

CHRONICLE CHRONIQUE CRÓNICA

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Mental health, children and justice systems

You will remember that the January 2016 issue of the Chronicle carried several articles on mental health. I am very pleased therefore, that **Marta Santo Pais**, Special Representative of the United Nations Secretary-General on Violence against Children, has added to those by sending an article which covers mental health of children deprived of their liberty. She draws attention to the responsibilities that states have

- to prevent the criminalisation and penalisation of children with mental health problems,
- to refrain from the practice of denying legal capacity of persons with mental and intellectual disabilities and,
- to not hold such children in detention.

Sofia Strategy 2016-2021

Following consultation with children and adoption by the Committee of Ministers, the Council of Europe (47 states) launched its **Sofia Strategy** in Bulgaria last April. **Regina Jensdottir**, Council of Europe Co-ordinator on the Rights of the Child and doctorate student **Tara Beattie** describe the intentions of the Strategy which identifies five priority areas for action. Non-discrimination against children with disabilities including mental disabilities is one area.

Another area is violence. **Corinne Dettmeijer***, a former Secretary General of IAYFJM and currently Netherlands National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children along with **Linda van Krimpen**, a researcher in the Rapporteur's Office, clinically examine the legal and practical challenges that arise regarding compensation for the damage caused to child victims of sexual abuse, with particular reference to the Netherlands, but with international references too.

Radicalisation

Part A: The **Association Française des Magistrats de la Jeunesse et de la Famille***, which is affiliated to IAYFJM, held a two day conference on *Radicalisation* in June 2016.

I am very grateful to **Marie-Pierre Hourcade***, President of AFMJF, for allowing publication of the speeches and discussions that took place.

Between them they look at:

- The dynamics of re-Islamisation by **Dr Samir Amghar** who describes several movements in Islam and addresses factors which may lead to radicalisation
- How radical speech and ideas attract young people by **Dominique Thomas** who has worked on Islamist systems in Europe

- How the Juvenile Protection Service (JPP) in France is working to help implement court decisions, to prevent radicalisation and to train all professionals working in the judicial protection of juveniles is detailed by **Catherine Sultan**, former Judge and officer of the JPP.
- A discussion between Professors **Laurent Bonelli** and **Fethi Benslama** of the University of Paris covering thoughts and ideas of professionals working in child welfare and the several variables at play in trying to understand radicalisation which was moderated by **Thierry Baranger***, President of the juvenile court of Paris.
- Testimonies from two social workers very much involved at the local level and a juvenile court judge bring their observations to the conference in a discussion moderated by **Judge Christina Rinaldis***.

Part B: In October 2015, the European section of IAYFJM met in Paris. **Judge Daniel Pical**, President of the European section and **Hervé Hamon**, Past President of the juvenile court of Paris interviewed psychiatrist **Miguel Bensayeg** who gave an enlightened and enlightening replies to their thoughtful questions which addressed anthropological changes in society and their effect on young minds.

Part C: In May 2016 I was invited by the European Union to take part in a roundtable discussion on the training of Judges in the Family Court following radicalisation of children and families. The Family Division of the High Court in London deals with all cases where radicalisation might be an element. My article reflects on aspects of some of them.

Progress in Juvenile Justice

The **Child Rights International Network** (CRIN) has recently published research into how well States enable children to access justice and enforce their rights. The research looked at whether the CRC was incorporated into national law, how the law treats children involved in legal proceedings; the legal means available to obtain redress for violations and the practical considerations when challenging violations using the national legal system. **Veronica Yates**, CRIN's Director reports on this important piece of work. If you would like to know how your country fared, follow the link in Veronica's article.

The Howard League for Penal Reform in the UK is celebrating its 150th birthday this year. Not so long ago arrests of children in England and Wales were high, so the Howard League's Director, **Frances Crook**, pursued a wide-ranging strategy to bring the numbers down and was successful. Her article describes some of the routes.

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Surrogacy in India

Barrister Anil Malhotra* explains the latest developments in India regarding surrogacy. Among other concerns he mentions the banning of surrogacy for overseas nationals by the Ministry of Home Affairs while Parliament has not yet tabled The Assisted Reproductive Technology (Regulation) Bill, 2014+ (ART Bill). He clearly sets out the contradictions between the two.

Book news

Judge Katarzyna Adamzyk looks at the motivation for the authors of the book, *Family forms and parenthood. Theory and Practice of Article 8 ECHR in Europe* edited by Andrea Büchler and Helen Keller and its value to judge practitioners in Europe where Article 8 of the European Convention of Human Rights is a daily consideration for Family Court Judges.

I first learned about the book *Coaching Behind Bars* by **Clare Mc Gregor** in a newspaper review. I was so taken by what one woman (and helpers) can achieve that I contacted Clare and invited her to write about working with women prisoners in one institution so that on release, and through their own efforts, they are better equipped to face the world and turn away from reoffending.

