

## Input of Young in Prison (the Netherlands)

on the Draft General Comment No. 24 (201x), replacing General Comment no. 10 (2007)

Amsterdam, January 7th, 2019

### 1. Introduction: listening to the comments of children and young people

Words can bridge and connect different worlds, and we hope the General Comment no.24 will do just that. We see an important opportunity to connect the worlds of young people in conflict with the law with (justice) professionals, as the criminal-law environment is prone to drive a wedge and distrust between these two worlds.

It is therefore with pleasure that Young in Prison has taken note of the fact that the United Nations Committee on the Rights of the Child will revise General Comment no. 10 (2007) on children's rights in juvenile justice. We are excited to provide our input to its draft General Comment no.24 (hereafter: GC.24). Young in Prison Netherlands (hereafter: YiP). We looked into the pressing question on how the draft GC.24 can be read and commented on by children and young people themselves. *How does this important document reach the world of young people and children and vice versa?*

Using creative workshops in storytelling & spoken word, four (ex-)detained young people in the Netherlands have thought about the question of how GC. 24 will have a significant in the life and rehabilitation of (imprisoned) children and young people in conflict with the law. Based on the outcomes of the workshops, YiP has composed this input on the draft GC.24.

First, there is a brief outline on the process of consulting youth for this comment. Subsequently, their input will be delivered on four subjects in the draft GC.24: *the right to be heard* (article 12 CRC), *the right to effective participation in the proceedings* (article 40 (2) (b) (iv)), *the right to be treated in consistence with the sense of dignity and worth* (article 40 (1)) and *the importance of awareness-raising and training*. On each of the topics a number of recommendations are concluded.

About [Young in Prison](#) (YIP) and the Youthlab

*These recommendations are collected by the Youthlab of Young in Prison in the Netherlands. YiP is an international NGO that uses creative and sportive programmes to support children and young people in conflict with the law to contribute positively to society. The Youthlab is the 'consultancy firm' in which young experience experts train and advise justice professionals. Participants of the Youthlab also reflect on concrete policy questions, such as the leave and probation system for young people in the Netherlands. YiP is currently active in seven countries (Kenya, Malawi, Morocco, Kosovo, Albania, Macedonia and the Netherlands).*

### 2. Consulting youth: how this input was created

General Comments are intended to improve the implementation of the Convention on the Rights of the Child (hereafter: CRC) and provide guidelines and directions for interpreting and applying children's rights provisions. The documents are therefore intended to provide more clarity to users and rightsholders. The most important target group is the children themselves. It is therefore important that they too can give their vision on the interpretation and application of their human rights in practice and daily life. It is also important to fully understand what they mean by important concepts and words such as 'dignity' or 'self-esteem'. In the draft GC.24, this interest is endorsed in

several places, for example in # 56: *'Threatening the child as a participant rather than a passive object contributes to an effective response to his/her behaviour and improves the possibility of successful completion of the measures. and of reintegration'*.

It is for this reason that four young advisers of the Youthlab, together with four colleagues YiP, have read and commented on the draft GC.24. The young advisers together have spent a significant number of years in juvenile detention. In the Youthlab, their mission is to contribute to improving the justice system. The Youthlab focused on four subjects in the General Comment: (1) the right to be heard (article 12) and related to this (2) the right to effective participation in their own proceedings and (3) to be treated in consistence with the sense of dignity and worth (article 40 (1)) and (4) the importance of awareness-raising and training.

These subjects are not chosen according to importance or urgency, but as subjects the youth intuitively felt inclined to comment on. The starting point for the development of this advisory report is that young people should participate in drafting documents that concern them. The youth of the Youthlab met in a round table discussion and explained their own vision with help of storytelling and spoken word workshops. The aim of this advisory report is to contribute to supplementing and translating the General Comment by and for young people.

### 3. Input

#### 1. Right to be heard (article 12 CRC) (# 14 and # 54-56): introduction

*"You always have the right to express your opinion. Even if other people do not want to listen to your opinion." - Youthlab participant*

To express your opinion as a child or young person, it is important to be informed that there is space to claim for that in the first place, and how that process works; on what topics, when and how. After you are made aware of your rights, it is important that you feel safe to give your opinion. Claiming space to express your opinion only happens when young people experience to have ample knowledge and safety. Young people, however, do not always feel safe with the adults who work with them. An example is when professionals judge their behaviour to influence the quality or duration of the imposed punishment measure.

*Your opinion as part of the bigger system*

The Youthlab participants indicate that having information about their rights is not only important for them, but equally important for the people working with them. Professionals at all stages of their trial and punishment should be aware and able to communicate the rights of young people. It allows young people to give their opinion and to be heard of. The participants emphasize it is important to know that an opinion only has value when it resonates with the listener, or the bigger system as a whole.

*Expressing yourself and listening, serious skills*

*"Professionals are trained to deal with young people, but young people are not trained to deal with professionals." - Youthlab participant*

An important point of attention is that the young person's voice is being heard and taken seriously. It is not just the professionals who have to be trained; young people themselves also have to learn how to give their opinion meaningfully. Both giving your opinion (young people) and being able to listen well (professionals) is a serious skill that deserves permanent attention and training. This can be an important learning goal during the time spent in detention or other punishment measures. This is simultaneously a way for young people and professionals to learn and exchange together. A way to start a dialogue and connect with each other.

