



Report

THE CHALLENGES OF JUSTICE WITH CHILDREN IN THE 21ST CENTURY: ACT NOW!

First advisory meeting for the 2025 World Congress
on Justice With Children

Madrid, 2022



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ABSTRACT

08 March 2022

09.00 – 16.30 CET

Hybrid attendance (face-to-face and online)

The **International Day of Dialogue: The Challenges of Justice for Children in the 21st Century: Act Now!** The event has been organized within the framework of the **CONVENIO, "Ensuring access to juvenile justice adapted to children and adolescents, articulated in the Child Protection System"** by **Tierra de Hombres-Spain Foundation**, with the support of the **Spanish Agency for International Development Cooperation (AECID)**. Together with **the Global Initiative on Justice With Children**, represented at this event by the **Terre des Hommes Lausanne Foundation and with** the participation of the **Pontifical University of Comillas**.

This event is part of a series of preparatory meetings at the regional and national level to define the main challenges and priorities for the advocacy of justice for children, as well as to present recommendations and proposals for themes, agendas, and activities for the next World Congress on Justice With Children 2025.

The main purpose of these events is to promote meeting spaces for stakeholders' involvement in different areas of society who are professionally or personally interested in the subject. As well as facilitating the participation and exchange of experiences, good practices, and attitudes that promote citizen co-responsibility in the light of this reality and considering the local/global approach.

The event was held on **March 8, 2022**, at the **Universidad Pontificia de Comillas ICAI-ICADE**, with the primary purpose of an in-depth analysis of the challenges of juvenile justice. Specifically, this event was an opportunity to create a space for international reflection on community empowerment with a focus on restorative juvenile justice and the traditional justice model of Mauritania, climate justice, and digital justice.

The event brought together, online, and face-to-face, more than 80 participants, including representatives from international institutional experts from government and state agencies, as well as representatives from the public and private sectors, civil society, and academia. Due to health restrictions in the country, the event took a hybrid form: some participants attended in person at Comilla's University, and others joined online through the Collaborate platform.

The main objectives of the meeting were:

- Determine **juvenile justice thematic priorities and trends**.
- Nurture reflection on **innovative ways to ensure that the community has a more active, broader, and closer involvement in restorative juvenile justice**.
- Consider the **impact of climate change on justice systems and children in contact with the law**.
- Reflect on **the advantages and disadvantages of the use of technologies and the digitization of justice in cases of children and youth in conflict and contact with the law**.
- Bring together **policymakers, academics, and civil society representatives** with relevant experience and influence in **Juvenile Justice** to identify **key areas of interest**.

Introduction

The General Director of Childhood, Family, and Birth Promotion of the Community of Madrid, **Alberto San Juan Llorente**, inaugurated the event, thanking the development of spaces like this and remarking on the honour and duty to participate in them. Thus, **San Juan Llorente** reaffirmed his support for all juvenile justice initiatives. **"All children should be legally protected by institutions. For that reason, it is important to be able to count on them. We want a world where children can live with dignity and grow up in a protective environment. Children often feel guilty because the system does not trust them. Let's hope this meeting will be useful for the congress to be held in 2025."**

This event was followed by the opening of the dialogue, beginning with Federico de Montalvo Jääskeläinen, Vice-Rector for Inter-institutional Relations at Comillas Pontifical University. De Montalvo is a child and adolescent rights, researcher. **One topic he is particularly interested in is health in which he considers issues such as COVID vaccinations for children.** De Montalvo **commented on the difficult times we were living in and asked for a minute of silence for peace and in tribute to the victims in Ukraine.** It is difficult to talk about justice in a time of barbarism, and it is especially surprising after the pandemic. "People should now understand what life and hope are," he said.

Yann Colliou, head of the Access to Justice program of the Terre des Hommes Lausanne Foundation, added that in several countries, including Spain, the reasons why children come into conflict with the law may stem from the protection system itself. In addition, concerning the overall detention rate, he mentioned that currently, 70% of children deprived of their liberty are in pre-trial or provisional detention and that more than 60% of this population in pre-trial detention are eligible for de-judicialization measures. This tells us that globally, about 50% of the world's detainees should not be in prison.

Concerning community based justice, **Yann Colliou** stated that, at present, more than 80% of justice decisions in the world, especially in developing countries, are taken at the community

level, at the traditional or informal level. These examples indicate that it is necessary today, in terms of justice decisions, specifically those directed at children and adolescents, to contemplate new forms of justice delivery. These forms must be accordingly innovative and find a balance between global international cooperation on the one hand, and sustainable collaboration with the academic sector, civil society, and judicial institutions, on the other hand, to advance access to justice for all children.

In her speech, **María Antonia Jiménez**, President of Tierra de Hombres Foundation-Spain, added that it is essential for all those responsible for the judicial system to work together to move forward during an era of economic, social, and health crises. **“We must ensure that societies have an effective protection system because children will suffer. TDH foresees a humanitarian crisis and thanks to AECID today we will draw very significant conclusions on how to deal with it. The World Congress has served to draw decisions that help us in our work. Many children and adolescents have committed a summary offense and are consequently considered delinquents. They have been imprisoned because they are often not offered any alternative; they have no other choice, which causes critical physical and psychological damage. We have asked governments and their institutions to solve problems such as child trafficking, which should be recognized as a crime against humanity; that is why we are asking for new protection systems. The judicial system should protect children. Children should not be imprisoned; all children everywhere have the right to justice.”**

Cédric Foussard, Coordinator of the **Global Initiative on Justice with Children** and Advisor to the **Juvenile Justice Program** at **Terre des Hommes, Lausanne**. **Mariana Pérez Cruz**, Project Assistant of the Global Initiative, presented the results obtained at the World Congress on Justice with Children 2021, including the presentation of the **Global Declaration on Justice with Children**, which aims at the genuine realization of equal and non-discriminatory access to justice for all children, now and in the future.

