

WORKSHOP

EDUCATION OF MINORS DEPRIVED OF LIBERTY IN AFRICA

18-19 January 2011

City Hall of Brussels

REPORT

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OBJECTIVES OF THE WORKSHOP

1. **Highlight the issue** of the right to education of children and young people deprived of their liberty – education being understood in a comprehensive way (cf. Presentation of Marc de Maeyer, former UNESCO senior researcher on education in prison). This question must be recognised and fully integrated into national education for all programmes as well as into donors' programmes.
2. Bring about **better coordination** between all stakeholders involved in this sector, among European actors on the one hand and African ones on the other, and in the long term between these two groups, by supporting African organisations engaged in this issue and in cooperation with their governments. The limited number of NGOs involved in this sector is quite telling, as is the lack of interest of a great majority of bilateral and international donors and international agencies responsible for promoting the right to education of this youth.
3. Examine the **practical contingencies to be addressed** in view of promoting quality basic education to all minors deprived of their liberty in Africa, and outline which actors could take part in the conception and implementation of the proposed actions.
4. Examine **how to contribute to coordinating and enhancing the relationship between African organisations and their governments** to progressively improve access to basic education in detention environments, taking stock of relevant experiences existing on other continents.

In conclusion, the aim of this gathering was not to establish operational schemes – i.e. how to train guards, manage a library, conceive the role of teachers, design curriculums or ship school supplies – but rather to **propose a decision-making process** supportive of the emergence of a constructive tripartite relationship: African civil society, representatives of responsible authorities and European stakeholders, so as to significantly improve the education of minors deprived of their liberty in Africa.



Cf. Programme in Annex A.

Profile of the participants

This workshop aimed at **gathering the various European stakeholders** (public and private, governmental and non-governmental) involved – or at least interested – in this issue to evaluate conceptions and the willingness to engage in coordinated support – rather than replacement – of African stakeholders. To this end, the workshop targeted as a priority European NGOs and donors, with a view to consulting and mobilising them.

Despite continuous efforts to contact multiple institutions and organisations over several months, participation was limited to organisations and individuals already highly mobilised around the issue (cf. Participants list, Annex B). It is worth noting the absence of public entities or international organisations concerned with development aid, education and juvenile justice.

Summary of the sessions

This workshop took place over a day and a half and followed a three-fold programme: the first session was designed to outline the issue of education of minors deprived of liberty in Africa and engage participants in a round table discussion on the topic; in a second session, four thematic workshops allowed the participants to look into the issue and possible intervention schemes; the third session was dedicated to drawing conclusions and recommendations.

The first session opened with the presentation of the objectives of the workshop and a presentation by Marc de Maeyer, former UNESCO senior researcher on education in prison, on “education in prison: utopia and necessity”. He recalled the 3 fundamental paradoxes of education in prison in the African context: 1) while considered a development priority, education is not necessarily reflected as such in national and development agencies’ budgets, especially when it comes to the most destitute / excluded groups; 2) the lack of demand for education on behalf of the detainees; 3) the notion of being “in conflict with the law” in states that are in conflict with their own law and therefore inadequately respect fundamental rights. M. de Maeyer then set out principles that should guide the conception of this education: not education in prison designed as a poor education for the poor, nor as a means to achieve social order in detention facilities or to reduce recidivism, nor as a way to make detention acceptable or bearable; learn (again) to learn; stimulate demand for education; guarantee valuable educators; consult the detainee; recognize prior knowledge and expertise of the detainee. In short, a quality education derived from a universal right. He concluded by proposing two lines of action: exploring possible alternatives to imprisonment in countries where the State is failing; mapping existing regulations and laws in the various African countries.

Benoît van Keirsbilck, president of DCI-Belgium, reviewed existing international instruments pertaining to juvenile justice, the right to education and treatment of minors deprived of their liberty. He stressed that these standards are still flouted in many an African country, starting with the essential principle that imprisonment of minors shall be a measure of last resort, applied exceptionally and for the shortest possible period. Over one million minors are estimated to be deprived of their liberty worldwide, many of whom have not been detained for any proven offence. Deprivation of liberty often results in deprivation of other rights, among which the right to quality basic education. Mr. van Keirsbilck noted that prison is not a normal educational environment and insisted on the importance of prioritizing approaches focused on prevention, improvement of people’s living conditions – especially access to basic social services – and on the necessary distinction between the responsibilities and judiciary treatment of adults on the one hand and minors on the other hand.

Pierre Muanda, trainer in Non-Violent Communication, presented the results of the survey initiated in preparation of the workshop with the aim of mapping the stakeholders and their interventions on the issue. As primary conclusions, he highlighted the very low number of responses received as a telling sign of general lack of interest in



the topic, the difficulty of working in detention facilities, the lack of coordination among the various stakeholders (especially among civil society organisations) and the priority given to basic services delivery (food, health, clothing) and judiciary assistance above educational activities.