Small world



As you know, the world of IAYFJM is small. I should like to leave you with an image of two of this issue's contributors, Marta Santos Pais and Corinne Dettmeijer*, one past and one present member, both working over many years for the benefit of vulnerable children.

And to warmly congratulate our Past President, Justice Renate Winter on her re-election, with resounding approval, and the election of Anne Skelton to the CRC Committee along with Judge Clarence Nelson of Samoa* who continues as before.

May I thank them for the devotion they have shown over a life time to the rights of children and wish them well in the work that lies ahead.



Finally, may I welcome Dr h.c. Jean Zermatten, former President of IAYFJM and of the Committee on the Rights of the Child as our new Honorary President. It is a great honour for IAYFJM and I look forward to his presence among us for many years to come.

Thanks

In putting together this edition of the Chronicle I am greatly indebted to Judge Patricia Klentak, President of the Argentine Association of Youth and Family Judges (AJUNAF), whose tireless translating of articles into Spanish has been invaluable.

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The protection of the right to mental health of children deprived of liberty

Marta Santos Pais



Introduction.

In accordance with Article 24 of the UN Convention on the Rights of the Child (hereinafter "CRC") States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.¹ At the same time, the CRC establishes that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.²

The right to health has been interpreted by the Committee on the Rights of the Child as implying the obligation to provide health services that are sensitive to the particular needs and human rights of all adolescents, including their availability, accessibility, acceptability and quality. These characteristics include, among others, the necessity to provide health services which are sensitive to the needs of children and adolescents, as well as personnel trained to care for them, adequate facilities and scientifically accepted methods.³

Despite of this clear legal mandate, around the world millions of children suffer from the systematic violation of their right to health.

And this is particularly acute in the case of children who are deprived of their liberty who sign mental health problems, either mental illnesses or psychological disorders, which are often exacerbated during their detention. In the next lines, I pay attention to this particular subject.

I. Mental health and deprivation of liberty of children.

The relation between mental health and the deprivation of liberty of children emerges in two specific contexts. On the one hand, a large number children are deprived of liberty in detention centres or residential institutions, based on mental health reasons. On the other hand, while deprived of their liberty for criminal and protection reasons, children suffer from several forms of abuse or violence that have a dire impact on their mental health. In what follows, I pay attention to both contexts, attempting to provide a general overview of children's rights standards that should inform the matter.

1. Preventing the deprivation of liberty of children with mental health problems.

Children and adolescents with physical, mental, sensory or intellectual disabilities have the right to health and to suitable medical care for their needs and requirements that will guarantee that they achieve the greatest possible degree of personal development and autonomy, personal integrity and dignity.⁴ From this basic principle follows a direct consequence: States should act to prevent the criminalization and penalization of children with mental health problems who, instead, need to be appropriately cared for by national child protection systems, including specialized health services and not by the criminal justice system.⁵

Whether in pre-trial detention, administrative detention or detention as a sentence, there is a significant risk of violence that arises simply from being deprived of one's liberty.⁶

Those forms of violence occur at the hands of staff working in the institutions, adult detainees where children are not separated, other child

¹ United Nations Convention on the Rights of the Child, Adopted and opened for signature, ratification and accession by General Assembly Resolution 44/25 of 20 November 1989. Entry into force 2 September 1990, in accordance with Article 49.

² Art. 23 CRC.

³ Committee on the Rights of the Child, Committee on the Rights of the Child, General Comment No. 4, Adolescent health and development in the context of the Convention on the Rights of the Child, U.N. Doc. CRC/GC/2003/4 (2003), par. 37.

⁴ IACHR, The Right of Girls and Boys to a Family. Alternative Care. Ending Institutionalization in The Americas, OEA/Ser.L/V/II. Doc.54/1317 October 2013, par. 613.

⁵ Joint report of the Office of the High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children on prevention of and responses to violence against children within the juvenile justice system, A/HRC/21/25, 2012, par. 67.

⁶ "Deprivation of liberty" denotes any form of detention or imprisonment or the placement of a child in a public or private custodial setting where that child is not permitted to leave at will by order of any judicial, administrative or other authority. A/68/295, para. 27.

detainees, and also in the form of self-harm (including suicide).⁷ At the same time, a large number of children in custodial settings exhibit signs of mental health problems, or mental illnesses or psychological disorders, which are often aggravated during their detention. They may include: post-traumatic stress disorders leading to sleep problems, loss of skills, aggression and/or irritability; affective disorders, such as anxieties, bipolar disorders and depression; conduct disorders; attachment disorder; language, communication and learning difficulties; and substance abuse, leading to social, psychological or physical problems.⁸

For example, one recent study from the British Psychological Society shows some staggering data: 30 % of juvenile offenders have sustained a previous brain injury; 14 % have possible intellectual disability (IQ under 69); 32 % have a borderline intellectual disability range (IQ 70 to 79); 30 % of the youth prison population have clinically diagnosed ADHD⁹; 50 % of individuals convicted for non-violent crimes have a past history of TBI¹⁰ compared with only 5.15 % in comparison samples and; violent offenders have disproportionately more lesions in their brains, particularly in frontal areas.¹¹

Even more dramatically, on many occasions children who suffer from mental health problems have no access to mental health screening within the first hours of admission to a detention centre and do not receive adequate treatment, including psychosocial counselling during detention.¹² As a consequence, children who suffer from a mental health problem are not only dealt with using the disproportionate tools of the criminal justice system, they are also deprived of their right to have access to mental health services that can identify their needs and provide the necessary assistance for achieving their well being.¹³

Regrettably, children with mental health problems are not only affected by the disproportionate use of criminal law and deprivation of liberty within detention centres.