The World Congress took place in November 2021 and focused on **“Ensuring access to justice for all children, towards non-discriminatory and inclusive justice systems.”**

Mexico's Supreme Court of Justice hosted the event, which was held online. Some 4,800 intergenerational participants from more than 100 countries attended, and child participation was higher than at previous World Congresses. Children with lived experiences of the justice system from various regions of the world were heard. Some of the topics discussed during the Congress were racial discrimination, sexual discrimination, unaccompanied children affected by migration, and health and age discrimination.

The outcome of this Congress was the Global Declaration, drafted by the World Congress Consortium and its Children and Youth Advisory Group (CYAG), with input from the Scientific Committee, organizing partners, and participants in the World Congress and its preparatory meetings. It is a call to action for true justice for children; equal access to justice for children without discrimination, resilient access to justice for children in crisis and pandemic contexts, and child-friendly access to justice for all children in contact with the law. This document was endorsed by Terre des Hommes Lausanne, Penal Reform International, UN agencies such as UNICEF and UNODC, the Special Representative of the Secretary-General on Violence Against Children, Pathfinders SG16, Baker McKenzie, and the Mexican Supreme Court of Justice.

Likewise, **Jesús Pérez Campos**, head of the International Cooperation Department of Tierra de Hombres Spain, presented the project **"CONVENIO": Case management of children in conflict with the law, a model of traditional justice in Mauritania**.

Jesús Pérez: "The Convenio implemented in Mauritania started in 2019. We are almost finished because it was planned to last four years. These international days of debate are also part of the project because one of its objectives is to raise awareness about the importance of justice, of course, not only in Mauritania.

The Convenio was based on three pillars and had **three main objectives**:

1. Ensure access to justice, train, and build institutions in Mauritania. Educate people about children's rights and access to justice.
2. Strengthen the application of customary justice to contribute to the respect of the rights of children in contact with the law in Mauritania. Collaboration with local institutions and agencies to work with children and support them socially. Alternatives for children have been sought, focusing on de-judicialization and education to reduce the negative impact of punishment on children in conflict with the law.
3. Prevent violence, especially gender-based violence, which affects girls and women. The good thing about this project is that we are not only focusing on traditional justice, but also customary justice. We will elaborate on the meaning of these terms later (see Section 3. Community empowerment).

1. Children in the digital environment: the challenges posed by new technologies

What should be the new protective measures for children in a modified digital justice system?

During the COVID-19 pandemic, the **digitization** of justice systems, particularly remote court hearings, may have proven to be cost-effective and possibly efficient. However, several fundamental issues need to be considered in terms of **equitable access to justice**.

Carles López Picó, president of the Platform of Children's Organizations, facilitated the exchanges at the round table on "**Children in the digital environment: the challenges posed by new technologies**". While the pandemic forced justice systems to be resilient and to adapt to an adverse context, with the digitization of judicial systems and remote hearings, many challenges remain. For example, protocols for virtual proceedings that are exclusive to specific jurisdictions. **López Picó** said that "**we find ourselves in a changing society where children's rights are constantly threatened in many situations. For example, the health pandemic we have experienced has meant that access to justice systems has been restricted because we have had to work online. This has given rise to new issues that need to be discussed, concerning the CRC, such as the right to privacy, as well as ensuring a fair legislative procedure for children.**"

Alexandra Martins, Head of the **Global Programme to End Violence against Children at the United Nations Office on Drugs and Crime (UNODC)** in Vienna, began her participation by inviting reflection on the guiding principles of juvenile justice as set out in international law: the principle of non-discrimination; the right to life and development; dignity; the best interests of the child; the right to participation; proportionality, the importance of alternative measures to judicial proceedings; procedures without delay, the presumption of innocence, detention as a measure of last resort. These principles must be respected in all circumstances and cannot be subject to any exception or derogation, even in the times of crisis or change in which we are living now, including when new modes or technologies of justice delivery are adopted.

Alexandra Martins: "We are amid a pandemic and ongoing transformations that will persist and change the way we approach and define juvenile justice in the future. This is an opportunity for us to stop and reflect on what we know and what we need to know to help countries ensure that justice systems better serve and protect children during this process."

During her intervention, **Martins** mentioned advantages and disadvantages of the use of technology in court proceedings. Amongst the **advantages**, it was found that online proceedings can reduce children's anxiety associated with attending court in person, as well as reduce the risks of re-victimization by avoiding direct contact with the offender by child victims and witnesses.

In terms of **disadvantages**, the right to non-discrimination may be affected when children from marginalized communities cannot access video procedures due to unequal access to technology and a lack of knowledge about their use (digital divide). Similarly, their right to effective participation is affected when children are not informed and assisted in a child-friendly manner and when they have difficulties in understanding and expressing their views on the digital

procedures they are interested in due to a stressful and unfamiliar environment.

Alexandra Martins emphasized the importance of advocating for courts, when developing policies for remote proceedings, to consult with a wide range of stakeholders, and applying a multidisciplinary approach adapted to juvenile justice, as well as considering the child's best interests. **"We need codes of conduct and mitigation measures,"** she recommended.

Angela Vigil, Executive Director, Pro Bono Baker McKenzie Practice, stated that as a practitioner and legal representative of children in the justice system, it is common to encounter constant challenges in preserving and balancing children's best interests and the fundamental legal guarantees for children in justice systems and their courts.

Angela Vigil: "If through a reasonable standard for children, certain techniques can be carried out digitally, then we can consider continuing with them. However, if under the same standard, the impact of digital procedures does not give [children] a complete understanding of their rights. Children's ability to participate meaningfully in all aspects of the system, then we are not meeting the system's expectations, and we cannot let our progress on a digital platform continue without those guarantees."