This first session ended with a round table addressing various aspects such as the role and position of local civil society, rights and responsibilities, socio-cultural perceptions of detention a detainees, the relevance and sustainability of the “humanitarian” approach to protecting detainees’ rights and restorative justice.

During the second session, four working groups examined and made proposals on the following themes:

- How to mainstream education on prison issues in global Education for All programmes?
- Dialogue between African civil society and governments
- Fostering an integrated approach to education, children rights and justice
- Enhancing relationships between African civil society organisations and the donor community

These working sessions resulted in the formulation of the conclusions and recommendations presented hereafter.

In the last session, Jan de Cock talked about his experience of visiting prisons and meeting detainees around the world, as narrated in his book *Hotel Prison*. He talked about the realities of life in prison, abuse of rights and harsh living conditions, but also about the humanity, fraternity and creativity that can be found in prison.



CONCLUSIONS & RECOMMENDATIONS

As a preliminary to the conclusions, the participants agreed on the importance of defining a number of key concepts used during the discussions and in the conclusions and recommendations.

DEFINITIONS

Deprivation of liberty: “The deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority.” Article 11. b), United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules).

Detention centre: any public or private custodial setting where a person sentenced by a court of justice, awaiting trial or under arrest is detained by order of a judiciary, administrative or other public authority without the permission to leave at will.

Minor: “A juvenile is every person under the age of 18. The age limit below which it should not be permitted to deprive a child of his or her liberty should be determined by law.” Article 11. a), United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules).

Education: cf. Article 29. 1) of the Convention on the Rights of the Child and General Observation n°1 of the Committee of the Rights of the Child on the *Aims of Education (2001)*. The notion of “education” ought to be understood comprehensively, i.e. to include formal, non formal and informal forms of education.

Civil society (UNESCO definition): it is composed of the totality of voluntary civic and social organizations and institutions that form the basis of a functioning society, as distinct from the force-backed structures of a state (regardless of that state's political system) and commercial institutions of the market.

“In the context of education for all, civil society can be understood as all non-governmental and non-profit associations involved in education. It embraces groups such as campaign networks, teacher unions and religious organizations, community associations and research networks, parents' associations and professional bodies, student organizations, social movements and others.” (Civil Society, UNESCO, Education For All).

Dialogue: communication between two or several persons or groups of persons directed towards an agreement on a specific issue. Political dialogue should include all actors (socio-political, unions, intellectuals, researchers, representatives of governmental and international organisations, party leaders, representatives of civil society organisations and of private sector organisations) concerned by the matter at stake.



OBSERVATIONS

- A. The issue of minors deprived of their liberty in Africa and of their rights, including their right to quality education, is widely **overlooked, if not neglected or negated**, by a majority of actors at national and international levels.
- B. The few stakeholders identified seem to act in isolation from each other **without real coordination** at national or regional levels. Interventions rarely involve advocacy; they are, rather, focused on providing detainees with direct assistance and prioritise basic needs other than education.
- C. There is great **vagueness on the scope of the phenomenon** in Africa: data is poor and few studies have been conducted.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

- D. **Reality principle:** depriving minors of their liberty should be a measure of last resort, yet in many instances it is applied in an abusive manner contradicting national and international standards. Raising the issue of education of detained minors does not mean accepting abusive situations. It is about addressing a reality that one must make do with, with the aim of preventing these minors from being denied their other rights.
- E. **Modalities of action for civil society:**
 - a. Stimulate local and international NGOs to develop a global vision: **“act local, think global”**;
 - b. Ensure that the issue of minors deprived of liberty in Africa is put on national and international agendas, particularly in the context of Education for All (EFA); integrate the issue into the programmes and activities of participating organisations.
 - c. **Prioritize advocacy on behalf of the rule of law** over charity interventions in order to achieve global and long-lasting impact and to encourage local public authorities to assume their responsibilities;
 - d. Improve the **articulation between local and international civil society**.
- F. Need to raise the question **of the use and the impact of cooperation funds**, both public (governmental and multilateral) and private:
 - a. Encourage allocation of adequate funding to education in prison while demanding better utilisation of the funds by receiving States (efficiency);
 - b. Encourage donor countries to support advocacy and civil control, especially local and international initiatives concerning the rights of minors deprived of liberty in Africa.
- G. **Mapping:**
Continue, in greater depth, the **mapping** out of minors deprived of liberty in Africa: how many are they? What are the reasons for and conditions of their detention? What are the gaps and needs? Which actors are doing what? Which best practices can be identified?



