

International Perspectives on Girls in Conflict with the Law

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Speakers:

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Joshua Nederhood:

Alright. To you, John.

John Kamm:

[00:00:02] Well, thank you, Joshua. And thank you as well to my other colleagues at Dui Hua for the assistance you are providing. This is the first webinar of our International Symposium on Girls in Conflict with the Law for the Year 2021 and it is the fifth webinar in this series of webinars in the international symposium. Our partners are Patricia Lee, the Managing Attorney of the Juvenile Unit of the San Francisco Public Defender's Office; Penal Reform International based in London; the director for North Africa and the Middle East, Taghreed Jaber, will be joining us. And then we have two bodies at Hong Kong University, the Center for Comparative and Public Law

and the Center for Criminology. We are able to put this on, this series of webinars thanks to support. We have dedicated grants from Canada, the Netherlands. We have two private family funds mentioned on the slide here. And also, we have our own special program development fund and core grants, we take core grant funds from the Ministry of Foreign Affairs of Denmark, the Swedish International Development Cooperation Agency known as SIDA, and the Norwegian Ministry of Foreign Affairs.

Now, here we have today's speakers in the order that they will speak. And I have to say, these bios really do not do justice to the experience, the knowledge of the presenters. Meda Chesney-Lind, Professor and Chair of the Department of Women's Studies at the University of Hawaii, she's Past-President of the American Society of Criminology and you can see that she's played quite a role including testimony to Congress. But a real focus of Meda's work is girls. She - if you just look at the – the titles of her books, *Girls, Delinquency, and Juvenile Justice*; *The Female Offender: Girls, Women, and Crime*; *Invisible Punishment: Girls, Women, and Crime*. And she's now the editor of a volume known as *Fighting for Girls*. We could not have a more qualified presenter to speak about girls in conflict with the law.

Now, Manfred Nowak, Professor Manfred Nowak has a long list of accomplishments and credentials. Yes, he's a Professor of International Law and he is the Secretary General of the Global Campus of Human Rights in Venice. He's a former Special Rapporteur on Torture from the years 2004 to 2010. He is also a former judge at the Human Rights Chamber for Bosnia and Herzegovina. But most important for us, I mean, I could go on, he's lectured at many universities in many different countries. He's authored more than 600 articles and books on human rights, which is quite an accomplishment. I quipped to a colleague, "I don't know if I've even read 600 articles and books," but he's authored more than 600. But most important for our session today is he was appointed by the UN General Assembly in 2016 to lead the global study on children deprived of liberty. This was quite an undertaking involving questionnaires, interviews, independent research. It is a landmark in the study of how juveniles have been deprived of liberty. And today, we are honored that he will talk to us about what he uncovered and discovered on girls deprived of liberty.

And finally, Ms. Nafula Wafula, she's Vice Chairperson of Policy and Advocacy, the Commonwealth Youth Club, and a founder of SEMA, an initiative combating female genital mutilation. She is a fierce advocate for gender equality. She is also the program director at the Brydges Centre, an organization that serves at-risk youth and out-of-school girls. And she is a frequent contributor to *African Feminism*. So welcome to Nafula and thank Nafula for - for joining us.

Starting with tomorrow, we have a webinar tomorrow on alternatives to incarceration and we go from there. And we'll, I'm sure, find a way to show this before the end of the webinar today. So without further ado, I would like to turn this program over to Meda Chesney-Lind and the University of Hawaii. Thank you, Meda.

Meda Chesney-Lind: [00:06:40]

Thank you, John and Joshua, for all the help you've given to this series. It's - it's truly a remarkable and global conversation about girls.

I was trying to figure out what my contribution to this conversation can be, especially given that we only have 15 or 20 minutes. I thought I wanted to talk briefly about the moral panic around girlhood and particularly around girls' violence, then look at the actual characteristics of female delinquency in the US, and then finally review some of the trends in girls' involvements in the juvenile justice system and some of the problems that they've run into. Okay. Next slide. We're gonna start with our - my favorite West Side Story image. [Laughter] It's just no secret that the thinking about delinquency, both the general public thinking about it and also the researchers focused on boys for most of criminology's history. The delinquent was a rogue male and his behavior was thought to be best understood in the context of urbanism, inequality, and neighborhood violence. Female delinquents were largely invisible. Next slide.

Even though they were there, like in the case of Ella Fitzgerald, the legendary jazz singer who was incarcerated when she was 15 for trying to escape sexual abuse in her home from her stepfather.