Angela Vigil shared that the Global Initiative on Justice with Children, with the support of Baker McKenzie's pro bono department and Google, is developing a project of interviews with judges from different jurisdictions around the world, with some preliminary results. **"We have a report made from interviews with judges from around the world that shows that although the legal system tried to analyse the children's understanding of the virtual process, delays have been a major problem during the pandemic. Therefore, they were unable to spend more time on the necessary analysis."**

A US national study of children's legal advocates was also mentioned, which addresses how digital platforms have affected their ability to serve. This study raised the issue of whether there is room for confidential conversations within digital platforms between an advocate and the represented child. For the most part, communications between the child and his or her advocates had to be rapid and, sometimes, incomplete if confidentiality was desired. Some judges reported intermittently providing restrooms for the child and his or her lawyer during the court process. However, this was infrequent. Angela Vigil asserted that these challenges in juvenile justice existed before the digital transition. However, now the challenges are more visible and have become more pronounced. Judges have become accustomed to the digitized functioning of the court system, but none reported an increase in reasonable actions taken by the courts to ensure confidentiality in conversations or to encourage friendly interactions between children and their legal advocates.

After the intervention of international experts, the debate was opened to national experts.

Pilar Lizán, an Expert of the Agency for the Re-education and Reintegration of Juvenile Offenders of the Community of Madrid (ARRMI), took up the issue of the advantages of the digitalization of court hearings from a national perspective, such as the continuity of proceedings and, in special cases, for example, in hearings of preventive measures.

Pilar Lizán: "We cannot stop executing court sentences; minors are in internment centres and are detained, and we have to guarantee their rights. They must maintain frequent dialogue with their lawyers." In turn, he mentioned that in the ARRM of the Community of Madrid, the execution of judicial sentences in freedom is sought and that in these processes, it has been necessary to use technologies for their follow-up. For this, it has been required to merge traditional

education with modern technological tools and platforms. Pilar also stressed that ARRMI focuses **"more on education and relapse prevention than on the punitive field. And she considered it essential to continue researching to improve."**

Cristina San Juan, Technician of Awareness and Policies for Children at Save the Children Spain, began by mentioning that the General Comment No. 25 of the Committee arrived last year. It is focused on the interaction of children with justice and how technology also affects this interaction. **San Juan** says that in the field of juvenile justice there is much talk about cybercrime, children's involvement in online violence, and the criminalization of children's behaviours that can be considered offenses, such as generating digital material with sexual content and sharing it without the owner's consent. She also mentions the possibility that the digitization of justice may have a significant impact on children due to the lack of direct contact, such as in face-to-face hearings. This is where an appropriate balance between more personal and direct contact on the one hand, and the speed and advantages that technologies can provide, on the other hand, must be considered.

José Antonio Luengo - President of the Madrid College of Psychologists, expressed the need for a hybrid system where it would be possible to hold face-to-face and online sessions as part of a better adaptation of the justice system to the needs of children. According to **Luengo**, psychological studies have looked at the needs of children and adolescents, particularly in terms of access to justice. In addition, **Luengo** mentioned that the Community of Madrid has adapted to the digital delivery of justice in response to the COVID-19 pandemic. These adaptations have had their advantages, such as not paralyzing judicial processes.

Main conclusions of the session

- During the COVID-19 pandemic, the **digitization** of justice systems, in particular remote hearings, may have proven to be cost-effective and possibly efficient. However, several fundamental issues need to be considered in terms of **equitable access to justice**.
- The guiding principles of juvenile justice established in international law, such as the principle of **non-discrimination, the best interests of the child**, the right **to participate**, the primacy of **alternatives measures** to judicial proceedings, procedures without delay, and detention as a last resort, should always be present, even during times of crisis and technological changes in justice systems.
- Policies for remote proceedings should be developed with a **multidisciplinary** approach.
- The impact of **digital procedures** must ensure a complete understanding of **children's rights** and consider their ability to **participate** meaningfully in all aspects of the **system**.
- **Education** and **prevention** in **juvenile justice** systems and processes must continue to be emphasized

2. Environmental crisis and climate justice: the basis for the forthcoming general comment on climate justice by the CRC Committee

Climate justice addresses both the ethical and practical dimensions of climate change. Applied ethics, research, and activism using this term address anthropogenic climate change as an ethical, legal, and political issue rather than as a purely environmental or physical issue. To this end, the causes and effects of climate change are related to the concepts of justice, in particular environmental justice, and social justice. Climate justice examines concepts such as **equality, human rights, collective rights, and historical responsibilities** for climate change. Climate justice actions may include a growing body of legal actions around the world.

The second-panel discussion focused on the **environmental crisis and climate justice concerning children**. Facilitated by **Isabel Díez Velasco**, Professor at Comillas Pontifical University, it brought together international and national participants who are specialists on the subject. It addressed climate justice, which has both ethical and practical dimensions of climate change, and examines concepts such as equality, human rights, collective rights, and the historical responsibilities of climate change.

In the process of adverse climate change, this session studied the consequences of climate change on the most vulnerable populations, such as children sought to answer very particular questions about the functioning of systems of access to justice for children in the context of the climate crisis. The UN Committee on the Rights of the Child is currently preparing the first draft of **General Comment No. 26: "UN universal standards for governments to uphold the rights of children affected by the environmental and climate crisis,"** for which it aims to disseminate the conclusions of this session.