AXIS 1:

HOW TO MAINSTREAM EDUCATION IN PRISON ISSUES IN GLOBAL EDUCATION FOR ALL PROGRAMMES?

Challenge: how to articulate specific situations / local intervention with a global-reaching action to progress towards Education for All (EFA)?

Preliminary principles and observations:

- *“Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty.”* Article 38, United Nations Rules for the Protection of Juveniles Deprived of their Liberty;
- Paradox of promoting the education of minors in detention while condemning the principle of depriving minors of their liberty;
- Existence of a *de facto* peer education in prison, which does not necessarily meet the educational aims as understood under the Education for All goal;
- Importance of promoting simultaneously quality national education systems in general and quality education in detention in particular.

Recommendations:

- H. **Engage in multi-level awareness-raising and dialogue** on the importance of ensuring **education to minors in detention** both as a fundamental right and a means for personal development and reintegration; to be integrated with wider awareness raising on the **reality of detention in general**:
- a. Raise awareness among families & communities, when possible using local languages, to foster a change in negative perceptions / stigmatisations of prison life and detainees (irrespective of the rightfulness of the detention). Work on maintaining / rebuilding family bonds;
 - b. Mobilise traditional authorities (community and religious);
 - c. Call on and consult with local, national and regional (ex: African Union) authorities of the justice, education and family sectors;
 - d. Raise awareness among the international public and donors (public and private);
 - e. Systematically highlight the issue of the rights of minors deprived of liberty in Africa in the context of international mechanisms dealing with Human Rights and when monitoring their implementation. Ex: Human Rights Council, Special Rapporteur on the Right to Education, Committee of the Rights of the Child, Special Rapporteur on violence against children, Universal Periodic Review, African Commission on Human and Peoples’ Rights, UN Group of Experts on Arbitrary Detention, African Court on Human and Peoples’ Rights, etc. Organise side events to raise awareness among State officials and other key stakeholders;
 - f. Invest in joint communication (e.g.: through a joint campaign).
- I. Campaign for the **explicit inclusion of education in prison in policies, interventions and discourses related to EFA**, while also taking into account a number of **specificities**:
- a. Provide educational programmes that are similar to and integrated with the general educational system; ensure the quality of education as well as the validity and equivalence of diplomas and educational certificates that are awarded.
 - b. Develop appropriate vocational training (while avoiding that employability becomes an end in itself).
 - c. Take into account the notions of violence (physical, institutional) and learning / exchange conditions in detention contexts.
 - d. Foster the demand for education (learning motivation).



AXIS 2:

FOSTERING AN INTEGRATED APPROACH TO EDUCATION, CHILDREN RIGHTS AND JUSTICE

Preliminary principles and observations:

- Being unaware of one's rights and of their violation is a first obstacle to their realisation;
- Paradox of defending human rights in contexts of lawlessness;
- Punitive justice may have adverse and irreversible effects, especially on minors. Preventive and restorative approaches should be given priority;
- Detention must be limited to a deprivation of one's liberty and not infringe other rights. *"Juveniles deprived of their liberty shall not for any reason related to their status be denied the civil, economic, political, social or cultural rights to which they are entitled under national or international law, and which are compatible with the deprivation of liberty."* Article 13, United Nations Rules for the Protection of Juveniles Deprived of their Liberty;
- *"The juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles. Imprisonment should be used as a last resort."* Article 1, United Nations Rules for the Protection of Juveniles Deprived of their Liberty;
- *"The juvenile justice system shall 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 offence."* Article 5.1, United Nations Standard Minimum Rules for the Administration of Juvenile Justice.

Recommendations:

- J. Raise the question of **priorities**: assistance interventions in detention contexts in Africa usually give priority to addressing unsatisfied basic needs (food, water, health, etc.) rather than educational needs. Is this prioritization relevant? Can such a choice be made, should it be made?
- K. Integrate **education on human rights** (and responsibilities), including the right to education, in interventions designed to provide assistance to minors deprived of liberty.
Ex: *Guide du détenu en détention provisoire* (French / Wolof) disseminated in detention centre in Senegal.
- L. Foster mechanisms enabling detainees to **exercise their rights**.
E.g.: creation of restorative circles, paralegal structures, etc.
- M. Insist on the training of **penitentiary and judiciary personal**.
- N. Foster the emergence of **restorative rather than punitive justice** so that imprisonment remains an extraordinary measure used as a last resort. Value the **resilience** capacity of children.



AXIS 3:

DIALOGUE BETWEEN THE AFRICAN CIVIL SOCIETY AND THEIR GOVERNMENT

Preliminary principles and observations:

- As an actor in democracy, civil society holds a responsibility to ensure that the fundamental rights of minors deprived of their liberty are respected. It commits itself and the State to it. Many States acknowledge that they cannot achieve Education for All (EFA) without civil society; for civil society actors, this means displaying an attitude of constructive dialogue while being attentive and critical when appropriate;
- African civil society should be at the forefront of dialogue and advocacy with national and local authorities;
- Advocacy is to be prioritised to achieve a global and long-lasting impact.

