

## WORKSHOP

# EDUCATION OF MINORS DEPRIVED OF LIBERTY IN AFRICA

18-19 January 2011

City Hall of Brussels

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## SUMMARY OF THE SESSIONS

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*Cf. Programme in Annex A.*

### EDUCATION IN PRISON: UTOPIA AND NECESSITY

*Marc de MAEYER, former principal researcher at UNESCO*

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#### 3 paradoxes

- No development without education. And yet, if education is a priority, it is not always reflected as such in the budgets of development agencies. Especially when it comes to the most destitute/excluded.  
Dakar Declaration: the State bears primary responsibility for the education of all.
- **No demand:** children are so completely excluded that they are not in a position to demand education
- Persons in “**conflict with the law**” within States that are themselves in conflict with their own laws and fail to fulfil their obligations/duties to meet the basic needs of the population. Can States that are violent (physically and institutionally), where there is little or no democracy, offer these young people anything other than prison? A struggle for education for all = struggle for justice and democracy.

#### Education in prison

- Education in prison is a utopia, since “*u topos*” = without an adequate place to be expressed and heard.
- A utopian education should change places: if that is not possible, then need to try to change *the* place and make prison into an educational environment.
- All activity can be educational (or anti-educational)
- Time spent in prison = a learning experience, one that builds or reinforces social identity; may be rewarding or traumatic.  
By default -> *peer* education -> *poor* education. Must move from learning **from** prison to learning **in** prison.
- Informal education: learning via different activities that teach self-expression, life in society. The cultural modules are not subject to time/certification constraints. The challenge is seen differently by the persons receiving such education.
- The individual must be at the centre. Beware of pitfalls: privatisation of education, becomes an economic venture (profitability over more or less long term) or a sectarian one (churches).



- Should not be special but part of the continuity of daily life, of a learning process. Should avoid creating ruptures in learning or in the times when it takes place: avoid a litany of “re”s: rehabilitation, reintegration, resumption, etc.

#### **Conditions that must be met if the demand for education is to be successful:**

- Need for education must be felt and expressed
- Familiarity with the interlocutors and treating them as part of the solution -> entering into negotiation
- recognition of others, power relations when it comes to decision-making
- explaining the advantages and expected benefits (specifying that these are not in contradiction with those of others, etc.)

#### **A Few answers**

##### **1. Recognising experience gained and dealing with the whole person**

A detainee cannot be summed up solely by a guilty sentence meted out by the courts, but must be dealt with as an individual with all his or her facets, i.e. all his or her experiences and rights.

##### **2. Working on the learner’s identity**

Recognising a social existence, a future, a life project

##### **3. Placing the individual at the centre of the process**

Beneficiary but also actor

##### **4. Involving all actors at a prison**

Teachers, administrators, guards, etc. This requires the continuing education of all these actors.

#### **9 REQUIREMENTS**

##### **1. Education in prison is not a poor education for the poor**

- Not an education on the cheap: used books, inappropriate, worn-out materials, inadequate, worn, vocational (?) programmes
- Approach and pedagogy must be adapted to the audience and setting, but the right to education is for everyone

##### **2. Learning to learn**

- The aim is not to produce delinquents with diplomas. Education in prison is not concerned *only* with a person’s employability.
- Reconciling (!) the individual with the pleasure of learning
- Prison is a place of unlearning
- Vocational training is desirable but not necessarily the top priority:
  - job market for detainees is limited and does not welcome them
  - a standardised curriculum, unsuited to the market, leads to disillusionment, frustration, even aggression (thus favouring recidivism?), etc.



### 3. Competent educators

- The educator is not a correctional officer
- The educator is familiar with the detainee's life history, in order to be able to take into consideration his or her experience in the course of learning
- Set aside the place of learning. e.g., guards should not attend the classes or assume the role of teachers

### 4. Participation in universal education

- Never a punishment
- Not a system for obtaining reduced sentences

### 5. Should arouse demand for education

- Education exists in prison: peer to peer, TV, etc. -> violence, role of women, etc.
- Fight for *another* type of education

### 6. Work jointly with the detainee

- Important: less a quest for academic consistency (modules) than for social consistency (health education, etc.)