Jonas Schubert, responsible for children's rights and the right to a healthy environment at Terre des Hommes Germany, began his presentation by briefly explaining the concept of "**climate justice**". He mentioned that the concept of environmental and climate justice did not originally emerge within the human rights discourse, although it is linked to it. Environmental justice is associated with social movements, mainly in the U.S. and other wealthy countries, which focus on environmental actions often related to pollution faced by minority groups based on or leading to racial discrimination. Primarily, the concept of environmental justice was quite limited. Over time, the concept has been extended to other vulnerable groups, such as women, indigenous groups, and children. It has also broadened to incorporate global issues of environmental inequality. An obvious link between environmental justice and children's rights is the principle of non-discrimination. Though, it can also be linked to other children's rights (such as the right to health).

"In many countries around the world, children from low-income families are exposed to air, water, and soil pollution because homes and schools are built next to toxic waste dumps; this is a very simple example of the environmental injustice that affects children in society," said **Jonas**.

Schubert concluded by defining environmental justice as fair treatment and meaningful participation of all people affected by environmental harm. In this sense, fair treatment means that no group should bear a disproportionate share of the negative environmental consequences resulting, for example, from industrial, governmental, or commercial operations or policies. Significant participation means having the opportunity to participate in decisions about activities

that may influence the environment and environmental health. Environmental justice can have a wide range of consequences for children, the most serious of which is social injustice.

Later, it was the turn of **Leo Ratledge**, Legal and Political Director of the Child Rights International Network. **Ratledge** stated that when it comes to climate justice, the term "intergenerational equity," which can already be found in several national statutes and is also strongly linked to the United Nations **Sustainable Development Goals**, must be considered.

Ratledge emphasized that children could face many challenges when attempting to claim environmental rights through the justice system. Indeed, on the one hand, lack of independence and legal capacity are common barriers for children when accessing justice, regardless of the subject. Almost universally, however, children can bring cases to court on their own behalf. What is less clear is how they can do so and the role they are allowed to play in court proceedings.

On the other hand, the burden and standard of proof often fall on the victims to demonstrate causation or a link between their exposure to environmental threats, for example, harmful chemicals or pollution resulting from the actions of the alleged polluter.

In environmental litigation, it is often required to prove the personal effects. When we consider this standard and its application to children, we can see that this adds a layer of difficulty for those attempting to obtain climate justice. This is due to the general provisions requiring children to act through legal guardians. These provisions are common, as they allow for the individual capacity of the child to be considered. However, in the case of environmental litigation, they make the requirement of personal effect on children much more difficult to prove. Moreover, the burden and standard of proof are usually on the victims to demonstrate causation or a link between their exposure to environmental threats and their legal interest in the dispute, e.g., to harmful chemicals or pollution resulting from the actions of the alleged polluter.

However, with the advancement of environmental rights, the recognition of child-and youth-led environmental organizations and movements to bring cases may become a nimble way to enable large-scale challenges to children's and environmental rights to be brought without placing the burden of proof on individuals or requiring a specific interest.

In this regard, **Leo Ratledge** referred to some successful examples of access to justice on climate issues, such as in the Philippines, where the Supreme Court has recognized the right of citizens to act as guardians of nature and to file lawsuits to enforce environmental laws. In this respect, he emphasized the successful representation of children by non-governmental organizations in disputes related to climate change and its effects. Finally, he acknowledged that children also face the obstacle of legal capacity in various justice systems and that it is still difficult for children to initiate complaints or proceedings as individuals.

The panel also counted on the online presence of the former Chair of the UN Committee on the Rights of the Child, **Luis Pedernera**, who during his intervention assured that the **Third Optional Protocol to the Convention on the Rights of the Child as a communications procedure is a tool that can give greater relevance to the role of children when claiming justice**, as, for example, in the case of *Sacchi et al. v. Argentina et al.* of the CRC Committee.

“The aspect of time for children is a very relevant issue. We cannot subject children to the times of public administration, to these times of bureaucracy. “According to the best interests of the child, everything that has been generated in the doctrine, the time has to be a priority in these types of issues and that comes into play in terms of admissibility requirements,”

Pedernera mentioned, referring specifically to the admissibility challenges of the third optional protocol to the CRC (OP3), which children encounter when initiating complaints before the Committee on environmental matters.

Main conclusions of the session

- The term **climate justice** has advanced over the years from a concept limited to social movements that encompassed only some **vulnerable groups** to a broader concept that includes children and their rights. However, the definition of climate justice can still benefit from the incorporation of other concepts, such as equitable access to **justice systems** and other **children's rights**.
- Children can face many challenges when attempting to **claim their rights** through the **justice system**, for example, the constraint of always acting through a guardian or representative.
- The **representation** of children by non-governmental **organizations** in disputes linked to **climate change** and its effects has been a successful practice that brings children closer to **equal access to justice**.
- The **third optional protocol for the CRC committee** is a tool that can give greater relevance to children's **participation** when demanding justice.

3. Community Empowerment: Towards a broader and closer involvement of the community

The community as a tool to improve Justice

Community empowerment is a key “demand-side” response to address the shortcomings of the rule of law. It involves extending legal provisions to society at large, particularly to the most vulnerable, to encourage them to be more proactive in claiming their rights. **Legal empowerment** initiatives enable citizens to actively use the law and adapt it to their needs. Legal empowerment interventions include the provision of **legal aid** and **community paralegals, capacity building** and **awareness raising** for both citizens and justice actors, and **public interest litigation**. The right to legal aid in criminal cases is enshrined in many human rights treaties and most national constitutions. In fragile and conflict-affected environments, formal legal support schemes are often established, but they are limited by the lack of legal professionals in many countries.

Legal pluralism, as it exists in many countries throughout the world, offers multiple legal systems within a specific population or geographic area. These systems have developed largely through traditions, customary practices, and religious laws. They provide more direct and closer answers to local populations than the formal justice system, which often becomes **inaccessible**. When done correctly, the integration of **indigenous and customary justice** elements and the inclusion of customary norms in **domestic law** can support **the best interests of the child** and safeguard their **culture** (CRC Art. 30) and **community customs**.