Recommendations:

M. **Nurture and develop multi-level awareness raising and dialogue.**

Cf. Axe 1. H)

- N. Use **communication means and media that are the most adapted** to the target audience (e.g.: local language, community leaders, oral or visual messages, theatre, music, etc).
- O. **Advocate based on the experience** of realities in the field.
- P. Give priority to **positive advocacy**, i.e. going beyond mere denunciation and highlighting possible solutions and best practices.
- Q. **Coordinate** the action of the various stakeholders and the levels of intervention.
- a. Support coordination efforts between organisations and their respective interventions **at local level** so as to limit adverse competition effects.
 - b. **Improve the articulation of local and international civil society** to optimise the impact of each other's interventions. Systematically design external interventions to support those of local stakeholders. Engage in concerted and case-by-case evaluation of the most appropriate actions and level of intervention.
 - c. Foster **partnerships** and **strategic alliances** between local and international / foreign actors.
Ex: mobilise ambassadors, religious networks, etc.



AXIS 4:

ENHANCING RELATIONSHIPS BETWEEN AFRICAN CIVIL SOCIETY ORGANISATIONS AND THE DONOR COMMUNITY

Challenges:

- Local NGOs have little access to foreign aid;
- Issue of aid efficiency;
- Role and leeway of the African Diaspora;
- Reduction of international aid funding for NGOs;
- Little interest of donors in the theme.

Recommendations:

- R. Support local / national **coalitions** and encourage them to join **international networks** as ways to:
- a. Strengthen the credibility of local organisations by presenting a collective, legitimate interlocutor able to raise questions and advocate;
 - b. Foster collective accountability;
 - c. Foster South-South and North-South synergies and collaborations.
- S. Engage civil society in the North to advocate for European donors to prioritise support to **African civil society, especially for their advocacy efforts on EFA**, rather than 'charity' service-delivery activities.
- T. **Diversify financing sources:** Europe, United States (philanthropic institutions), China, African Development Bank, decentralised cooperation (ex: twinning).
Further investigate which stakeholders finance actions related to juvenile justice and education of minors deprived of liberty.
- U. **Mobilise the African Diaspora** and encourage coordination on:
- a. Collective support to actions (advocacy and service delivery) carried out in their respective countries of origin.
 - b. Assisting local organisations in meeting the financing requirements of European donors.



WAY FORWARD: PRACTICAL RESOLUTIONS

- Mid-term objective: sustain the process and engage with African civil society organisations in view of organising a regional meeting / forum in Africa on the issue, based on modalities to be determined together.
- Coordination: the committee responsible for organising this workshop is to be maintained. It will take steps and coordinate action to implement the recommendations and practical resolutions that were decided.
- Dissemination of the workshop's conclusions and recommendations (in FR and EN):
 - via the communication tools of participating organisations / individuals: websites, newsletters, other publications and media;
 - on the website of the Intergovernmental South-American network for education in detention www.redlece.org;
 - to the Global Campaign for Education;
 - to the Child Rights International Network (CRIN);
 - by presenting the conclusions & recommendations to the Human Rights Council (March 2011).
- Identify publications in Africa and in Europe for integration of articles, interviews and information on the issue.
- Put the issue of education in prison on the agenda of the triennial General Assembly of Defence of Children International (DCI) in Uganda (2011), and examine the opportunity of combining it with a forum dedicated to this specific topic.
- Lay out a strategy to make use of side events as a tool to highlight the issue on the occasion of high-level meetings in Africa / Europe, thereby raising awareness among States and donors – and the public at large.
 - Set up an agenda of events and monitoring mechanisms touching upon Human Rights;
 - Approach the Association for the Development of Education in Africa (ADEA) to suggest that an activity on the issue be included in the programme of their next Triennial event (December 2011, Ouagadougou);
 - Propose a specific event on the issue to the Human Rights Council;
 - Approach Education International for the theme to be included in their activities;
 - Approach the World Organisation Against Torture (OMCT) to inform them of the initiative.
- Suggest that over the next 3 years, a report of the UN Special Rapporteur for the Right to Education (or the Special Rapporteur for Human Rights) be dedicated to the issue of education of minors deprived of their liberty.
- Institutions to approach / follow-up with:
 - African Commission's Special Rapporteur for prisons (www.acphr.org)
 - European Commission
 - European Ministries of Development Cooperation



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 (psychopedagogue, 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

NAME	SURNAME	FUNCTION	ORGANISATION	EMAIL
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