This was in 1933. But - and Ella was not alone. There were many girls in the system, but they were largely invisible. Okay. Next slide. But bad girls are no longer invisible, at least in the US. The media is very interested in girls, but the media is not interested in real girls' issues. Instead, they're interested in "bad girls." So let's review some of the media themes around girlhood. Next slide.

We've got girls in gangs and often in the case of girls in gangs, there's an image of a girl peering over the barrel of a gun as there is here. Next slide. Notice that same image gun is present. We're seeing minority girls and that's one of the other themes. Racism is a part of the moral panic around girlhood, and particularly girls of color are demonized. But we also look at white girls. Next slide. Here's a mean girl. So the Caucasian girls get— their time in the media spotlight, but again, it's bad news. Okay. Let's talk about bad girls.

The US has really not been part of the global conversation around girls' issues like sexual abuse, education, early marriage. Instead, those issues have been largely ignored and instead we focused on the dark side of girlhood as one media outlet called it, girls' violence. Next slide. That means that in the US, we've really needed to focus on the actual trends in girls' behavior and girls' violent behavior in particular. I apologize in advance for the next slide, [Laughter] which is a whole bunch of numbers. But the point here is basically that the numbers, despite the media hoopla about girls' violence, if you just look in 1993, about a third of girls were involved in a physical fight. In 2017, it's 17.2%. So if anything, girls have gotten less violent over the decades, not more. Okay. Next slide.

We also did a study, and I'll just summarize very quickly here. Merry Morash, Tia Stevens, and I looked at girls' arrests in 1980 and in 2000, and we also looked at girls' self-report about whether they got arrested. And basically, the behavior that's changed over time is the behavior of those seeing girls' violence. Girls in the 1980s said that they'd committed an assault, but only one in four reported an arrest. By 2000, three out of four girls were getting arrested. So yes, behavior has changed, but it's the behavior of others. Next slide.

What we're basically looking at - sorry for the, you know, phrases here, but the trends are pretty obvious. First, we're paying attention to behavior we used to not pay attention to it. That's called upcriming. That's where girls are committing simple assaults in schools or they're watching a fight in school. In the old days, we paid no attention. Now, we arrest them. We're also paying attention to girls in arguments with their parents. This is called bootstrapping. And basically what we're doing is instead of calling a girl a runaway when she darts out the door, she slaps mom or there's a melee at the door, she's charged with assault. Okay. Next - and also we just rediscovered that girls were committing any violence at all because we weren't paying attention to it in past decades.

Okay. So in sum, girls have not gotten more violent, but our response to the violence that was there has changed and with real consequences. This is an actual picture of a 15-year-old girl in a Dallas suburb, who as you can see is being subdued by a police officer in a pretty violent way. Okay. Next slide. Speaking of girls' arrests, you can see that the crime drop that everybody's talked about over the past decades in juvenile arrest has really been a boy crime drop. The girls' arrests are dropping, but the drop is nowhere near as stark as the drop seen in boys' arrests. As a result, next slide, girls have gone from one in five juvenile arrests to one in three juvenile arrests over the time period that we're looking at here.

So there are more girls being arrested, and, next slide, the trends that we see in girls' arrests are also different than the trends we see in boys' arrests. Notice that in the past decade, decreases in girls' violent crime arrests are far less steep than what's seen for boys, meaning that more of the girls who are in the system are there for violent offenses than boys. And that you can see in the next slide. We look at girls in the court population. That's the second set of lines. And you notice that girls have gone from basically 20% of juvenile court case loads to almost a third of court case loads.

So, next slide. You also see the role played by violent or person offenses in the delinquency profiles of girls in court. Remarkably, there are more girls in for violent offenses than boys, and that is just nutty. [Laughter] But those are the data which is why I focus so much attention on the actual trends of girls' violence because these figures are so out of whack. Next slide. So back we

go to the girls who are in the system are also in detention, and they represented an increasing share of those detained. They've gone from 15% of those in detention to 21%. And also look at residential placement where they've gone from 12% to 17% in terms of being in institutions. So that's why Manfred's presentation is so important because we're seeing at least in the US, girls having an increasing share of both detention and training school placements. Okay. Next slide.

There are big problems when you put girls in facilities and in systems that were really designed for violent boys. And this is a terrible situation that developed in Seattle where a girl was being beaten by two officers in this video. Next slide. Girls are in for less serious offenses. This is just a slide showing that a big chunk of females are still in detention for status offenses. This is a historic pattern in female delinquency. And it's really a terrible thing that we're seeing, still wrestling with it despite supposed decades of deinstitutionalization efforts in the United States. And it's also important to note that African American girls are more than three times more likely than their white peers to be incarcerated, and native and Indigenous girls are more than four times more likely than whites to be incarcerated. Next slide.