This panel was moderated by **Luz Entrena**, Technical Advisor of the Conference of Ministers of Justice of the Ibero-American countries (COMJIB), where the issue of **“community empowerment: Towards a broader and closer involvement of community-restorative juvenile justice”** was addressed.

The Project “Guarantee access to juvenile justice adapted to children and adolescents, articulated in the Child Protection System” of Tierra de Hombres Spain, with the financial support of the Spanish Agency for International Development Cooperation (AECID), takes up precisely these premises and applies them in the Islamic Republic of **Mauritania**. The project contemplates the implementation of Standard Operating Protocols (SOP) for children’s case management, taking into consideration the entire process from identification to case closure. Thanks to this approach, children are accompanied and cared for according to their situation. This methodology, in addition, to reducing the incarceration rate of children (less than 1% of the children supported by the project), helps to strengthen their social integration and the support of their community. The SOPs made it possible to describe the different stages of support and taking care of children in conflict with the law (CCL). To provide this support, the project’s social workers and lawyers are better equipped to defend the children’s cases at different levels of the criminal chain. The participation of the community in the monitoring of CCL makes it possible to support alternative measures to detention (for example, supervised release or internment in the Reception and Social Reintegration Center for Children in Contact with the law—a semi-open center).

In addition, for the protection of children with disabilities, the procedures are to be applied to the “specialized care” project in the event of the return of a child with disabilities have been contextualized. Thanks to the protocol, the analysis of his environment was carried out, which allowed trained health authorities, relatives, and neighbors to accompany the child on his return. With the case management protocols, the beneficiary children develop life projects that allow them to project themselves into the future and are supported in their implementation.

Yann Colliou, head of the Terre des Hommes Foundation's Access to Justice Program, stated that given the new challenges facing access to justice, it is necessary to seek new forms. In this sense, he stressed that **the problem that hinders access to justice is the legal pluralism that exists in many countries but is not considered.**

According to **Colliou**, **“The theory has always said that traditional justice was for a misdemeanor,”** but, thanks to a study conducted in Mauritania. It has been shown that this is not always the case since traditional justice is also used to try more serious crimes. Therefore, in this context, he ended by emphasizing **the need to seek ways that lead us to improve the practices of traditional justice and that allow the necessary hybridity between official justice and customary justice to improve access to justice.**

The study that was carried out consisted of understanding the mechanisms of conflict management and the administration of justice in Mauritania, specifically the justice for children and young people. The study emphasized understanding the procedures, the reference norms, and the actors. In the post-independence period, the State of Mauritania sovereignly established its legal system and initiated multiple reforms. The traditional practices of mediation and conflict resolution have overcome several advances throughout history concerning the construction of state law, generally speaking of Muslim Law.

Recently, attention has turned to customary justice since this type of process has been little studied, and there is very little research on the subject. Indeed, the International Committee on the Rights of the Child has officially recognized since 2019, in the framework of General Comment 24, the added value of a better consideration of customary justice systems and that *“the need to pay attention to these systems in the framework of the reform of legal sector programs, is increasingly recognized.”*¹

Yann Colliou detailed the project and four of the main findings obtained in the study:

1. The fragility of official juvenile justice versus community processes for managing persistent conflicts

Turning to customary institutions means avoiding formal justice mechanisms. The latter is generally not credible or reliable for the community. In addition to this, multilingualism, the difference in norms and values, procedure times, and the cost of justice are elements that also influence the general rejection of official justice mechanisms.

In the Mauritanian context, 66.6% of the judicial actors consulted² to confirm the existence of collaboration between the traditional justice stakeholders and the judicial institution, while 88.9% consider that it would be convenient to intensify this collaboration. In addition, community actors recognize the important and pre-eminent role of official justice, 75% of whom claim to have turned to a personal capacity.

2. An administration of justice characterized by a specific diversity

The administration of justice in Mauritania has been carried out at three levels: the judicial institution, the community, and a third level symbolized by the role of the Muslims³, who have a hybrid form since

¹ UN Committee on the Rights of the Child (CRC), *General comment No. 24 (2019) on children's rights in the child justice system*, 18 September 2019, CRC /C/GC/24,

² Consultations carried out within the framework of the study to 28 magistrates and secretaries.

³ The function of Mouslih was officially instituted in 1965 by circular n° 1135/65 of the Minister of Justice.

they intervene by resolving some disputes. In the frame of the study, it was found that: **religious stakeholders** play a preponderant role in conflict management in Mauritania, among them, the imams who enjoy official recognition by the State that supports them in their position. The latter coordinates an average of 6 conflicts per month, based on the precepts of Islam, and collaborates with the judicial institution that requests them. its scope of competence in conflict management is broad. There are also the **neighborhood chiefs and their deputies**, who are regularly requested by the municipal authorities and the prefects for a whole series of matters; this function does not officially respond to any standard. Likewise, the **notables**, who manage an average of four conflict procedures per month and who maintain close relations with the “territorial administration”. Finally, **committed citizens or activists** «nachte al Haye» participate in the daily life of their community, think in terms of public interest, and collaborate extensively in conflict management processes.

3. Use of community-based conflict resolution methods

According to the study, not all cases of violence are dealt with by community authorities, depending on the degree. Cases of sexual violence, for example, are often referred to the police, sometimes on the initiative of community agents. In Mauritania, 3 types of norms support the conciliation attempts, namely, the religious norm, social morality, and, lastly, the law of the State; However, for community leaders, the religious norm seems to have a higher status.

