



Case study: Diversion of children in conflict with the law in community-based program centers, Ethiopia



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I. Background and Introduction

The Ethiopian Penal Code of 1957 stipulates the start of the age of criminal responsibility at 9 years. Children between 9-15 years are considered as minors, while children between 15- 18 years are punished as adults, although there are provisions for taking measures of mitigation, which rests on the discretion of the judge. In the Penal Code, there are two categories of measures: Ordinary Measures and Penalty. Ordinary measures may include admission to curative institutions, supervised education, reprimand and school or home arrests for young offenders. Penalty may include fines and corporal punishment of up to 12 strokes, to be administered only if the young offender is in good health. Although the latter exists in the Penal Code, it is not being exercised.

Although according to the Code, children 15-18 years are considered as adults, they are not subject to life imprisonment and death penalty. All children are also entitled to separate waiting and detention facilities. The Code also states that the case of children must be processed 'immediately', although the length of time is not explicitly stated; and that all stages in the process of administration of juvenile justice including investigation of the case and prosecution shall be carried out by the judiciary and not by the Police.

Prior to the 1974 revolution in Ethiopia, there were few attempts to ensure that children in custody get humane treatment. There were attempts to stop physical punishment of children in custody; structures such as fences of the Remand Home were modified to create an environment that is friendly to children and is not prison like. Parole officers were assigned to assess the situation of children and their families and follow up on rehabilitation measures. A judge was sent abroad to receive formal training in juvenile justice.

A significant characteristic of the initial period of the revolution was the wide spread involvement of children in political activities. This led to the incarceration of a large number of children in adult prisons and makeshift facilities and it also exposed children to a great deal of violence including interrogation and torture on the pretext of extracting information on their anti revolutionary activities. This period in the history of Ethiopia reversed whatever little was achieved with regard to the protection of children in conflict with the law.

The UN Committee on the CRC, in its Concluding Observations, recommended to the Government of Ethiopia the implementation of a comprehensive juvenile justice reform in line with international legal standards and articles 37¹, 39² and 40³ of the CRC. In an attempt to harmonize the Penal Code with the provisions in the CRC, the Code was revised, with inputs from various stakeholders and was passed by the Ethiopian Parliament. The Revised Code will soon come into force after being published in the Negarit Gazette. The revised Penal Code explicitly prohibits corporal punishment as part of a sentence and puts stronger emphasizes on the conditions of children being detained, it must be done in separate facilities for children. However, the Code retains the age of criminal responsibility at 9 years.

Based on the Concluding Observations, experiences of working with disadvantaged children, and analysis of the situation of CICWL, in 1997, Save the Children Sweden in Ethiopia initiated a project to be implemented by its partner Forum on Street Children – Ethiopia (FSCE). A pilot Child Protection Program (CPP) with the objective of improving the condition of children in conflict with the law, physically abused children, sexually abused and exploited children, children in labor exploitation, abandoned children, street children, children exposed to trafficking, and to all sorts of neglect and abuse by parents and families.

Major focuses of the Child Protection Program are on:

- Prevention of child abuse and exploitation and
- Establishing Child Protection Units (CPU) in police stations.
- Advocacy for an improved administration of juvenile justice in Ethiopia to be in accordance with the CRC,
- Abolition of the use of corporal punishment by the police and the judiciary,

¹ Protection against torture, degrading treatment and deprivation of liberty

² The right to rehabilitation and reintegration.

³ Procedures of juvenile justice administration

- Strengthening local capacity to respond to the protection rights of children, and
- Developing innovative community based pilot projects to divert CICWL from undergoing through the formal legal system.

By 1998, 10 Woreda Police stations in Addis Ababa had CPUs that provide services to children in conflict with the law and victims of violence. The Units were run jointly by the Police and FSCE whereby the Police contributed staff to work as counterparts to police officers and Save the Children Sweden and FSCE provided technical and financial support to the program.

The functioning of the CPUs laid the ground for advocacy towards increased involvement of duty-bearers in the administration of juvenile justice and improved treatment of children in accordance with criminal procedures in Ethiopia; especially with regard to the appearance of CICWL before a juvenile court as soon as possible, and enjoying the possibility of release under the responsibility of their parents/guardians.

In 1999, a Juvenile Justice Project was launched within the Federal Supreme Court mainly to influence the judiciary to establish child friendly juvenile courts and develop appropriate working methods. One of the outcomes was the removal of the Juvenile Court from the compounds of the Remand Home, a residential correctional institution. Juvenile Benches were started in four courts in Addis Ababa, and started to operate every afternoon.

Media programs organized by the CPP sensitized the public on protection of children. Sensitization workshops and trainings on the rights of children in general and specific incidences of violence against children are provided to the public, journalists, judicial staff and others. As a result, the public got increasingly involved in reporting violence against children in their neighborhoods; especially those that are caused as a result of disciplinary measures such as corporal punishment. Police officers started to monitor the conditions of street children and took steps to protect vulnerable groups, such as street girls, from abuse while they patrol the streets at night.

The CPP being the first project that worked with child protection concerns through direct work with the police and the judiciary, showed a great deal of success. Both Save the Children Sweden and FSCE believe that major contributing factors to the success of the program are the integration of Child Rights in police training and enhancing the capacity of relevant government offices especially with respect to facilitating the exposure of officers to the experiences of other countries.

The CPU model got replicated in regional towns by other NGOs and police stations. FSCE continues to provide technical support to those initiatives. The CPU model is also shared with other countries in the region such as Kenya, Rwanda and Uganda.