### 7. Recognise prior learning and competencies of the detainee

### 8. Is not aimed at reducing recidivism or maintaining order in prison

- Education is a right in itself. It does not need social justification, it is not earned.
- It is nearly impossible to measure the fall in recidivism or determine the causal relationship between education and recidivism. If, on the contrary, there were shown to be no causal link between education and lower recidivism, or if detainees remain unemployable despite the training received, would education in prison be eliminated?
- Risk: quest for profitability over and above the application of a fundamental right.

### 9. Will not make prison either more bearable nor acceptable

- Not intended to transform prison into a school, but into an educational milieu
- For we should never adjust to prison

## PATHS FOR REFLECTION

- What kinds of alternatives to prison could be conceived in countries where the State is failing?
- Precise state of affairs regarding the legislation of the different countries (cf. work done in Latin America)

## STATE OF THE QUESTION

***Pierre MUANDA, trainer in Non-violent Communication***

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In preparation for these first days of work on the education of minors deprived of liberty in Africa, a questionnaire was distributed to development organisations and donors working in the field in Africa in order to summarize what is currently being done in terms of:



- Concrete action on behalf of education of children deprived of liberty: provided by whom and in what geographic area;
- The types of synergies that may or may not exist among partners working in one country;
- The difficulties encountered and any desiderata.

### Conclusions:

- Despite casting widely the questionnaires we sent out, only a very limited sample of responses was received. 11 organisations answered, working in 14 countries of sub-Saharan Africa. Not a single public donor responded. This observation would seem to indicate a lack of interest in such an important problem as the education of children deprived of liberty in Africa.
- There is not much data, few studies or reflections that could lead to a conceptualisation of this question.
- Population affected: around 5500 minors, of which nearly 100 infants and close to 2000 families.
- Budgets for assistance very varied, for actions ranging from meeting basic needs to activities for raising awareness and accompanying detainees in view of reintegration.
- Different modalities of partnership among local associations, local/national authorities responsible for the matter, foreign and international NGOs.
- Difficulties encountered at all levels: institutional, legislative, political, operational, financial, social (stigmatisation of the prison milieu and detainees).
- The wishes expressed correspond to different levels of obstacles along the way, but call primarily for better cooperation among the actors, thoroughgoing work on legislation and institutional structures relating to justice for minors, raising awareness among public opinion (in particular, communities and families), and a quest for constructive alternatives to incarceration, notably by emphasizing preventive approaches and combating poverty.
- Lack of a platform favouring concerted work by associations and civil society says a great deal about the latter's lack of political clout.

## RIGHTS OF THE CHILD AND PRINCIPLES OF THEIR APPLICATION

*Benoît van Keirsbilck, President of DEI-Belgium*

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### Observation

- Young people in conflict with the law are often forgotten by the system, since they perturb society and the social order. They must be set apart, but without really knowing how to work with them. Hence the recourse to incarceration, ignoring society's obligations to these minors. Context = Justice for minors. This is not a question of good will or good conscience: it is an obligation for States and the international community to implement a solution that is in compliance with the legal instruments in force.
- "The way a country treats its children who have broken the law is a test of its civilisation and maturity". (Judge Andrew Becroft in *Hard questions*)



### **Reminder of international instruments relating to justice for minors:**

- International Convention on the Rights of the Child
- International norms and standards (UN Standard Minimum Rules for the Administration of Juvenile Justice, UN Rules for the Protection of Juveniles Deprived of Liberty, UN Guidelines for the Prevention of Juvenile Delinquency)
- Committee on the Rights of the Child

### **Remarks:**

- If we devoted more energy to prevention, the question of education in prison would be relatively easier to address.
- As a matter of principle, the place of the child is with its family. A corollary to this is that the public authorities are obligated to support families in their duty to educate their children. The lack of investment in prevention or in family support is very costly in its consequences (incarceration: 7x more expensive than a policy of providing adequate public services!).
- Right to a sufficient living standard is also a fundamental aspect. Poverty = a factor that renders social life difficult, it is prevalent among children in conflict with the law.
- Fundamental principle: right to liberty. Being deprived of liberty is an exception, a measure of last resort. If this right is infringed, it must be done under extremely circumscribed conditions and on very restricted grounds. Yet there are still a very large number of detained minors: it is clear, therefore, that these principles are not being honoured.
- There is an essential difference between children and adults => justice for minors must therefore also be different. Not only in its procedures, but also in its ultimate aim. Solutions proposed: enhance children's sense of dignity and personal value; teach them about fundamental rights (paradoxically, this is difficult in a context which denies them!)
- The age of a child will have an impact on the approach taken. 2 important elements: age of majority under criminal law (=> responsibility) and minimum age of criminal responsibility (between 7 -14 years; below that, responses must be non-penal, including when it comes to juvenile justice).
- Definition of "deprivation of liberty": any form of detention, imprisonment, or the placement of a person in an institution he or she is not permitted to leave at will, by order of an authority. Places of detention are numerous and take various forms.
- Problem of preventive detention: detention before judgment.
- Need to separate children and adults (except infants/mothers).
- Right to maintain family relations: an obligation on the part of States.
- Deprivation of liberty is under no circumstances a deprivation of other rights.