We're closing in on the end here. I'm so proud of myself. Our custody, both our training schools and our detention centers, lack effective monitoring and as a result, truly horrific conditions have developed in these institutions as we saw in the earlier slide. In girls training schools, there are allegations, routine allegations of sexual abuse, excessive idleness, inadequate educational services, allegations of the overuse of isolation, restraints, and chemical agents are also common. We have to advocate for a continuum of care for girls, not just a system that puts girls in inappropriate settings. Last slide.

So our agenda, as we look to the future, we need to understand that many of the girls we incarcerate are there for minor offenses, and that's far more the case with girls than with boys. We need to get the girls out of these systems. Their backgrounds are characterized by high rates of abuse. The system continues to punish them for seeking to escape this abuse and further harms and stigmatizes them often in the name of protecting them. These girls are not a public safety risk and can best be served in the communities in which they live. That is my presentation. Thank you very much. [00:18:03]

Joshua Nederhood:

[00:18:03] Thank you very much, Meda. I think Manfred will be presenting some of his own slides now. So we'll take a quick minute to set that up. [Pause] Alright. Manfred, can you unmute?

[00:18:24]

Manfred Nowak:

[00:18:26] Thank you very much, and it was very interesting to hear what Meda said on the US because my study is a global study for the for the United Nations. So we try to give some figures on the global level. The global study was published and presented to the General Assembly of the United Nations in October 2019. So it's very recent. And we worked about three years between 2016 and 19. Why did the General Assembly request the Secretary General to come up with such a study? Because there's a huge gap between the law and reality. The United Nations Convention on the Rights of the Child is very, very clear in saying that deprivation of liberty of children, and children means up to 18 years of age, can only be a measure of last resort, that means in exceptional circumstances, and if there's no alternative, then only for the shortest appropriate period of time.

In reality, far too many children are detained in the administration of justice, in migration detention, in the context of armed conflict, etcetera. But we simply do not have reliable statistical data. States do not collect those data, neither on a snapshot date nor per year how many children are actually deprived of liberty. And so since childhood is the formative time of everyone's life, to deprive children of their liberty is depriving them of their childhood and has lasting effects on their life but also on society in general.

Now, we were focusing on on six different areas. The one is of course, the administration of justice, also children growing up with the mothers usually or primary caregivers in prisons. National security grounds antiterrorism laws in armed conflict, migration-related detention, and

institutions which means orphanages to special institutions for children with disabilities, etcetera. So these are our six different situations.

And then we had four chapters that are [\[cross-cutting\]](#). It was very important to take the views and experiences of children into account. So we interviewed 274 children in 22 different countries about their experiences. We have a special chapter on the impact on health, so on the physical and mental health of children, reviewing really all the medical literature on that. One on children with disabilities who are discriminated not only in institutions but also in the criminal justice system, for instance, and one on the gender dimension, which is of course, important for - for us now. And then we'll come back to that in a moment.

Now altogether, and that is a very conservative estimate, the UNICEF usually has this 1 million children in detention. We arrived at the conclusion that it's per year more than 7 million. And as I said, it's conservative. The big chunk, the big majority is children in institutions. So it means deinstitutionalize. The second one is the administration of justice that is prisons, pretrial detention, and police custody, about 330,000 in migration detention, and then the others in armed conflict and national security, and about less than 20,000 children growing up with their mothers in prison.

Now, in the administration of justice, and I will come to that also later, altogether worldwide, it's about 94% of all children in prisons and in pretrial detention centers are boys and 6% about are girls. So what we heard from Meda on the United States, that's a totally different issue when she said [\[the rate\]](#) that the percentage of girls raised from 15 to 21%. Now, the root causes for so many kids in detention are the lack of an effective child welfare system. Most of these children should actually be treated by the child welfare system and not in the criminal justice system or the support of the family environments. That is one of the most important recommendations.

If more money and more human resources would be invested to support poor families, those who have troubles to raise their kids, etcetera, we would save them from coming in conflict with the law and ending up in prisons. Of course, tough-on-crime policies in so many countries with retributive justice system, excessive criminalization, Meda already mentioned status offenses,

the lower age of criminal responsibility. The Committee on the Rights of the Child clearly said it should never be below 14 years of age, 120 states, so almost two-thirds of all states have the minimum age below and some even seven years and less. Corruption, lack of resources, etcetera.