As of 2004, the project evolved from being an NGO led initiative in police stations to being part of the formal structure of the Police Commission. In addition, a Community Based Correction Program (CBCP) was initiated to divert children in conflict with the law from going through the formal justice system.

This Case Study covers experience gained through the implementation of a Community Based Correction Program (CBCP) in Addis Ababa for CICWL whose ages range from 9-15 years, and those who are first time and petty offenders.

2. Challenges in the administration of juvenile justice

Many children live in conditions of poverty that undermine the functioning of protective social networks around them. In addition, there are also various factors that push children to commit acts that are in conflict with the law. Major factors are breakdown of families, inadequate parental supervision, economic hardships, lack of recreational services, harsh corporal punishment on children, peer influence, inadequate educational system, sexual abuse and exploitation, HIV/AIDS and substance abuse.

The administration of juvenile justice is fraught with legal, technical and structural obstacles that expose children to violations of their rights. These violations take place as the children pass through different phases after having committed offenses; from their communities through to the police and judiciary. Prevailing attitudes and practices rooted in child rearing practices further complicate the conditions in which the rehabilitation and reintegration of children take place.

Major challenges identified in the administration of juvenile justice are the following:

1. Harmonization of laws: Although the CRC is adopted in the Constitution of the Federal Democratic Republic of Ethiopia, there is yet a lot to be done to harmonize the application of domestic legislations and the juvenile justice system with relevant international legal standards. The age of criminal responsibility even according to the Revised Penal Code is still 9 years, which is among the lowest age in countries in the geographical region. Domestic legislation state different ages for criminal responsibility, marriage, and age of majority, thus creating confusion and inconsistency in the administration of juvenile justice. Despite the fact that the age of criminal responsibility is very low, there are no clear provisions in the Penal Code that provide for diversion of cases to informal system of correction and rehabilitation.
2. Structural and human competence: competence required for the administration of juvenile justice are lacking at all levels. The main agency mandated with rehabilitation of children in conflict with the law - the Ministry of Labour and Social Affairs – has only minimal engagement with the issue of juvenile justice. The program implemented by FSCE is aiming to fill this gap in protection of children, while advocating for the rights of children. Juvenile courts and waiting facilities for children do not exist in sufficient numbers. Until 2003, there was only one juvenile court in the country, and was located in the compound of the Remand Home in Addis Ababa. Currently there are four juvenile benches. Until the introduction of the Child Protection Program, despite the provisions in the Penal Code for separate detention facilities, children were detained with adults.
3. Detention of children: Children waiting for the finalization of their case may be detained in the Remand Home or adult detention facilities, which are in poor conditions. Detention is commonly used to correct CICWL due to lack of knowledge by the judiciary and due to lack of alternative mechanisms to which children could be referred for rehabilitation. The number of qualified personnel dealing with CICWL is limited; therefore, children do rarely have access to legal counsel. There is no formal training for juvenile judges that qualify them to deal with cases of children. Government structures that are mandated to work in juvenile justice do not function adequately and in a coordinated manner. Working methods are not well developed and there is no accountability among duty-bearers. As a result, juvenile justice is rarely given a priority.
4. Length of time: Investigations into crimes and passing of sentences take a long time. Except in the regions where CPP are implemented, pre-trial detention periods may sometimes exceed the maximum prison sentence for which a child could be sentenced if found guilty. Determining the age of children is one of the factors that contribute to the delay of the courts in passing sentences.
5. Possibility of reviewing care: there are hardly any practices that are in place to review the care and treatment that children are provided with, while in detention. Sentences are usually of fixed duration and conditions.

6. Attitude of the public: Negative attitudes of the public towards children in conflict with the law expose children to varying degrees of violence. Street children are usually considered as criminals. Children are commonly subjected to corporal punishment, verbal abuse and other degrading treatments before and as they are brought to justice. Corporal punishment is still practiced as the main method of disciplining children in families, schools, orphanages, police stations and correctional institutions.
7. Complaint mechanisms: There is a considerable level of police brutality against street children and children in conflict with the law. There are hardly any adequate legal provisions or complaint mechanisms to investigate brutalities against children in the process of bringing them to justice.
8. Lack of after care and follow up programs: once CICWL are released from the Remand Home or diversion programs there is no program that provides children and parents with follow up supportive programs to ensure that the children do not commit more offences.

3. Overview of the situation of CICWL in Addis Ababa⁴

According to a statistics compiled by FSCE and the Addis Ababa Police Commission in 2003, for the period between 1998/99 to 2000/01 a total of 13,588 children were reported as having committed offences, that is, an average rate of 4,529 per year. Among those who committed offences, 85.6% are between 15-18 years while 13.8% are between 9-14 years old. Out of the total number of children 98.8% are males; and 45% are school dropouts and 81% live with parents.

A largely similar pattern as shown above continues to be seen in a more recent statistics compiled by the CPP. Among the number of children reported to the CPP for being in conflict with the law, between 2000 to 2004, about 14% of the total number of CICWL (9,178 children) are between the ages of 9-15 years. This figure shows that although the diversion program targets a relatively small proportion of the total number of CICWL, the reported number of children is high.

The number of girls reported as being in conflict with the law is about five times lower than the number of boys. The most frequently reported offences are 'assault and bodily injury', followed by 'other social offences' and 'theft'. Least reported offences are 'attempt to commit arson', 'giving or receiving bribes', and 'abortion'. Most of those reported as having committed offences report that they attend schools, the majority of whom are in grades one to six, which include the age range where adolescence starts.

