ²⁷ Règles de Bangkok: Règles des Nations Unies concernant le traitement des détenues et l'imposition de mesures non privatives de liberté pour les femmes délinquantes, Résolution 2010/16 ECO-SOC.
- ²⁸ Article 3 de la CDE.
- ²⁹ Observation générale n° 14 § 6 du Comité des droits de l'enfant sur le droit de l'enfant à ce que son intérêt supérieur soit une considération primordiale 2013.
- ³⁰ Principes de Riyad: Principes directeurs des Nations Unies pour la prévention de la délinquance juvénile, adoptés et proclamés par l'Assemblée générale dans sa résolution 45/112 du 14 décembre 1990.
- ³¹ Dans son observation générale n°10 le Comité des droits de l'enfant estime que « non assortie d'un ensemble de mesures visant à prévenir la délinquance juvénile, une politique en matière de justice pour enfants présente de graves carences ».
- ³² Il s'agit de l'article 37 de la CDE, les articles 1 et 16 de la Convention contre la torture et autres peines ou traitements cruels, inhumains et dégradants de 1984, l'article 5 de la Déclaration universelle des droits de l'homme de 1948, l'article 7 du Pacte international relatif aux droits civils et politiques de 1966.

- ³³ Article 37-c de la CDE.
- ³⁴ Cf. article 37 & 40 de la CDE et articles 7 à 10 du Pacte international relatif aux droits civils et politiques 1966.
- ³⁵ Observation générale n° 10§24 du Comité des droits de l'enfant.
- ³⁶ Au stade du commissariat de police et pendant la phase d'instruction, on peut citer comme exemples de mesures non-privatives de liberté: avertissement/réprimande/admonestation, classement sans suite ou sous condition, rappel à la loi, médiation pénale/réparation, liberté provisoire avec ou sans placement, remise aux parents, placement familial provisoire, et placement institutionnel en milieu ouvert ou semi-ouvert provisoire.
- ³⁷ Cf. *United Nations World Youth Report*, chapter 7 Juvenile Delinquency, 2003, p189 et s.
- ³⁸ Cf. Observation générale n°10 §25 du Comité des droits de l'enfant.
- ³⁹ Article 13.2 des règles de Beijing.
- ⁴⁰ Cf. Observation générale n°10, §23 du Comité des droits de l'enfant.
- ⁴¹ Le Comité des droits de l'enfant estime ainsi à propos de la déjudiciarisation: « outre qu'elle évite la stigmatisation, cette démarche donne de bons résultats, tant pour les enfants que pour l'intérêt de la sécurité publique, et elle s'est révélée plus rentable ».
- ⁴² Elles peuvent, par exemple, être mises en œuvre dans la communauté suite à une décision de la police pour mineurs.
- ⁴³ Cf. Observation générale n°10 §22-29 du Comité des droits de l'enfant.
- ⁴⁴ Les lignes directrices en matière de justice dans les affaires impliquant les enfants victimes et témoins d'acte criminels adoptées par ECOSOC dans sa résolution 2005/20 du 22 juillet 2005 offrent un cadre pratique pour aider les Etats à mettre en place et appliquer des lois et procédures appropriées aux enfants notamment en évitant une victimisation de ceux-ci dans à toutes les étapes du système de justice.
- ⁴⁵ Article 19 al. de la CDE et l'article 2 al.3 du Pacte international relatif aux droits civils et politiques de 1966.
- ⁴⁶ Article 39 de la CDE.
- ⁴⁷ Résolution de l'Assemblée Générale des Nations Unies 40/33 du 29 Novembre 1985 paragraphe 14 et s., Ensemble des règles minima des Nations Unies concernant l'administration de la justice pour mineurs (Règles de Beijing).
- ⁴⁸ On peut citer en particulier le Pacte International sur les Droits Civils et Politiques de 1966 et la CDE de 1989.
- ⁴⁹ Cf. *Principes pour la protection des personnes atteintes de maladie mentale et pour l'amélioration des soins de santé mentale*, adoptés par la 75ème séance plénière de l'Assemblée Générale des Nations Unies le 17 décembre 1991.
- ⁵⁰ UNICEF, UNODC, *Manuel de Mesure des Indicateurs de la justice pour mineurs*, Vienne, 2008.
- ⁵¹ Article 3 de la CDE.
- ⁵² On peut citer comme exemples d'alternatives, à ce stade de la procédure: admonestation/avertissement/réprimande, ajournement ou sentence suspendue, sursis simple ou avec mise à l'épreuve, amende avec ou sans sursis, liberté surveillée/probation, libération conditionnelle, travail d'intérêt général ou travail communautaire.
- ⁵³ Cf. Règles de Beijing articles 23 et s.
- ⁵⁴ Règles de Tokyo: Règle minima des Nations Unies pour l'élaboration de mesures non privatives de liberté, adoptées par l'Assemblée générale dans sa résolution 45/110 du 14 décembre 1990.
- ⁵⁵ Un rapport du Conseil des Droits de l'Homme présenté à l'Assemblée Générale des Nations-Unies le 27 juin 2012 montre que la violence est un phénomène commun à toutes les étapes de la procédure judiciaire. Considérant ces conséquences négatives sur l'enfant, Tdh lutte pour qu'un minimum de garanties existent à toutes les étapes de la procédure et en particulier en détention.
- ⁵⁶ L'article 18 de la CDE rappelle l'obligation des Etats de garantir les autres droits prévus par la CDE dans toute institution prenant en charge des enfants.
- ⁵⁷ Les filles ont des besoins plus spécifiques ou additionnels protégés par des standards internationaux évoqués dans les règles de Bangkok: Règles des Nations Unies concernant le traitement des détenues et l'imposition de mesures non privatives de liberté aux délinquantes, Résolution de l'Assemblée Générale A/RES/65/229 du 16 mars 2011.
- ⁵⁸ Voir ressources relatives à la détention (supra).
- ⁵⁹ Les règles de Beijing (§24) exigent que tout soit fait pour « assurer aux enfants, à toutes les étapes de la procédure, une assistance en matière de logement, d'éducation et de formation professionnelle, d'emploi ou autre forme d'aide utile et pratique en vue de faciliter la réinsertion ».
- ⁶⁰ Harper E., *Customary Justice: From program design to impact evaluation*. International Development Law Organization, Rome, 2011, p19.
- ⁶¹ L'Approche de la justice pour les enfants commune aux entités du système des Nations Unies, mars 2008,
- ⁶² UNICEF, UNDP, UNWOMEN, *Informal justice systems: charting a course for human rights based engagement*, New York, 2012.
- ⁶³ Alors que les acteurs des systèmes de justice coutumière ne sont a priori pas les débiteurs d'obligations découlant des conventions internationales, Tdh estime qu'ils se doivent de respecter les principaux droits de l'enfant et en particulier les piliers de la CDE (Cf. infra, l'approche basée sur les droits).
- ⁶⁴ Roger Hart A., *Children's participation – From tokenism to citizenship*. Innocenti Essays n°4, UNICEF, Italy, 1992. <http://www.unicef-irc.org/publications/100>
- ⁶⁵ La formation est une activité qui nécessite de suivre certains principes de mise en œuvre pour en assurer l'efficacité. Elle doit répondre à des problèmes spécifiques. Elle doit prendre en compte l'interdisciplinarité, utiliser l'apprentissage par l'expérience (le coaching faisant par intégrante du processus de formation). Elle doit donner lieu à une accréditation / certification reconnue.

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



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