So what we advocate is that we need special child justice systems with trained police officers, prosecutors, judges, prison personnel that apply a child's perspective, diversion so children who commit crimes should be dealt with in the child welfare system, and you should divert them away from the criminal justice system, increase the age of criminal responsibility, and decriminalize the behavior of children. That is one of the main reasons why so many children are actually coming in conflict with the law.

Now, as I said, 6% on a worldwide level, 6% of children in pretrial detention facilities in prisons are girls, 94% are boys. That doesn't correspond to the weight of crimes committed by girls. That is on a global level about one-third of the criminal offenses are committed by girls, two-thirds by boys. But then if you look in the different stages of the criminal process, how many of them are arrested actually, how many come in former contact with the criminal justice system is about 25%. So from one-third down to one-fourth are girls.

But also in the criminal justice systems, girls are much more subjected to diversion than boys are. And that has many reasons. One is a kind of chivalrous attitude by male judges, so we should be less tough on girls than we are on boys and we should actually send them back to their families rather than arresting them and convicting them. So the conviction rate again is much lower. It's 11.6% compared to the 25% that are actually in some form of contact with the child justice system, and even after conviction, it's much more often that girls get a fine or other non-custodial penalties whereas boys are much more often actually sent to prison for their criminal behavior.

So that's the one side. There is a bias against boys in the criminal justice system. That's why many people speak about the most gendered space of society as the criminal justice system. On the other hand, as Meda clearly said, there's an increasing tendency of girls in detention facilities. So worldwide, we have seen between 2000 and 2017 an increase of 53% of women and girls in prisons. Now, again why are or what are the most common reasons why girls are detained? As

was said already, status offenses, those are offenses that only apply to children and not to adults like truancy, running away from home, disorderly conduct, etcetera, that is also if you analyze many of those that are applied more often to girls than to boys. In migration, girls are more often trafficked or subjected to sexual exploitation than boys are. Of course, in countries where abortion is criminalized it's always the girls or women or girls that are then coming in conflict with the law and getting into the criminal justice systems.

As Meda has said, abuse at home is one of the main reasons for girls to develop behavioral problems that are often criminalized. They are often accused of sex work. Street children, if they are girls, it's much more often that they are - they are actually arrested because of sex work. And there are others, as you see also during armed conflict, many girls are detained for the purpose of sexual exploitation. Disability, also there you see a clear gender gap that girls with disabilities are more often ending up in the criminal justice system as compared to boys.

Now, the consequences are that since the rate of girls is so much smaller than of boys, the criminal justice system, and also the prisons, are made for men and boys but not for women and girls. And that is a major problem, that women and girls are suffering more. They are more vulnerable to physical violence but in particular, the sexual violence whether it's by prison guards, virginity testing, etcetera. In general, the conditions in places of detention are - I was talking after my six years as Special Rapporteur on Torture about a global prison crisis and the situation actually got worse than better since 2010. There's often a lack of separation between women and men or the women and girls because often there are only very few girls in a particular prison. So they are not really separated from boys and men, which leads of course, to sexual exploitation, violence, etcetera. So there are not really children and girls-sensitive procedures in most of the detention facilities.

So that means as a recommendation, repeal all the laws criminalizing girls' specific, very often in many societies, so-called immoral behavior, thinking about in particular Islamic societies, these kinds of stereotypes, also in relation to trafficked children, reduce in general the number of children but also the number of girls held in places of detention; and apply non-custodial solutions in accordance with the convention; detention only as a measure of last resort, and if

really necessarily for a much shorter period of time; include a gender dimension into the child justice system; promote gender-sensitive approach to the management of places of detention; and also collect the segregated data. Again, we asked for data and in many, many countries, we simply get the general numbers of children but not segregated by age at one hand and also not by gender.

So that's my presentation. I mean our main kind of recommendation is leave no child behind bars. There are always non-custodial alternatives. And by that, give them back their childhood. Thank you so much for your attention.

Joshua Nederhood:

[00:33:00] Thank you very much, Manfred. And now our final panelist, Nafula Wafula. I'm going to spotlight her video. Alright.

Nafula Wafula:

[00:33:11] Thank you. Thank you so much. Yes, my name is Nafula. I am based in Nairobi, Kenya. And my presentation will focus on girls in Kenya's juvenile detention system. And I'll mention a few recommendations on the need for abolition and reform. My background is as a practitioner or a person working for a community-based organization that works with girls. And therefore, a lot of my points will be based off of the lived experiences of the girls we interact with, but we'll also touch on issues that we have seen face many of the girls that come into our center or many of the girls that we work with that are systemic or are really connected to the juvenile system as we see it.