The gravity of the problem of street children in Addis Ababa may lead one to think that a large number of children convicted of offences may be street children. However, the majority of the children live with their families. This may be an indication that the street children who commit offences may be living in a 'transitory' condition which makes it difficult for the public to bring them to the police. In some cases they may be too smart to be caught or are organized in street gangs, which are feared by the public.

The number of CICWL referred to the CBCP has steadily increased through the years and doubled when comparing to the number of children referred during 2001 and 2003.

⁴ The available data is only for Addis Ababa

4. Conceptual framework of the Community Based Correction Program (CBCP)

The Community Based Correction Program is primarily implemented to protect the rights of children in conflict with the law. Simultaneously, the implementation of practical projects and the advocacy is expected to stimulate government bodies to take up more and more responsibility in the Program. So far, the Police Commission is involved in the Program as an important partner. Steps are being undertaken to involve other government and community structures. Eventually, the project implementers, FSCE and Save the Children have plans to hand over the projects to the appropriate government structures. The project implementers realize that the protection of children is an issue that must be taken up by the appropriate Government authorities such as Bureaus of Labour and Social Affairs, which is given the mandate to work with CICWL, and grass roots community structures such as Kebeles.

4.1 Rationale

Main justifications by the CPP in advocating for a community based correction method are the following:

- Enables the concerned to understand the underlying causes of the undesirable behavior.
- Makes the offender feel responsible and accountable for his/her undesirable behavior
- Provides a chance for reparation
- Prevents the offender from getting criminal records and from being labeled as criminal
- Decreases the caseload from the formal criminal justice system.

Other stakeholders have differing views on the importance of the diversion program. Police officers and grass roots administrators are of the opinion that the diversion program is primarily useful in containing the problem of CICWL as the capacity of the Remand Home is limited. In addition, since the majority of the children in the age group of 9-15 are brought to the police for committing minor offences, sending them to the Remand Home exposes them to associate with persons who have committed serious offences.

Children who are enrolled in the CBCP expressed that they agreed to be enrolled in the program to avoid detention. However, once they are enrolled in the program they found the program supportive in terms of providing educational materials and tutorial support, a bridge in improving relations with their parents and a place where they get access to entertainment facilities, in an environment where they feel respected, valued and listened.

The opinions of parents differ according to their own exposure to the justice system. Some parents prefer their children to stay in the Remand Home because they believe that the correction of children is best done in institutional setups, with strict rules and regulations. Yet, many parents are not aware of the services given in the Remand Home, thus agreed with whatever form of treatment is offered to their children.

The judiciary's involvement in the CBCP is peripheral because the offences of the children are not reported to the courts; however, the program serves to reduce the backlog of cases from the courts because children are diverted by the police stations.

Thus different stakeholders have different justifications for involving in the CBCP; however, the common idea that is shared among all is the correction of the children.

The CBCP works at different levels: implementation of practical project, advocacy and lobbying with duty bearers and developing a model that is appropriate to the local context.

4.2 Definitions

Diversion

The Community Based Correction Program (CBCP) is a program of diversion, which is defined as a non-custodial approach emphasizing on developing a non-formal system of care,

rehabilitation and reintegration for children between 9 – 15 years and those who are first time and petty offenders. The Program focuses on correction of children in conflict with the law in their communities by applying a holistic approach towards developing children's potentials to recovery, through strengthening supportive structures around children. The Program is expected to contribute significantly to the realization of the best interests of girls and boys in conflict with the law; specifically by reducing labelling and stigmatization of CICWL.

'First time' offence

The status of being a first time offender is an indication that the child is reported to the police for the first time, and not necessarily the involvement of the child in activities against the law only in that particular instance. Usually parents report the matter to the police only after they have tried to correct the behaviour of the child, unless the offence committed is considered as serious.

Petty offence

There are neither legal definitions nor agreed upon criteria to determine whether offences are petty or not. Volunteers, police officers, Team Leaders and Parents may look at the seriousness of an offence in different ways.

The seriousness of the offence is determined by adults around the child and seems to be determined by reviewing factors such as the intent of the child, impact brought about by the offence, the child's potential to be easily corrected and prior experience of the child. Children are not involved in judging the seriousness of their offences.

5. Description of the Program

5.1 Coverage of the program and referral procedures

Geographically the project covers the city of Addis Ababa, which comprises of 10 Sub –cities known locally as Kifle Ketemas. In each Kifle Ketema, there are a number of Kebeles, which are the smallest administrative units in Addis Ababa. All Kebeles have meeting halls, where the residents meet for different functions. The Community Based Correction Programs (CBCP) are located in these halls, usually with a small office annexed to the hall serving as an office for the Volunteer and a place to store materials such as books, teaching aids and recreational materials. The offices are also used to hold discussions with parents and to conduct counselling sessions.

Children may be brought to the Child Protection Units (CPU) in the police stations by police officers, parents, neighbours, or members of the public after having been engaged in acts that are against the law. Children may also be sent to the CPU from schools, if they are engaged in repetitive behaviours such as damaging school property, engaging in group fighting, etc.

Children brought to the CPUs are kept in waiting separately from adults. The police officer in charge of the CPU then contacts the parents/ guardians of the children, investigates the crime and compiles a report. The case of the child is then assessed by the police officer and a community worker of the CPU and a decision is taken to apply one of the following measures:

- Release the child under the responsibility of parents/ guardians;
- Refer the child to the CBCP; or
- Present the child to a juvenile court.

In a few cases, parents approach the Centers requesting for their children to be enrolled in the Correction Program due to the children's refusal to obey family rules such as those concerning schedules of returning home, or attendance of schools. These children are sometimes accepted to the Centers on the basis of their assessment of being 'at risk'.