The intervention of the community authorities is carried out in the form of advice that relies on the commonly accepted public morality, which are basic norms known by all. Conflict resolution methods depend essentially on conciliation. Community authorities insist on the religious virtue of conciliation

4. Friendly justice versus these contradictions, between efficacy and questionable practices

Conflict management mechanisms at the community level involve adults and children around 14 years of age. Generally, there are “procedural” rules, among which is the principle of confidentiality, related to the trust enjoyed by the community authorities. In the case of children, it has been found that those involved in community conflict management processes suffer physical (21%) or psychological (18%) punishment. On the other hand, it is considered that conflict management methods are effective in the sense that 88% of the processes end in an agreement between the parties and that, according to community leaders, the result of the process is proportional to the verified facts (90%) and the parties are satisfied with the result (70%).

In conclusion, **Yann Colliou** emphasized that the reality of juvenile justice, in many countries, tells us that despite the fundamental obligation of States to guarantee unconditional access to justice, there is a gap between theory and reality, especially in this area of justice.

It is time to consider new and more effective ways, which allow the dismantlement of the exclusive state justice model and to reflect on the disruptive dynamics that allow the conception of hybrid legal systems considering the legal culture of the affected populations and encouraging collaboration with customary justice. In this sense, the States in question and the international community must undertake the reflections and provide the necessary means to accompany the administration of justice at the community level, at least in its best practices, ensuring respect for the procedural guarantees necessary for any form of a solution of conflicts.

Virginia Domingo De La Fuente, President of the Restorative Justice Scientific Society, stated that restorative justice is community justice. **“Many of the practices that we do today have their origin in ancestral peoples, but this is still perceived as a new paradigm. Restorative justice focuses on the human being and is a way of doing justice at different levels; that can be used beyond interpersonal conflicts, such as in the resolution of historical conflicts.”** According to Domingo,

restorative justice must be directed as a social movement in this sense and promote community empowerment; it is active collaboration that makes us partners and agents responsible for it.

Similarly, experts from various professional branches, such as **Antonio Gancedo Baranda**, a Pediatrician, from the Social Pediatric Consultations of the Alcorcón Foundation of the Madrid Children's University Hospital, explained the role that healthcare can play in justice. From his area of work, social pediatrics, he indicated how the biopsychosocial environment could affect the development of children and adolescents. Several times, only the physical aspects of childhood are analyzed, and not the influence of what is experienced socially, which directly impacts the growth of the children. The detection of adverse situations becomes important, indicated **Gancedo**, because it allows the promotion of good treatment. "Involving and mobilizing the community prevents unfair and perverse behaviors towards humanity to be continued," he said. And he stressed that this is a way to ensure more equitable access for children to justice systems.

Marta Ruiz Cruz, the coordinator of Social Services of the Municipality of Paracuellos de Jarama, highlighted the importance that her office gives to crime prevention, as well as the individualization of interventions for children in conflict with the law, according to their individual.

Main conclusions of the session

- **Community empowerment** turns out to be key to the advancement of society in general, but above all, for its **active involvement** in the demand and guarantees of its rights.
- For this community **empowerment** to exist, it must take into compulsorily account, the **legal pluralism** already present in multiple legal systems around the world
- **Legal pluralism** is part of the necessary paths and disruptive dynamics that make it possible to conceive **hybrid legal systems** in which the legal culture of the affected populations is considered and where greater access to Justice is provided
- **Restorative justice** is part of the **community**. In this sense, the collaboration of the latter and its active role makes us **partners** responsible for it
- The **biopsychosocial environment** in childhood development is important for its great impact. For this reason, community mobilization is crucial to put an end to the perpetuation of adverse facts about humanity.

Conclusions

Myriam Cabrera Martin, Director of the Chair of Children's Rights-Universidad Pontificia Comillas ICAI-ICADE, emphasized how transcendental it is for children to be allowed to claim their rights in the environmental field and in matters that affect all of us as a society. Finally, she stated that the progressive awareness about children's rights has allowed greater progress in community issues and that, in juvenile justice, the challenges are constant, but *giving up is not an option*.

Following, **Isabel Lazaro Gonzalez**, Director of the Legal Clinic of the Universidad Pontificia Comillas ICAI-ICADE, highlighted the fundamental nature of community participation in justice, particularly in the environmental field. Lázaro assured us that **“the legal approach gives us the key, a fact that we can evidence through the different modalities of justice administration that can exist in a country.”** Putting the rights of the person at the center is a way of minimizing the risk of their violation. Focusing on the promotion of children's rights in a community setting helps limit the perpetuation of patterns of disrespect for rights.

To close the International Day of Dialogue, two experts from the United Nations intervened. **Goktan Kocyildirim**, Child Protection Specialist-Justice for Children-CPSS Unit of UNICEF, New York, addressed the issue of children in armed conflicts, such as those currently occurring in various parts of the world, including Ukraine, and revealed that it is expected to see **“a sustainable and peaceful course, but we, as a community of experts involved with children's rights, must also be well-prepared for the effects of these conflicts on children in the short, medium and long term.”**

Finally, to close the session, **Joanna Desmarquest**, Political Affairs Associate Officer of the Office of the Special Representative of the Secretary-General for Children and Armed Conflict (UNSRAC), pointed out that cooperation between international and local institutions must continue and be strengthened to improve access to justice for all children.

Towards the World Congress on Justice with Children

On the second day of the first preparatory meeting for the next World Congress on Justice with Children 2025, a National Day of Reflection was held, facilitated by **Cedric Foussard**, the session began with a roundtable discussion during which the participants introduced themselves, mentioning their organization's activities, as well as their goals for the year 2022.

The session was opened by **Yann Colliou**, and began with a definition of the objectives of the **Global Initiative on Justice with Children** and the World Congresses. **Yann Colliou** evoked the history of the World Congresses, beginning with the Congress of Lima-Peru, continuing with the one of Geneva-Switzerland, emphasizing the Congress of Paris-France that took place on UNESCO's premises and that brought together more than 1000 experts from more than 100 countries, and also referring to the last World Congress of 2021 that, due to the pandemic, had to be held completely online, bringing together almost 6000 people, including experts, judges, activists, children, and young people.