#### *Your opinion being heard*

*"The right to give your opinion means for me that you are listened to and that you are taken seriously and that it is not being turned away." - Youthlab participant*

What options does a young person have when he or she does not feel heard? The participants of the Youthlab indicate that it is important to know the processes and people to turn to should this occur. In youth detention centres in the Netherlands, for example, there is a youth council or other representative bodies, but they do not meet on a regular basis or the management / employees fail to attend or do not feel obliged to respond.

#### 2. Right to effective participation (article 40 paragraph 2 b-iv) (# 57): introduction

As already stated in # 57 of the draft GC24., article 14 of the Beijing Rules prescribes that the procedures relating to children must take place in an atmosphere in which the child can participate and express himself freely.

#### *The language of youth*

The participants of Youthlab indicate that it is important that all professionals in their procedure can empathize with the young people, that they speak 'normal language' and not just talk about them. They understand that this may be complicated, and therefore recommend that employees are required to be trained in empathic and conversational skills.

#### *The world of young people*

Professionals must be able to understand the world from the perspective of a young person. If the professional and young person do not connect, there is a risk for the young person to feel frustrated. And feeling or acting frustrated, the participants of the Youthlab stated, never contributes in favour to the young person in conflict with the law.

The design of a courtroom can also contribute to better conversations in which the child can participate. The room must be safe, impartial and inclusive.

#### *Timing of your story*

Participants indicate that it is important to know about the timing of telling your story or express your opinion. Preferably, they say, this should be a possibility at the start of a hearing. The boys of Youthlab indicate that the tension of a court session, the waiting, the handling of the session and the long

duration can make it increasingly difficult for the child to really participate during the proceedings. A dedicated process facilitator who focuses on the child's well-being and inform him about what is going to happen could make this better for the child and contribute to his effective participation.

### 3. Concept "Dignity and self-esteem" (Article 40 paragraph 1 (# 15): introduction

Dignity and self-esteem are key concepts for the young participants: how do these concepts translate to something that makes sense for young people? What does the concept of dignity mean for Dutch young people in detention?

#### *Dignity at risk*

*"You stop listening when you don't understand something. You get frustrated or get angry. The judge may think that you are not interested, but this is not what is happening."* - Youthlab participant

*"You have to deal with a child as you deal with another person. If you always treat a child disrespectfully, at some point the child will only feel fearful and his anger will grow. And there is a risk for him releasing that anger in a strange way."* Youthlab participant

The participants of the Youthlab indicate that the 'dignity' is about the subjective experience of feeling that you are taken seriously, from the very beginning that their conflict with the law starts. They also state it is important to understand that young people try to protect their dignity as soon as it is compromised. In their experience, a young person who gets angry, often experiences that his dignity is being violated. This moment, they say, also offers a great opportunity of showing understanding (of the professional) : when a young person is angry or feels threatened, the reason can often be found in his feeling that his dignity is at risk. Conflicts should therefore be understood and interpreted in this way.

#### *Individuality and dignity*

Young people often lose their sense of autonomy while being detained. Your dignity is often perceived as the only and last component that you have , that really belongs to you and is controllable. Keeping your dignity, the participants say, is about upholding your individuality. They say it is important that there is space in the young person's official file for the (life) story as he himself tells it. This story must be free of all interpretations of all police officers or other professionals, which naturally will be added in the official file. Self-esteem and individuality is also about being able to affect the image that is told about you.

### 4. Awareness raising and training (# 122-123)

*"Always highlight the perspective of the young people. They can explain how the practical experience is different from theory."* - Youthlab participant

YiP and the participants from the Youthlab emphasize the importance of training for all professionals involved in children in conflict with the law. Training should not only be about the content of children's rights, but especially about how they can be implemented in practice. The boys from Youthlab emphasize that young people should be involved in designing trainings for professionals working with children in conflict with the law. They believe joint training for different

groups of professionals can add significant value.

#### 4. To conclude

With the above mentioned recommendations, YiP and Youthlab hope to add a meaningful and constructive addition to the current draft of GC24. It is important that young people have been able to feel involved in the realization of this General Comment. They emphasize that everything that is said and written for children should also be seen through the eyes of these children. It is exactly this effort that leads to empathy and connection that allow for children to seriously participate. YiP recommends that where possible young people are involved at an early stage in the development of laws and regulations and policies that apply to them.

#### 5. Participants

*Youth (Participants Youthlab):*

Rochey,  
Malcolm,  
Mo  
Bruce

*Professionals:*

Jaap van der Spek - Director Young in Prison Netherlands  
Lamyn Belgaroui - Project coordinator Youthlab  
Lotte van Elp - Policy officer Young in Prison  
Elizabeth Vrieling - Project officer Youthlab  
Raoul Nolen, director Young in Prison International  
Coosje Peterse , Juvenile lawyer The Hague and board member Dutch association of Juvenile Lawyers (VNJA)