5.2 Working methods

The criteria for enrolling children in the diversion program are:

- The child being a first time offender and having committed a minor offence,
- The age of the child being in the range of 9 and 15 years.

Diversion takes place in two settings:

- In sub-cities where there is no Community Based Correction Program (CBCP), diversion is implemented without an institutionalized system of correction. In this procedure, police officers release the child with warning and/or under the responsibility of the parent/guardian, after which, the child is expected to report periodically to the CPU on her/his activities.
- In sub-cities where there is a Community Based Correction Program (CBCP), the children go through an organized procedure in the Community Based Correction Center.

The working methods used in the Program are the following:

- Child assessment: Once a decision is taken to send a child to the Center, a Treatment Plan is drawn. The Treatment Plan is a written agreement signed by the child, the parent/ guardian and the community worker stating the duties and responsibilities of the child, the parent/guardian and the type of activities that the child has to attend during her/his time in the CBCP. The length of time that the child spends in the CBCP is determined by the community worker on a case by case basis. However, the upbringing of the child, factors that pushed the child to commit offences and readiness of the child for diversion are considered as general indicators in determining the length of time that the child is supposed to spend in the CBCP.

- Engagement in organized daily schedules: On average, children are enrolled in the Program for three hours per day on weekdays. The duration of stay in the CBCP varies between one to two and half years. A typical day in the Center is organized and led by the Volunteer and includes schedules for studying, tutorial class, watching a recreational film, and play indoor games of own choice. Children who are required to get counselling also are provided the services.
- Behaviour modification: the children in the Centre are closely followed up by the volunteers, who have daily contacts with the children and are the main agents in the follow up of the children. There are also periodic follow-ups by Counsellors, Team Leaders, Community Workers, Police officers and school teachers. All these people focus on discussing with the children about causal factors for committing the offence, expectation of families and communities from children, etc. These discussions are also opportunities for the children to have good models.
- Periodic assessments: Periodic assessments are conducted on the situation of the children by collecting information from parents, teachers and volunteers. Once the initial enrolment term is over, the Volunteer, Team Leader, Social Worker, and Police jointly decide to discharge the child from the Program or extend the time. The attainment of correction is determined by assessing the child's school attendance, educational performance, personal hygiene, relationship with persons in the child's immediate environment, and the child's attendance and participation in the Center.
- Rewarding good behaviour and innovative actions: Those who show good behaviour and regular attendance in the Center are rewarded in different ways such as going to theatres, foot ball games, or music festivals. Children in the Center take different initiatives, as shown in the following example: A fourteen year old boy who is enrolled in the Community Based Correction Program in one of the sub-cities in Addis Ababa compiles a daily international and local sports report. He compiles the report from the media and reads the 'news' every morning to his peers at the Center. The children at the Center, being great fans of football, look forward to this event.
- Protection of children: Some street gangs use young children to distract adults while they carry out criminal activities or to signal the arrival of police. In return the young children get small material rewards and/or protection from the older children. When the young children are caught and enrolled in the CBCP, the older children stop their connection with the young children for fear that the young children are recognized and followed by the police. Once children are enrolled in the CBCP, they are not likely to be victims of retaliatory measures by the victim of their offence, as it is considered that the matter is now in the hands of the law.
- Linkage with other NGOs: In some cases, the Center works in coordination with child welfare NGOs that operate in the community, for example, in providing credit services to parents of CICWL, link up discharged children with services such as tutorial and library services, etc. There are also some informal links with businesses that help children by engaging them in apprenticeship programs. These linkages, however, is not formalized in the Program and are dependent on the initiative of the Volunteers and other program staff.
- Discharge and follow up: The process of discharge takes place in a formal setup where parents, community representatives, police and social workers are present. Before the process of discharge, a simple discharge form is filled, with the purpose of handing over the care of the children to the parents. This also enables the staff to compile contact information on discharged children. A significant gap in the program is the absence of a systematic method of follow up to find out how the children that are discharged from the diversion program have fared and design ways of supporting the children.

5.3 Collaborative work between police officers and social workers

The CPP, under which the CBCP is implemented, is headed by a police officer, under whose offices are Team Leaders, who are qualified social workers, and staff that are trained in child

rights and counseling. There are periodic visits to the program by psychologists and lawyers. All decisions concerning children enrolled in the program are taken jointly between police officers and team leaders. This collaboration has been useful in solving emerging problems in the work methods.

The following are tasks of the teams in the CPP:

- Follow up and prosecute when children are subjects of criminal offence.
- Encourage communities to report crimes against children.
- Provide information to communities to be aware of newly emerging crimes.
- Help courts in facilitating determination of the age of the child.
- Link up with aid giving organizations to refer children who are in need of support that can not be provided by the CBCP.

The Community Based Correction Center is run on a daily basis by a volunteer. Besides their responsibility of running the day-to-day program at the Center, volunteers are responsible and taking care of the properties of the Center. Their tasks include ensuring that children attend the scheduled programs; attend schools, and have improved relationship with their family and community. The volunteers are also responsible for reporting on the progress of the children to counsellors, community workers and ultimately to Team Leaders.

The volunteers are mainly young males who have at least completed their high school education. Criteria for recruitment of volunteers focus on the ability of the volunteer to communicate with children, especially adolescents and the personal characteristics of the volunteer. The latter is important in that the volunteers are expected to be good models for the children in the Centers.

5.4 The role of education

Most of the children referred to the diversion program have very low educational performance. To improve this situation, text books and reference materials are provided in the Center. The volunteers also assist the children in studying and providing assistance to do their homework. In addition, tutors are employed to help the children in their education by giving extra classes. Almost all the children show a marked improvement in their educational achievement and school attendance.