Catherine Perazzo began by talking about educational equity, the fight against inequality, and the obstacles to accessing children's rights, for example, the right to decent housing and the right to health. She stated that this is a priority issue for Save the Children Spain in 2022, as well as children on the move (migrations) and the protection of children against all forms of violence (mentioning the importance of the new Organic Law 8/2021, of June 4, comprehensive protection for children and adolescents against violence⁴). Some of the measures included in this legislation are as follows: declaring children and adolescents in conflict with the law at risk, especially those below the minimum age of criminal responsibility. Also, the need for a comprehensive intervention was recognized, as was the possibility of establishing specialized courts for violence against children, the first of their kind in the world.

Among the main activities of the organization, Save the Children implements direct intervention through family/psychological support, children's participation, social impact, analysis of public policies, and maintenance of institutional relations (she pointed out that Save the Children always opts for innovative ways of doing things).

During her speeches, Perazzo mentioned the opportunity of organizing the World Congress in Spain and considered it important to define possible social and political strategies for this, for example, establishing objectives, identifying stakeholders, and considering that for each of them, it will be necessary to create different content and strategies.

Vicente Pelaez shared with the audience relevant information about the Madrid Bar Association and Madrid Law Society, of which he is a member. He first mentioned that the Association has approximately 1,600 lawyers specializing in children. Vicente mentioned the need for legislative reform regarding legal advice in juvenile justice, with a special emphasis on children in detention. Likewise, he briefly explained how the duty shift for minors (girls, boys, and adolescents) works and the training of experts to access the duty shift, and he mentioned that this process would benefit from an update. In turn, he emphasized that the shift complies with all procedural guarantees, and the audience began the debate on whether all international human rights principles are also complied with.

⁴ Organic Law 8/2021, of June 4, on the comprehensive protection of children and adolescents against violence. June 25, 2021. [BOE-A-2021-9347](https://www.boe.es/buscar/doc.php?id=BOE-A-2021-9347)(Spain) Available in: <https://www.boe.es/buscar/doc.php?id=BOE-A-2021-9347>

Lastly, the child victims in the juvenile justice system were mentioned, as well as the need to provide new solutions for children and adolescents, which are in line with the Organic Law of Criminal Responsibility 2000/5. Ensure the comprehensive protection of victims of violent crime who are minors, to make juvenile justice holistic and restorative.

Later, as part of a response to **Yann Colliou** about the situation in Spain of legal assistance for children in conflict with the law, Vicente asserted that a high percentage of specialized courts do not have training in children's rights and that legal assistance is not mandatory in all cases. Most of the cases are focused on *ex officio* assistance, leaving children in conflict with the law with defense problems. In addition, he affirmed that, during the executory stage, in many cases, the defender was not well-informed about the disciplinary regime and other measures to be followed by the minor. He supported the suggestion of organizing a **World Congress in Spain**, recommending that the World Congress consider the procedural guarantees and rights of children when a legal representative is assigned, with special attention to cases of application of alternative measures to the judicial process.

Enrique Arnanz expressed the importance of educational justice, a term coined by his organization, the Esplai Foundation. Enrique established that one of the main objectives of educational justice was the prevention of recidivism. This initiative is currently working with adults, providing them with digital skills training and other educational possibilities. He mentioned that the organization is preparing for a meeting this year between adults, who have lived the experience of internment with children in conflict with the criminal law. In turn, they plan to incorporate socio-educational video games into classrooms for children and adolescents, created by educational computer engineers, to instill civic values in children in conflict with the law. In addition, the foundation intends to start workshops on masculinities and the value of the feminine.

Later, adhering to the idea of a possible **World Congress** to take place in **Spain**, he declared that this should include among its priorities the promotion of an educational purpose in all justice systems, as well as recognizing the active role of civil society.

Alexandra Martins began her intervention by considering the challenges related to implementing the strategies and practical measures. She also spoke about the role of the justice system in the prevention of violence. In turn, she mentioned that her office was in charge of research on drugs, crime and justice, crime prevention, and technical assistance to the States in matters of justice and the rights of children and adolescents. Alexandra referred to the need for a systemic approach to comprehensive juvenile justice protection that must intertwine with the health and protection systems and not work separately. If successful, this could help to rethink the adult criminal justice system as well. She also asserted that a systemic approach to identifying problems and responses could even have an impact on the search for solutions against social exclusion during the next **World Congress**, she considered that the invitations should be extended to specialists from different branches, such as economists, psychologists, marketing specialists, legislators, creators, and public policy implementers and communicators. Participants added social media influencers, content creators, lawyers, and police officers to this list.

Finally, **Martins** considered that holding a **World Congress on Justice with Children in Spain** would give the country and local organizers, the opportunity to share their good practices, establish alliances and initiate reform processes. Spain could thus maximize its international leadership in juvenile justice matters and play a stronger role in international cooperation.

Pilar Lizán shared with the audience information about the network of agencies for the re-education and reintegration of juvenile offenders in Spain and he mentioned that each autonomous region has different methodologies. However, these agencies are constantly sharing best practices. In turn, she emphasized the importance of a powerful civil society, mentioning as an example, the platform for children's organizations. **Lizán** also spoke about a previous tool that assesses young people in 5 areas, according to each intervention design. As for the **World Congress in Spain**. Pilar emphasized, throughout the meeting, the importance of preventing children from entering into conflict with the law.

Kepa Paul focused his participation on the use of the internet and digital technologies by children. He mentioned that the safe internet center in Spain (INCIBE) assesses the risks that children face when using the internet: hate speech, gender, etc. During the meeting, he also intervened, mentioning the need to overcome binary axes and categorizations.