So first of all, I think it is important to mention that Kenya's juvenile system, when I speak about Kenya I will also end up mirroring or touching on the situation in Uganda, Tanzania because our systems are pretty similar. And that is because they are based off of colonial systems that were

introduced by the British during the colonial period. Interestingly enough, a lot of those systems have been abolished in the UK for being outdated, but here they remain. And therefore central to this conversation is a call for decolonizing approaches and reform that center around community-oriented solutions as opposed to criminalization of children and girls.

So I will, basically, what I'm going to do is walk you through, let's say a 15-year-old girl, I'll give her a typical Kenyan name, Shiro. She's 15 years old, has grown up in one of Kenya's largest informal urban settlements, which is Kibera. And she is arrested for stealing, for stealing some money from a parent or stealing some money, but basically she's arrested. What happens is the abuse of rights and violations begin from the point of contact, which is arrest up until the point of release and reintegration back into the community. And there's challenges within the entire system. And so very briefly, I will walk you through so that you have a bit of an overview of the situation in Kenya and largely the situation in East Africa.

So Shiro has been arrested. First of all, she's in this scenario because of course, systemic challenges, as has been mentioned in the previous presentation, more often than not creates an environment where girls get into conflict with the law. So we have very high rates of poverty here in Kenya, and we have very many girls growing up in informal urban settlements and in situations where poverty is their everyday reality. And not just poverty, we also have high rates of abuse and sexual and gender-based violence, defilement, and all these things end up feeding into the situations that put girls within this scenario. So Shiro is arrested, she's taken to a police station.

What happens in – in Kenya? The challenge in Kenya, first of all, when it comes to the police stations, once a minor has been arrested, particularly girls, one of the issues is that the law provides for the creation of child protection units, but we do not have enough of those mostly because of resourcing. And so you might find, for example, I'll give you an example of a constituency that has 28 police stations, and this constituency is called [\[East- Eastleigh\]](#). But out of the 28, only three police stations have a child protection unit. So more often than not, girls are put in prisons or in remand or in cells together with adults. And at times, they're put in mixed cells, although this is something that doesn't happen too often but there's been so many scenarios where girls have been put in mixed cells.

And what happens in these cells is over the past year, actually we're in a new year now. So in 2020, we had about three or four reported cases of sexual assault perpetrated by a police officer on the girls who had been held in the cells. So there's a 2016 report that shows that 90% of abuse witnessed in police stations by children has been perpetrated by police. And the study also found that the police are the most common perpetrators in juvenile centers, and this stands at 65%. The conditions in the police cells are also very poor. So you find girls are held in remand or in these cells for two weeks even or longer and they're beaten, so there's a lot of physical abuse as well. Because the cells are overcrowded, they're sharing mattresses or space with adults. And a lot of times, they're not even allowed to shower, and they don't have access to basic necessities like sanitary pads which are very, very important for them to be able to access.

So she leaves that stage and she gets into the procedural phase, and there's a lot of violations and abuse that happens within that phase as well. So first of all, there's a challenge in terms of access or we don't have enough children courts in Kenya. So I think we only have 10 judges that have been adequately trained to focus on child cases. And we have very few child courts in Kenya. As much as the law states that children's cases should be handled separately, so Shiro is tried in an adult court. That's one. Two, there is a lack of access to bail. So the minimum wage in Kenya is 11,000 shillings per month, which is around US\$110.00. Many people, the majority of people do not even earn that much. But you find that in a report that was published I think two years ago, the average range of bail that had been set was at around 15,000 Kenya shillings. So affordability of that is an issue.

Another thing is children, many of these girls are finding themselves in a situation where they have to represent themselves in courts because we don't have enough lawyers that can represent them in court, or a really good pro bono system that will allow lawyers to be able to give this girls representation. They barely have notification of parents. And this is because we really don't have a standard system or standard operating procedures for how to deal with children and how to deal with girls even when they go through the system, from the police system into the court system as well. And so you find that there's sometimes there's notification, and you might also find that there is an excessive wait time in terms of cases being tried. So a lot of these girls end

up staying in remand homes or in cells, or we have one Borstal institution that is girls only in Kenya. And so you might find many of them that are held there just because their cases are still ongoing.

Another issue is some of them also being forced to plead guilty just so the cases can go on faster. The backlog at one particular court in Nairobi was at 4,000 cases. And so a lot of times, you find that either police forces girls to sign a statement or their lawyers advise them to sign a statement stating that they're guilty so that the cases move faster. And then you move on from there and they get into the institution phase, and institutionalization is where we go into like the Borstal institutions with the remand homes. And one of the issues that exist in remand homes is of course, situations of abuse. Corporal punishment happens quite a bit. As much as it is essentially illegal in Kenya within situations like those, because these girls are criminalized, it is pretty much essentially allowed. So corporal punishment is happening within those spaces.