Teachers in the formal schools are also involved in providing information that will be used in assessing the improvement of the child and are encouraged to support the children who come from the Centers. The support by the teachers contributes to increasing the acceptance of the children in the school and contributes to developing a better self esteem among children.

Elias is a 14 year old boy, who was a school dropout. He has very little supervision from his mother as she spends a lot of time in the small market where she sells firewood. He was reported to the police by his mother after repeatedly stealing small amounts of money from her.

The police officer who interviewed Elias recommended that the boy be referred to the Community Based Correction Program, which is found near his locality. At the Center, his mother signed a Treatment Plan' an agreement that Elias reports to the Center 5 times a week to participate in the programs. In the Center, he received counselling and tutorial support, after which he was enrolled in a formal school. As per the agreement in the Treatment Plan, his mother goes to the Center to follow up on his developments and to report about his behaviour at home. The Center provided school fees and educational materials and the volunteer established close contact with the Elias' teacher at the school.

By the end of the first year, Elias showed a great deal of improvement in his behavior, academic performance, and his self-esteem. The staff at the Center decided that Elias may need additional support and supervision, thus it was agreed that he continues to go to the Centre on a less regular basis.

The volunteer at the Center arranged for Elias to be transferred to a government school where education was given for free. It was also arranged for Elias to volunteer to work in a leather workshop. Although he was not paid for his services in the workshop, he was able to learn quite a good deal of skills in leather work.

Four years after his first enrolment in the Center, Elias is discharged from the Program, and still continues to excel in his school work. As part of his discharge, the Center provided him with leather work equipments, with the agreement that Elias continues to earn some money to support himself to continue his education.

A year after his discharge from the Program, Elias was interviewed by a journalist researching on a model youth program. In the interview he expressed his wishes that the government must encourage young people such as himself to be engaged in productive activities.

5.5 Participation of children

The participation of children starts at the signing of the Treatment Plan. This is expected to foster responsibility in the children and involve them in identifying a program for their rehabilitation. They also discuss with the volunteers the root causes of their problems, engage in clubs, and sometimes take part in training such as in musical instruments, etc. The children also engage in selection of books, educational materials and recreational materials that is to be bought for the Centers.

The engagement of the children in the activities of the Center, in some cases continues even after the children are discharged from the program.

Fana is a 13 year old girl who was brought to the police because she used to steal small amounts of money from her family. She comes from a family that earns their living through engaging in petty trade. When she joined the Center, her educational performance was very low and she used to be truant from school on various occasions.

During the first months in the Center, Fana received counselling and tutorial support. Fana's educational performance and school attendance showed a great deal of improvement in a short while. An NGO which operates in the locality agreed to provide material support to her. Currently, she is in grade eight and her performance is at the top of her class.

After having been discharged, she continues to go to the Center, and help other children in their studies. She was also among a few children that take part in a musical training. The group where Fana is a member of aspires to start their own small traditional music band in the future.

5.6 Effectively handled cases

Experience in the CBCP shows that there is a high rate of success in rehabilitating children who have committed minor and petty offences. However, the success in rehabilitating children who committed offences as a result of and in relation to drug addiction and other substance abuse is very limited, as can be seen in the following case.

Daniel⁵ is a 14 years old boy was reported to the Police by his parents. He comes from a family that has a high income. Daniel was reported because he frequently used to steal money, then continued to sell books, mainly religious books, from his father's library at home. Later, he stole and sold a lot of clothes from his mother. He used the money from the sale with boys who are addicted to Chat chewing and other drugs.

At first his parents were not aware of his habits. As they eventually realized the seriousness of his deeds, they locked Daniel in a room for three days, after which they brought him to the police.

At the police station, Daniel agreed to follow up the Treatment Plan drawn by the Center. Daniel's father also promised that he would reward him if he showed improvement. Although Daniel continued to go to the Centre regularly for two months, he was not very keen to participate in the activities of the center and to take part in

⁵ The names indicated in the case studies are changed to protect the privacy of individuals.

counselling. He was sullen and has difficulties to concentrate. After two months of enrolment in the Center, Daniel stopped going to the Center, and soon after he ran away from home. His parents could not trace his whereabouts up to the present time.

6. Discussion and analysis

6.1 Views about offences committed by children

Offences committed by children are perceived differently depending on factors relating to the social, economical and psychological conditions of families and communities. This perception is also related to the conceptualization of communities about childhood, and could be indicative of the type of treatment that children are granted after having committed an offence. The profile of children reported to the diversion program reflects these perceptions and these views also influence the referral of children to formal or informal correctional bodies in the environment of the child, such as to the police.

The following are some of the factors that influence the views of communities about the offences committed by children and on which consequent steps taken on children are determined:

- Type of offence committed: In many communities where the children in this study originated, theft is considered as a most serious crime in comparison to other crimes such as violence against a person, and rape. Theft is considered as a great embarrassment not only to the child but also to the family and is also expected to continue throughout the child's adult life, if left unpunished.
- Sex of the child: This is seen by communities in different respects - on one hand, boys are relatively more tolerated if they committed a crime than girls. When girls commit a crime it is considered as more embarrassing. On the other hand, girls are considered to be easily rehabilitated than boys. Therefore, girls who commit offence tend to be 'handled' in the family rather than being referred to the police.
- Relationship of the child to the person on whom the offence is committed: In many instances, when a child commits an offence against a person who is a close family member, it is more tolerated. In such cases, the offender is not likely to be reported even in cases where the offence is repeated and serious.