During his speeches, **Paul** also stressed that if the next **World Congress** were organized in **Spain**, it would be essential to consider the autonomy of the seventeen autonomous communities of the country, and not to limit the approach to the national authorities or the Community of Madrid.

Tatiana Salem took advantage of her intervention to mention the Ibero-American Declaration and Decalogue on Restorative Juvenile Justice, its analysis, implementation in 11 countries, and its results. In this sense, she mentioned, that the results were diverse, the lack of obligation as a challenge, and the exchange of good practices as useful. Tatiana shared that the strategic plan of the COMJIB proposes to resume the route with the Ibero-American judicial summit, the United Nations Latin American Institute for the Prevention of Crime, and the Treatment of Offenders (ILANUD), among others, on incidence and implementation and information of children and adolescents in conflict with the law.

Later, **Salem** asserted that justice should focus on children and that education about their rights, and guarantees, as well as their tools, should be a priority. She added that, for the **World Congresses** to have a greater impact, different stakeholders should be linked, such as communicators, sensitizers, legislators, and presidents of legislative commissions specializing in children. She supported the idea of linking the 2030 Agenda with juvenile justice projects to better involve the States.

Jorge Jiménez, Magistrate of Juvenile Justice, stressed that the General Council of the Judicial Power of Spain has not called for judicial competition for new judges specializing in minors since 2007. He highlighted that the educational module on restorative juvenile justice consists of more than 50 hours of study. In turn, he said that the implementation of justice in Spain, is different depending on the geographical area in question, above all because each region has different economic and human resources. **Jiménez** stated that "although, for example, the cities of Madrid and Barcelona are privileged with budget and tools, and are considered to be more advanced in terms of juvenile justice, this does not mean progress in all regions of the country, unfortunately". He also referred to the legislative advances that would have to be promoted with greater force from the political field since, until now, jurisprudence has been making most of these changes.

As for a possible **World Congress** in **Spain**, Jorge made available the **Judicial School of the General Council of the Judicial Power of Spain** and the **Ibero-American Network of Judicial Schools** to promote the event. On this last point, **Isabel Lázaro** added "we must give greater importance to social advocacy, so that we can reach more organisations and more people, not just those who are already interested in child justice issues, such as those of us gathered here today."

Conclusions:

Participants, after a dynamic exchange of ideas and information, reached the following conclusions:

A. Priority issues proposed for the next World Congress on Justice with Children include:

1. Systemic prevention of violence against children
 - a. Promote collaboration between systems: protection, justice, education, and health.
 - b. Towards a comprehensive, specialized, and multidisciplinary response for children in conflicts with the law.
 - c. Risk factors influence children to come into conflict with the law and preventive responses.
2. Towards fair and inclusive access to justice
 - a. Legal assistance
 - b. Procedural guarantees
 - c. Child's best interests
3. Specialized and multidisciplinary teams and the added value of the community approach.
 - a. Community empowerment
 - b. Justice systems for educational purposes
 - c. Media

B. Participants suggested if the idea of a **World Congress on Justice with Children** in **Spain** (tentatively in 2025) comes true, the main **national actors** that should contact for its organization would be:

- The police of the minor
- Guardian Agents
- GRUME Madrid (Group of Minors, Provincial Judicial Police Brigade)
- Civil Guard
- Educational sector at all levels.
- High Commissioner for the fight against child poverty
- Organizations that run reform centers
- Ombudsman
- Ombudsman for minors (communities)
- Youth Parliament
- The general council of the bar
- Bar Associations (minor department)
- General Council of the Judiciary
- Ibero-American Network of Judicial Schools
- Ministry of economic affairs and digital transformation

Contacts

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ANNEX I- Participants in the national reflection meeting

On March 9, 2022, the national reflection meeting was held, at the **Comillas-ICADE University** where the following participants met:

- **Yann Colliou**-Head of the Access to Justice Program, Terre des hommes Foundation
- **Cédric Foussard**-Global Initiative on Justice With Children Coordinator
- **Mariana Pérez**-Global Initiative on Justice With Children Project Assistant
- **Carolina Ramírez**-Global Initiative on Justice With Children Project Assistant
- **Isabel Lázaro Gonzalez**-Director of the Legal Clinic-Comillas Pontifical University ICAI-ICADE
- **Myriam Cabrera Martín**-Director of the Chair of the Rights of the Child - Universidad Pontificia Comillas ICAI-ICADE
- **Jesus Pérez Campos**-Head of International Cooperation Department, Terre des Hommes Spain
- **Alexandra Martins**-Head of the UNODC Global Program to End Violence Against Children
- **Jorge Jiménez Martín**-Director Judicial School- General Secretary RIAEJ, General Council of the Spanish Judiciary
- **Catherine Perazzo**-Director of social and political incidence, Save the Children Spain
- **Kepa Paul Larranaga**-Researcher at the Complutense University of Madrid for the Secure Internet Center
- **Enrique Arranz**-President of the Esplai Foundation and member of the Ibero-American League of Civil Society and the Spain Foundation
- **Tatiana Salem**-General Coordinator of the Conference of Ministers of Justice of Ibero-American Countries (COMJIB)
- **Pilar Lizán**-Single File Area Technician. Agency for the Reeducation and Reinsertion of Minor Offenders (ARRMI). Madrid Province
- **Vicente Peláez**-Coordinating Lawyer of the Legal Guidance Service for Minors of the Illustrious Bar Association of Madrid

Non-participants:

- **Ricardo Ibarra**-Director of the Platform of Children's Organizations
- **Tomas Montero**-Expert Professor of Juvenile Justice at the University of Castilla La Mancha)
- **Conchita Molina**- Professor of Criminal Law
- **Representative of the State Attorney General's Office**
- **Lucia Losoviz**-Ministry of Social Rights and Agenda 2030