### ***Education of minors in prison***

Incarceration is lost time: it is of no use to anything or anyone. The context of detention: a closed milieu, i.e. totalitarian and often in deplorable conditions.

Prison is not a normal place of education.

### ***Application of principles***

Observation:

- Too many children in prison. More than 1 million worldwide (estimate).
- Prevention does not play its role.



- Systems of justice for minors: often unsuited. Decriminalisation is often forgotten, thus leading to congestion in the system.
- Arbitrary detention is frequent, starting with the police stations (e.g. administrative detention).
- Charges: often insignificant, not even constituting an offence (e.g. street children, begging, accusation of witchcraft, etc.).
- Education for all: not achieved worldwide, especially if we are talking about the most impoverished / excluded groups.
- Little concern on the part of States to put in place an educational system for minor detainees. Their only policy is: isolation, negligence, forgetting.
- Education in prison: regarded as different from “normal education”.

## ROUND TABLE

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### The role and place of local civil society organisations

- J.J. Schul: 2 distinctions should be made:
  - Do local agents act on behalf of a European / international agency or as a local partner supported by a foreign NGO? Access and capacity for action vary enormously.
  - According to the conclusions of the Global Campaign for Education (GCE) and the Commonwealth Education Fund, the more external agents continue to do the work in the field, the more problems persist. It is important to try to promote changes in the system with solutions that are initiated and implemented locally.
- F. Delooze: Sant’Egidio works only through local organisations. Volunteers working in prisons.
- Y. Arlabosse: local involvement is indispensable for progress. Not only by local NGOs but also the detainees themselves (e.g. detainee teachers, demand for education by detainees). Testimonies of detainees who want to continue to teach, since this gives them dignity. Importance of incorporating into the “educational” approach the question of dignity, self-respect. The involvement of foreign NGOs also poses a problem in terms of the perception of the financial resources they have available. This can give rise to jealousy and frustration.
- E. de Boevé: necessary cooperation between local civil society, administration/political authorities, and foreign involvement: the precondition for making true advances. Should also remember that competition among local associations is often the result of foreign intervention, and compromises their credibility and effectiveness!
- A. Ntignoi: The work of associations fill in because the State fails to fulfil its role, but with often only limited impact, since there are obstacles / negligence at all levels.

### Rights, duties and responsibilities

- J.L. Cordier: the word “right” is used abundantly in the texts, but not the word “duty”. Yet, as far as education is concerned, it is essential to put this concept across. Only the African



Charter refers to it on 2 occasions, and explains why. The notion of “duty” highlights the value of community, whereas “right” is more focused on the individual.

- E. de Boevé: many States fail to honour their obligations towards these minors. It is important to keep in mind that a child/young person is developing until the age of 18; his or her responsibilities to society are not the same as those of adults.
- Don't forget also that a large number of young people detained in Africa are innocent of any crime!
- Question of “rights”/ “duties”: speaking of the 2<sup>nd</sup> does not necessarily mean a way to avoid the 1<sup>st</sup>. The question is rather the type of learning we wish to offer.
- JJ. Schul: role of the family. Many children end up in prison because their parents have failed to meet their parental responsibilities (negligence, mistreatment, etc.).
- J. de Cock: invest in creating links with the community (scouts, churches, local authorities, etc.).

#### **Social perceptions of imprisonment and impact on intervention by civil society**

- M. de Maeyer: it is essential, especially in prison, for civil society to play a role.
- A. Ntignoi: in many cultures, incarceration means shame, rupture. Therefore the involvement of civil society must take this into account, as it makes it difficult to accept initiatives taken on behalf of these young people.
- P. Muanda: importance of local culture and perceptions of incarceration. It is difficult for local civil society to mobilise on behalf of young people who are often regarded as bad / at fault.  
Importance of raising the awareness of local communities (i.e. beyond the prison) in order to change perceptions.
- A. Rahamatali: necessary to educate civil society, especially the families, who still consider prison as a way of punishing their children.