6.2 Indicators of success

The level of success of the CBCP may be seen in two respects: the system of implementation and the direct impact on children.

System of implementation

Despite the fact that legal provisions concerning juvenile justice do not explicitly allow for diversion especially by the police; almost 99% of the cases are diverted by the police. The CBCP is perceived by parents, police and other sectors of the society as a successful model in protecting children and a model that is appropriate to the local condition. A striking fact is that the project is implemented despite the awareness of the police that legal provisions do not allow for diversion by the police. This is a remarkable development in a situation where even the existence of legal provisions does not always guarantee their translation into action. Thus one can say that this is a rare situation where protection of children is seen to have been prioritized despite legal difficulties. The major reasons for this success are the following factors:

- A major reason that contributed to the success of the diversion model appears to be its correspondence to socio-cultural practices concerning arbitration and correction which to a great extent is characterized by settlements of disputes and reparation outside formal legal or administrative systems. Even in situations when people have taken their cases to police and courts, they may drop their complaints due to arbitration by neighbourhood elders.
- The idea of diversion has been accepted as a result of the concerted effort made by the Child Protection Program through a multi level advocacy with duty bearers.
- The arrangement of the CBCP compensates for the deficiencies in the structures that administer juvenile justice. It compensates for lack of special waiting facilities for children and the backlog of cases in juvenile courts.

- Diversion saves resources in terms of finances and time spent by police. Police officers spend a lot of time to take children to court, to investigate cases and write reports to courts. They also have to accompany the children when they go to courts. The time used for such procedures is significantly reduced when children are diverted to the Community Based Correction Centers.
- Kebeles being the lowest administrative units, the provision of Kebele halls for the purpose of diversion programs has given an implicit recognition that the diversion program has a legal backing. Thus parents hardly question the legitimacy of the arrangement of diversion and try to cooperate as much as possible.

Direct impact on children

The Community Based Correction Program addresses the protection needs and rights of children directly in different ways, some of which are as follows:

- Children are protected from being treated in traditional methods such as harsh physical punishments and deprivation of basic needs, which are believed to be effective measures of preventing children from growing up to be criminals.
- Although there are no quantified data on the condition of children after being discharged from the diversion program, the staff report that majority of the children show marked improvement in their behaviour and this reduces the chance of children having to go to the Remand Home in the future.
- Self esteem of the children is enhanced because they tend to be given more attention and value by their parents and guardians, and feel more accepted and recognized by teachers especially because of their improved academic performance.
- The diversion model prevents the discontinuation of education. In fact it encourages children to excel in their education. Education is considered as one of the measures of success by families and also in the Treatment Plan.
- Children who are sent to the Community Based Correction Program and were not enrolled in schools are given literacy classes to prepare them for enrolment in formal schools, after which they are enrolled in formal schools by the Program.
- Diversion prevents children from being exposed to abusive and exploitative procedures in the administration of juvenile justice. The children that are diverted will not have criminal records that may be damaging in the future. Children are prevented from going through procedures such as questioning and court appearances. The process of going to court is psychologically damaging to the children as they are usually walked from the police station to the courts with armed police escorts. Sometimes, their hands may be tied together to prevent them from running away. This may be done at least two or more times, mainly due to the backlogs in the courts. During such trips, children are afraid that they may be identified by people who knew them.
- Diversion facilitates reintegration of children in conflict with the law by preventing removal of children from their locality. In the diversion program the child is not taken away from the place of residence and therefore the chance that the child is identified as a criminal is minimal. However, once a child is admitted to the Remand Home, parents of other children tend to isolate the child for fear that their children will be badly influenced.

6.3 Increased commitment of duty bearers

To ensure the sustainability of the Community Based Correction Program, the structures within the offices of the relevant duty bearers such as the Bureau of Labour and Social Affairs, the city administration, Ministry of Education, etc. must be increasingly involved. Efforts to involve the duty bearers must also extend to the grass roots levels.

The current practice concerning CICWL is that police officers take the responsibility of investigating offences committed by children, including discussing with children, finding the root causes of the problems, interviewing parents, etc. Despite the various trainings the police received on children's rights, they still lack the legal and social work skills that enable them to

represent the best interests of children. Therefore, their efforts must be supplemented by the skills of social workers and psychologists.

The arrangement where Community Elders play active role in advising children in conflict with the law in the Community Based Correction Centers has been proved to be a useful practice. However, this practice is discontinued due to the restructuring of the sub-cities. Therefore, this practice must be re-activated by the project.

6.4 Usage of existing facilities

The project uses facilities that already exist, such as Kebele halls and offices. This, doubtless, is a good practice in terms of saving resources. The location of the program being in the Kebeles has also given the diversion program a level of credibility, despite the lack of clear provisions on diversion in the legal system.

On the other hand, sharing resources of the Kebeles is practically seen to put the issue of CICWL as a low priority. For example, on various occasions, programs scheduled for diverted children are cancelled without prior notice when events such as Kebele meetings or musical rehearsal programs are scheduled by the Kebeles.

6.5 Approach in programming

Most of the diverted children come from low income families and thus the deprivation caused by the poverty of their families is identified as a major contributing factor to the engagement of the children in acts that are against the law. It is also observed that many families do not have adequate awareness about the importance of education and thus do not allocate resources to educating their children. The Program provides a very limited amount of financial support to the families, which is spent on the education of the diverted child. The economic support by itself has very little impact on improving the economic situation of the family. Despite this, the children who pass through the program show a marked improvement not only in terms of their educational achievements and school attendance but also on their overall behaviour and the relationship with their families.