There's been reports of sexual and gender-based violence. So there's a report that showed that 13% of children in juvenile detention centers were subjected to sexual touching, 5.4% of those respondents reported that they had been raped, and 10% reported molestation by staff. And it's also been reported of course that girls are twice more vulnerable than boys are. So a lot of sexual and gender-based violence concerns them. Another issue is around access to formal education. So the education that the girls get once they get into the institutions is substandard. So you find a situation where girls of different ages are put in one classroom, let's say Grade 8 are put with Grade 3, they're all put together. And then the teachers are not even from the Ministry of Education, they're sent in from the children's department. Therefore there is even an issue as to the quality of education that they access.

So definitely, once a girl gets into the system, it's almost as if they are pitted to lose, especially with regards to their education. We also have vocational skills which are offered in these institutions and a lot of institutions here, the vocational skills offered, one, are outdated and two, are gendered. That means that girls will only access vocational skills such as tailoring, modeling, traditional dancing, which will really not give them a job. And so some of the skills that they are equipped with, while it is important that they should be equipped with skills so that they have a

chance once they are reintegrated back into community, are not skills that really, really are there to help them. So that gendered aspect and the quality of the vocational skills offered is a challenge and also psychosocial support.

There's institutions that offer counseling and there's been very interesting situations, for example, in one of the centers, which is the – the only female Borstal institution, it's called Kamae, where the girls have now began to form their own support groups to deal with their own issues and they talk and this is encouraged and also to help sort of the girls who come into the system in terms of orientation and getting them into the space. So they create safe spaces for themselves.

We also don't have access to sexual reproductive health education, and that's just generally an issue in the country and not just in the institutions as well. Kenya doesn't have a sexual reproductive health education system that has been approved. And therefore, that becomes a challenge because a lot of these girls end up going out and getting pregnant or getting STDs, HIV because of lack of that sufficient information and access to services. And this is the same scenario in other countries like Uganda and Tanzania who have a very conservative approach towards this topic as well.

Another issue is you find that sometimes, they are forced to mix with adult women. Because we don't have enough institutions, you find a situation where girls are taken to spaces where they have adults as well. And sometimes even the threat to be taken to these adult prisons, it's used as a threat to them when they are arrested. So they say “You'll be taken to Langata Women's Prison” or you know. And then, upon release, the reintegration is a problem. So one is definitely the stigma that exists. So once Shiro in this case has gone back through the system, tries to go back to school, all she has is a certificate that shows that she went to a remand home or a Borstal institution, therefore indicating that she has disciplinary issues.

So there is a lot of stigma. They have challenges being reintegrated into the education system, and they're turned away from schools. They also have difficulty in securing housing and employment, mostly because they lack sufficient skills that will allow them to be reintegrated

properly but also because of the stigma. But there's also a lot of abuse from the community as well. And many times, their families are not well-equipped to be able to take them back. Even when they leave the spaces, maybe the families have also been traumatized or the stigma from the community that exists. And also they're going back to the same communities and the same systems and structures that put them in these scenarios or situations in the first place. Therefore, it ends up becoming a cycle.

So some of the recommendations that I'd like to mention are, one, it is important to enforce a system that doesn't focus on the criminalization or incarceration of girls. And these solutions that resolve the root causes of juvenile delinquency rather or the root causes of why these girls end up in the scenarios that they do and individualized support. The second thing is embracing alternatives to detention. So this is where I was calling for a move away and a decolonization agenda, moving away from institutionalization and imposed systems into community-oriented, community-focused solutions such as mediation, community service, and really looking at psychosocial support systems as well. Third thing is investing resources to address economic and social vulnerabilities of at-risk youth. So as opposed to focusing on putting those resources within the police system, we should look at reinvesting those resources to addressing the vulnerabilities that put these young people at risk.

The fourth is sensitivity training and practices. So I think it's important to have standard operating procedures within our system throughout the entire system, but not just that but sufficient collaboration by the different players within the system that will allow the children or the girls not to fall within the cracks. And this also includes ensuring that we have sufficiently trained female officers as well that interact with these girls because we also understand that patriarchy is a system, and just because an officer is female doesn't mean that they will reinforce the same system that will put these girls at risk. Then, we should have the shortest time possible spent in remand, and we should also remove cash bail. The whole concept of cash bail should be removed.