#### **Pertinence and ongoing relevance of “humanitarian” intervention – responsibility of States**

M. de Maeyer: is it normal to work long-term with resources that are but palliative in nature? For example, using detainees as teachers: it is acceptable to fill a gap, but raises a series of practical and fundamental problems, namely, that the structures of education in prison are and remain absent. The budgetary argument is fallacious: it is just a question of political priorities (in part linked to social perceptions).

- MN. Rodriguez: the EuroSocial programme was aimed at helping countries in Latin America put in place adequate judicial and correctional policies. Objective: accompanying, without



replacing, the role of the State. Putting in place programmes that can be handed over and continued up locally in the long run. E.g. pilot project in Argentina of “open libraries” in 50 correctional centres. At the end of the programme, and in light of the results, the Argentine ministry decided to continue the project with its own funding and to expand the programme to 200 additional centres, providing libraries and training for the staff.

States need to be given the means of appropriating projects and promoting the adoption and expansion of good practices at regional/national levels. Thus, this one project inspired initiatives in other countries of the region.

Dialogue between NGOs / governments: e.g. CONFINTEA 2010 (intergovernmental and civil society, but with limited representation) was preceded by FISC 2010, to allow civil society to express itself, and bring forward its demands during CONFINTEA; their motion was entered in the final resolution by CONFINTEA.

### **Punitive or restorative justice?**

- A. Bruneau: move towards decriminalising the treatment of minors in conflict with the law, and towards a restorative justice approach. E.g. restorative circles. This requires work on the system as a whole: justice, correctional staff, etc.

The practice of restorative justice is typical / traditional in Africa (talking tree). Judicial treatment is a European import!

### **HOTEL PRISON: MEETING PRISONERS AROUND THE WORLD**

*Jan de Cock, Within Without Walls ASBL, author of the book ‘Hotel Prison’, (French version ed. Racine, Dutch ed. Lannoo)*

M. de Cock spoke of his visits to prisons around the world and his encounters with detainees. He described the realities of life behind bars, of the abuse of rights and harsh living conditions, but also the hope, fraternity and creativity found among the detainees.

### **WORKING GROUPS**

*Cf. Conclusions and Recommendations*



## ANNEX A: PROGRAMME

### Tuesday 18 January 2011

- 9:00-9:30 **Welcome of participants** (workshop's objectives, main issues and challenges, tour de table)  
*Mr Jean-Jacques Schul (President of IDAY-International)*
- 9:30-10:15 **Introduction: Education in prison, utopia and necessity**  
*Speaker: Mr Marc de Maeyer (former UNESCO senior researcher)*
- 10:15-10:30 *Coffee break*
- 10:30-11:15 **Situation review** (mapping of interventions, broad analysis and cross-cutting issues *(based on survey)*)  
*Presented by Mr Benoît van Keirsbilck (President of DCI-Belgium) and Mr Pierre Muanda (pyschopedagogue, non-violent communication specialist)*
- 11:15-12:30 **Round table**
- 12:30-13:30 *Lunch break*
- 13:30-15:15 **Workshop session 1**  
**Working group 1:** How to mainstream education in prison issues in global Education for All programmes?  
*Moderator: Mr Marc de Maeyer*  
**Working group 2:** Dialogue between the African civil society and their government  
*Moderator: Mr Edwin de Boevé (Dynamo International)*
- 15:15-15:30 *Coffee break*
- 15:30-17:15 **Workshop session 2**  
**Working group 3:** Fostering an integrated approach to education, children's rights and justice  
*Moderator: Mr Benoît van Keirsbilck*  
**Working group 4:** Enhancing relationships between African civil society organisations and the donor community  
*Moderator: Mr Jean-Jacques Schul*
- 17:15-17:30 **Closing remarks**

### Wednesday 19 January 2011

- 9:00-10:00 **'Hotel Prison': meeting prisoners around the world**  
*Speaker: Mr Jan de Cock (Within-Without Walls asbl)*
- 10:00-10:15 *Coffee break*
- 10:30-12:00 **Summary of the workshops; proposed conclusions & recommendations and resolutions for a way forward**  
*Presented by Mr Benoît van Keirsbilck*



## ANNEX B: PARTICIPANTS LIST

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