Therefore, it may be concluded that the positive impact of the CBCP is not drawn primarily from improving the economic condition of the family per se but from other aspects that deal with family relationships; but nonetheless relating to poverty. Therefore, the approach to designing the diversion program must be focused on restoring fundamental elements of relationships between children and families that may have been disrupted due to poverty rather than tackling the poverty of the family as such.

Therefore, the program staff must target the aspects of poverty that directly impact the involvement of children in acts against the law, such as communication between children and parents, parenting skills, supervision and follow up of children, etc. as opposed to trying to tackle poverty, as the magnitude of the problem tends to discourage the staff working with the issues directly.

The fact that staff in the Child Protection Program work with children in conflict with the law and also with children who are victims of abuse and exploitation presents to them an opportunity not only to look at children as offenders but also as victims of violence. This exposure serves to bring about a realistic view of the situation of children by the police.

As part of the Child Protection Program, occasionally, children hold discussions with the police about violence on children committed by police and suggest improvements to curtail violence and abuse by the police. Furthermore, the CBCP must be prepared to identify and work towards preventing emotional abuse of children that occur as a result of the offences they committed.

Providing flexible arrangements for working children is a strong point in the diversion program, from the point of view of working children. Working children who are expected to attend the Centers are allowed to share their time between their work and the Center, especially when schools are closed.

There are no formal or operational definitions for the term petty offence. This lack tends to make the children feel that they are not fairly treated. Some children reported that they are usually treated unfairly due to their age, their status as offenders, or their economic or social

status. This lack of definitions also encourages subjectivity among different staff members of the Child Protection Program.

There are no standards for keeping records of children in the Community Based Correction Program, in the aim of preventing their right to privacy. At the same time, it must also be clear to all concerned, as to who would have access to personal records of children.

6.6 Restoring competence of families to follow-up and guide their children

The Community Based Correction Program strives to engage families in the process of correcting children. This involvement helps to establish a closer relationship between families and children. Families who neglected the development of their children in their efforts to earn living have revitalized their efforts to take more responsibility. This appears to be a key element in the Program.

Parents who are helped to support their children to go through the Community Based Correction Program feel that they contribute to the rehabilitation of their children. They also feel that they are capable of guiding their children more than before and that the diversion program helped to restore family values.

Abebe is a fourteen year old boy who lives with his mother and sister. Abebe's family are economically well off. However, he started to steal money from his mother and sister. Eventually Abebe was reported to the police when he stole money from his mother's tenant. At the time, Abebe was in grade five but was not even able to write his name.

Volunteers in the CBCC presented Abebe with alternatives of going to the court and the Remand Home or agreeing to the Treatment Plan provided in the Community Based Correction Center. He agreed to follow the treatment plan provided by the Center.

The volunteer at the Center worked very closely with Abebe's mother to ensure that there is close family supervision and follow up. After discussion with Abebe's school, he was enrolled in third grade. At the Centre, Abebe was helped to study by the volunteer and the tutor.

Abebe gradually showed a change of behaviour, to the extent that the tenant who reported him to the police reported the improvement.

6.7 Institutionalising child protection

The Child Protection Program utilized structural changes within the Police Commission to institutionalize child protection programs within the Ethiopian Police Commission. Similarly, advocacy efforts are underway to institutionalize child protection among the judiciary.

At the initial stages, the CPP benefited from experiences in similar programs in South Africa. The Program later became part of the Regional Network on Juvenile Justice in eastern Africa. Experiences from the CPU are shared in a regional juvenile justice network, where countries in Eastern Africa share their experiences of working with CICWL. Practical researches are continually undertaken to investigate and document factors related to the situation of the administration of juvenile justice in Ethiopia. These are conducted in areas such as the definition of childhood in the context of Ethiopian laws and the consistency of the definitions with the CRC; administration of juvenile justice in Ethiopia; and prevalence of sexual abuse in high schools. The outcome from the researches is used in the work in the CPP and also in designing programs to sensitize the public, journalists, police, and judiciary about the situation of children.

In addition, a data base on CICWL is operational by gathering information from every Center in Addis Ababa that is sent to the office of FSCE. There is a large body of information that can be used for the purpose of reviewing the juvenile justice system and to lobby with the judiciary, the police and other stakeholders to be more involved in preventing violence against children.

Standard procedures for keeping records of children, especially with the view of protecting the identity of the child and the right to privacy need to be strengthened.

Training manuals, guidelines and pocket books specifically developed for the purpose training and supporting the work of police officers and others who work with children serve to change attitudes and also guide the communication of law enforcing bodies with children. As a result of these efforts, there are reports by street children that the handling of children by police officers is improving.

6.8 Preventive actions

Factors that push children to commit acts that are in conflict with the law are not adequately addressed in connection with the implementation of corrective measures. Many of the offences committed by the children in the diversion project are preventable through actions by families or provision of entertainment services for children by community structures such as Kebeles.

Most of the cases of the children who are reported to the police are due to theft involving money owned by parents and family members. In the majority of cases, parents reported that they kept the money in places where it is easily found by the children, for example on a table, in cardboard boxes or in baskets. The children usually start off by pilfering small sums of money, and spending it with peers, on food, sweets or pastry or on watching video films and in other 'entertainment' places.

A major preventive measure may be the provision of recreational and reading facilities for children, which is a factor known to have pushed a large number of children to commit offences. The Child Protection Program must strengthen its work on advocating with government authorities and the city administration to provide preventive programs for children in terms of providing recreational and library services to children, especially to those that are at risk. The provision of such services must therefore be implemented by the responsible bodies such as the City Administration and the Bureau of Labour and Social Affairs.