Children in remand should also be separated from adults, so really just ensuring that children have safe spaces. We should have teachers that are well-trained. Formal education should be a priority even within these institutions. So while we are calling for a move away from this system

we're saying that as the system exists, we should ensure that it functions. And this also includes ensuring that the girls are getting a formal education that works, but also looking at the vocational skills that exist and updating those to perhaps include IT, critical thinking.

The Borstal institution I was speaking about earlier has a particular focus on rehabilitative sort of training and life skills for when girls are being exited just to build their confidence, so how can we reintroduce concepts like those. We should ensure that there is a holistic plan that targets entire families. So therefore, the families of these girls and where they are going back to, our plans and our approaches, our solution is to target entire families as opposed to only focusing on the girls. And the last thing that I would say is support for grassroots or community-based organizations that work with girls. So for example, the organization that I am at, we do vocational skills training, particularly training girls on how to repair, cellphones and building that up into IT. And the girls will work with our at-risk girls.

And so there's so many community-based organizations working at the most grassroots levels that are doing such amazing work, even with mentorship and working with girls, and they barely get enough support just because of how the funding systems and structures exist, because a lot of these organizations have very informal structures or are unregistered. And therefore, how can we create systems where these community-based approaches that are so good can be taken and replicated and that these organizations can be offered adequate support. Thank you so much.

Joshua Nederhood:

[00:52:58] Thank you so much, Nafula. So now, we will begin our question-and-answer session. Hold on just a minute. Let me turn on the gallery view so you can see all the panelists again. So we have a couple of good questions coming in. Once again, we'll - we'll take a few minutes here for questions and answers. So if you have any in the audience, please submit them now. First, two questions from actually the moderator in tomorrow's webinar, which I've just put a link to register for in the chat. Judge Leonard Edwards, has a question for Meda and Manfred. They're similar, but on different scopes here. So first to Meda, which states in the United States

incarcerate the most female children and then to Manfred, do we have good data on which countries are incarcerating the most girls.

Meda Chesney-Lind:

[00:53:25] I know that those data exists by state and I just didn't include that slide, and I don't want to misspeak. And so I don't know the answer to the question you asked about which states have the biggest problems. Was there another question, Joshua, in that or was it just that question? [00:53:50]

John Kamm:

[00:53:50] We'll see if Manfred has answers about on a country by country basis, do we have a good idea of that. [00:53:59]

Manfred Nowak:

[00:54:08] For children in general, unfortunately, by far, the number the country with the highest number as a percentage is the United States of America. And that is for children in general...

But also for girls. The other, so secondly, countries with a higher number of children and girls are in the Caribbean, Jamaica, for instance, also St. Kitts and Nevis, St. Lucia and also in South America to some extent, countries like Peru that have a high number of children in general but of girls in detention. So compared to, for instance, Africa but also Europe, both Western and Central and Eastern Europe, it's much higher in the American hemisphere. [Pause]

And perhaps, there was immediately the other question, which countries actually included a gender perspective and a child justice system where gender is taken care of, child-friendly and

gender-specific child justice systems. The top is certainly the North European countries, Sweden, Norway, Denmark, that have, a detention or a prison system based on the principle of normalization. So that means life behind bars should resemble as much as possible life in society. So that means open, I mean Denmark, that was controversial but it has a prison system where you don't have a strict separation of men and women and that means also of girls and boys. And of course, that also leads to sexual misuse but on the other hand, also when I asked women and girls whether they would prefer a different system, those who were in detention, more or less all of them said they still prefer the Danish system because it's more humane and more normal, and of course, that also leads to less violence, etcetera. [00:57:09]

Joshua Nederhood:

[00:57:10] That's so interesting, your comments on the Western hemisphere as a whole having such high rates. Nafula made a great point about the legacy of colonial law. I was wondering maybe if Nafula first and then Manfred can answer more broadly. Nafula, you know, regionally in East Africa or across the African continent, are there examples or best practices of dealing with the legacy of colonial law and reforming it or transitioning away from it? And then Manfred, you know, a lot of these colonial law systems are across the globe. So I'm guessing those might've had an impact on why the Western hemisphere has different rates than in other areas. So first to Nafula, examples and best practices of countries switching from those more antiquated colonial laws? [00:58:03]

Meda Chesney-Lind:

[00:58:04] First of all, I think I'll center down on Kenya again. And I don't know if I can do this question justice, because I don't know if I can give a very wide response as it pertains to a bunch of countries. But I think here in Kenya, first of all, we changed our constitution. And within our constitution, there're a lot of rights-based approaches or laws that focus on rights. And I feel

what's happened is that the approach when it comes to children, the constitution mentions a sort of reform as to how we deal with children as it pertains to criminalization. But what has remained that is colonial is the act themselves. So we still have acts that maintain like for example, the existence of Borstal institutions.

So we're very hopeful that reforms in terms of like the particular act will follow what has been set by the constitution as it pertains to laws and rights of children and approaches that should be taken. I think when I speak about a decolonizing agenda, I think how I can be able to do more justice to that question is as it regards to the different practices that I've seen different organizations incorporate in their work. And this is really just being able to see how, for example, organizations within rural settings are moving more and more towards sort of like mentorship or rather tapping into systems that exist that really focused on mentorship and support for girls, for children as opposed to criminalization. Because traditionally in African communities, children were brought up by the entire community.

And therefore, I feel like that ownership and being integrated into approaches that organizations are taking is what I'm seeing more and more of in terms of practices, but in terms of legislation catching on, that has been a bit slower. That said, I think Rwanda has taken more of **[a proactive approach]** so when you look at, for example, the issue with children and institutionalization, they have moved farther and farther away from institutionalization and have integrated kinship more and more into their systems, which is a very good example of a deep decolonizing approach. So I'd say Rwanda would be a good example to look at. [01:01:19]

Joshua Nederhood:

[01:01:19] Thank you. And so after Manfred's comments, Meda has an answer to an earlier question and then John, I'll have those slides with upcoming webinars. So John, you could ask a few final questions and give a preview of upcoming webinars. Manfred, any other comments? [01:01:35]

Meda Chesney-Lind:

[01:01:35] I also got Rwanda in my mind, but of course South Africa is in my opinion the best example. After the end of apartheid, they really introduced a very, very progressive child justice system. And also for instance, the South African constitutional court had some incredible judgments. So for instance, also relating to when children are growing up with their mothers in prison, simply saying judges have to take into account when they sentence a woman who is the primary and only caregiver for small children that then the judges are not allowed actually to sentence her to a prison term. It might be house arrest, etcetera, but not to a prison in order to avoid that children would also have to spend time in prison with their mothers. And there are many others. So the judges also then contributed very much to the reform of the child justice system and making it more humane and those are more gender-sensitive. [01:02:56]

Joshua Nederhood:

[01:02:57] Meda, an answer to the earlier question? [01:03:02]

Meda Chesney-Lind:

[01:03:02] Yes. I just wanted to say, Idaho and Oklahoma incarcerate the most girls and women in the US. And then I certainly appreciate and just want to echo Manfred's point that, in general, the US incarcerates way more of its youth than any other. And the difference is huge. There was one of the charts that I edited out of my presentation just because we were running out of time but I can share with Joshua that slide showing how the US compares with other countries and we're way out of step. So that's all I have to say. We're gonna learn from places like Kenya how to do it right, I think. So thank you, and thank everybody. It's been a wonderful session. [01:03:52]

John Kamm:

[01:04:00] Okay. Well, here we go. It's been a wonderful session. I've learned so much. Here are the upcoming presentations. We don't have all the times down, but of course, all of them will be hosted out of San Francisco. So if you're interested in any of them, let me know. So we have "Juvenile Incarceration" tomorrow which Judge Len Edwards is going to moderate, and we have a couple of local judges and also a presenter from mainland China. So if you can join that, it'll be well worth your while. Then on the 29th, we focus on Hong Kong and we hope Guangzhou. Richard Ross' presentation on *Girls in Justice* and will be moderated by our own Patti Lee. And then we have "Findings and Calls to Justice with a Focus on Indigenous Girls and Youth." You know, that's an area which doesn't get much attention. In Canada, it's a big issue, but also in the United States. Then we have "Sex Trafficking" on February the 23rd. One of the panelists will be the American journalist, *New York Times*' Nick Kristoff who is a Pulitzer Prize winner and has studied sexual trafficking. And then finally, a couple of more webinars. We wind up with our last webinar, "The View from Beijing."

So I hope you can all attend at least some of these. I know time zones are an issue, but if you can possibly participate, I think it will be worth your while. So with that, Joshua, I think it's time to wind down. [01:05:50]

Joshua Nederhood:

[01:05:50] Thank you again panelists for your great presentations, audience for your insightful questions. One more time, I have put links to both register for tomorrow's event in the chat. So if you wanna take a minute quickly, I'll post it one more time and register there. And then also a link to subscribe to Dui Hua publications, you know, writing on juvenile justice and women in prison, and also that would make it easier for us to invite you to future webinars. So thank you so much for your time everybody and have a great day. Alright. Thank you. [01:06:27]

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