7. Challenges

7.1 Clarity of concepts

Subjectivity of the definition of petty offence leaves room for benefiting some groups of children. For instance, children whose parents benefit from the crimes the children commit tend to be more protective of their children and try to influence the police and judges. On the other hand, children whose parents/guardians want them to be put away may be in a vulnerable situation, thereby ending up in the Remand Home even for petty offences.

When offences reported by children are reported, lack of obedience is also commonly presented as one of the problems. This may be a reflection of an authoritarian child rearing practice which is seen among many families. Although disobedience is a behaviour that is not socially acceptable, it must be clearly identified by the staff in the diversion project that it is not against the law.

7.2 Involvement of duty bearers

The lack of involvement of duty bearers at various levels is a challenge to the project. The Ministry of Labour and Social Affairs, which is the government body, mandated to deal with the rehabilitation of children in conflict with the law is so far not engaged in the process of diversion. The engagement of the Kebeles and communities need to be clearly defined in cooperation with higher levels in the city administration and their ownership of the program strengthened.

The judiciary is also not involved in the diversion program. As far as the judiciary are concerned the children who are diverted by the police are not recognized as having committed an offence, since they have not gone through the judicial system. Although there are plans to introduce diversion at the court level, there are no adequate preparations to prepare the implementation of the plan.

The strength of the diversion program can be enhanced with increased involvement of the judiciary. This could be in terms of the juvenile courts diverting more children and playing a role in enforcing the terms of the CBCP, for example by speaking to parents about their responsibility. This is expected to result in less number of dropouts from the CBCP.

7.3 Top level advocacy

Advocacy concerning the diversion program has to be done at top level by including the judiciary, the Addis Ababa city Administration and the Ministry of Labour and Social Affairs. Possible areas for advocacy are the following:

- The program of diversion to include children under 18 years
- Application of social work in all stages of juvenile justice administration
- Diversion of children at all levels including the courts
- Ensuring that families that require supportive services are identified and supported before their children are at risk.
- Replicating the model in other regions outside Addis Ababa.

7.4 Sustained impact

Gender stereotypes and stigma regarding children in conflict with the law continue to influence rehabilitation and reintegration of girls and boys. Despite the efforts put into changing the attitude of partners, high staff turnover among the partners such as Kebele officials and police is a challenge. The project must work to bring about the commitment of the newly appointed staff.

7.5 Drop outs from the diversion program

A significant proportion of children tend to drop out of the diversion program at different stages of the program. According to the staff in the diversion program, the dropouts are caused as a result of the absence of legal backing and among those children whose enrolment to the Centers

are not supported by their parents or guardians. A number of parents also challenge the usefulness of the program and the legal justification for their children joining the CBCP.

7.6 Restructuring

The restructuring of the City Administration into bigger units has posed a problem to follow up children especially in schools. For instance only in Arada Kifle Ketema, there are 56 schools, therefore, it is very difficult to continue following up children in the diversion program.

7.7 Practical skills on child protection

Courses about children's rights and child protection are given to police being trained in colleges. However, there is a need to raise the capability of the police and the judiciary in terms of practical skills of working with children's rights, alternative methods of treatment of children, and programs for rehabilitation and reintegration.

Discussions about alternative methods of treatment that promote the psychological and social recovery and reintegration of children in conflict with the law must be conducted with the aim of influencing the laws and the treatment of children under 18 years.

Neighbourhoods provide a great deal of information to the staff of CBCP on the condition of children and interaction within families. Therefore the CPP has to design a way to enable its staff to systematically gather information that is valuable to the protection of children at grass roots level.

7.8 Feeling of children about the diversion program

The Program is known by the community in which it is functional. Although the children like the program at the Centres, many of the children enrolled in the diversion program expressed that they try to avoid being seen when going into the Centres. This is due to fear of being labelled as criminals. The diversion program must therefore try to ensure that children do not feel bad about going to the Centre, possibly by discussing with the children their feelings about the program.

7.9 Follow up

There is no systematically designed system of follow up to assess the situation of children who have been discharged after attending the CBCP. This has not been possible due to shortage of staff in the program. Staff members keep in touch with a few children that have completed the program. The lack of this important component of the program continues to pose an obstacle in determining the success of the project in quantifiable terms.

7.10 Emerging challenges

Due to the HIV/AIDS pandemic, increasing number of families are likely to be powerless to control and guide their children. Grandparents who are left with the responsibility of raising AIDS orphans shall require a system of support from their communities to prevent children from committing actions that are in conflict with the law.

There is also some risk that children may be exploited by using the deficiencies in the juvenile justice system. For example, family members whose motives are to get the property of orphaned children may bring the children to the system of juvenile justice. A strong protective system of investigating the motives of those who bring children to the police must be designed.

8. Conclusion

The diversion program in Ethiopia is set in a situation where there are various legal and structural challenges, including a situation where diversion has no legal backing. Despite all the challenges, the diversion program is relatively successful due to the fact that the Program is perceived by all stakeholders as addressing different aspects of the rights of children in conflict with the law. Diverting children from the formal system of justice contributes to protect children from violence and abuse of their rights, working with parents and communities and institutionalizing the rehabilitation and reintegration of CICWL.

There are various areas where the diversion program requires strengthening and improvement. The extent to which the model contributed to the protection of the rights of children in terms of building accountability of duty bearers, specifically that of the government; following up the extent of the success of children who are discharged from the diversion program; and strengthening the Diversion as a model to be replicated in other regions of the country are the major ones.

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