Many children with mental or intellectual disabilities face the arbitrary deprivation of their right to liberty and security of the person. In this

context the UN Committee on the Rights of Persons with Disabilities has indicated that States parties should refrain from the practice of denying legal capacity of persons with disabilities (including mental and intellectual ones) and detaining them in institutions against their will, either without the free and informed consent of the persons concerned or with the consent of a substitute decision-maker. In the opinion of the Committee, this practice constitutes arbitrary deprivation of liberty and violates articles 12 and 14 of the Convention on the Rights of Persons with Disabilities.¹⁴

Based on this interpretation, the Committee has recently established the *absolute prohibition of detention on the basis of actual or perceived impairment*. The Committee has pointed out that:

“9. Enjoyment of the right to liberty and security of the person is central to the implementation of article 19 on the right to live independently and be included in the community. This Committee has stressed this relationship with article 19. It has expressed its concern about the institutionalization of persons with disabilities and the lack of support services in the community, and it has recommended implementing support services and effective deinstitutionalization strategies in consultation with organizations of persons with disabilities. In addition, it has called for the allocation of more financial resources to ensure sufficient community-based services.”¹⁵

In consequence, and as a principle, children who suffer from mental health illnesses should not be held in a detention facility, whether of penitentiary or residential nature. Taking into account the negative and in many occasions irreversible effects of deprivation of liberty, children with mental health problems should be duly protected by specialized health institutions -of a custodial character, only under exceptional circumstances- so that they are able to receive the adequate health services according to their condition.

2. Protecting the mental health of children deprived of liberty.

In order to guarantee the right to health in the case of detained children, the facilities in which they are housed must ensure access to properly equipped medical and health facilities, staffed with properly trained and independent medical personnel.

⁷ A/HRC/21/25, paras. 35 and 82.

⁸ Jean-Jacques Gautier NPM Symposium 2014, Addressing children's vulnerabilities in detention: Outcome report, APT, 2014, p. 19.

⁹ Attention deficit hyperactivity disorder.

¹⁰ Traumatic brain injuries.

¹¹ British Psychological Society, Position Paper: Children and Young People with Neuro-Disabilities in the Criminal Justice System, 2015, p. 2.

¹² Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, A/HRC/28/68 (2015), par. 47.

¹³ Ibid., note 9.

¹⁴ CRPD/C/GC/1, para. 40.

¹⁵ CRPD, Guidelines on article 14 of the Convention on the Rights of Persons with Disabilities. The right to liberty and security of persons with disabilities. Adopted during the Committee's 14th session, held in September 2015, par. 9.

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In particular, institutions for juvenile offenders must have mental health services so that they can properly address the children's needs, considering the fact that the inhumane and degrading detention conditions, compounded by the violence typical of such facilities, will invariably take a toll on a child's mental health and adversely affect his or her mental growth and development and physical and mental well-being.¹⁶

This principle is recognized by the CRC and by several international instruments and standards, such as the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules)¹⁷, the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)¹⁸ and, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)¹⁹

¹⁶ IACHR, Juvenile Justice and Human Rights in the Americas, OEA/Ser.L/V/II. Doc. 78, 13 July 2011, para. 491.

¹⁷ *Rule 49.* Every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmological and mental health care, as well as pharmaceutical products and special diets as medically indicated [ō]. *Rule 51.* The medical services provided to juveniles should seek to detect and should treat any physical or mental illness, substance abuse or other condition that may hinder the integration of the juvenile into society [ō] Every juvenile who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties, should be examined promptly by a medical officer. *Rule 54.* Juvenile detention facilities should adopt specialized drug abuse prevention and rehabilitation programs administered by qualified personnel. These programs should be adapted to the age, sex and other requirements of the juveniles concerned, and detoxification facilities and services staffed by trained personnel should be available to drug- or alcohol-dependent juveniles.+ GAOR A/RES/45/113, Annex 45, UN GAOR Supp. (No. 49A) at 205, U.N. Doc. A/45/49 (1990).

¹⁸ *Rule 6.* The health screening of women prisoners shall include comprehensive screening to determine primary health-care needs, and also shall determine: (b) Mental health-care needs, including post-traumatic stress disorder and risk of suicide and self-harm. *Rule 12.* Individualized, gender-sensitive, trauma-informed and comprehensive mental health care and rehabilitation programmes shall be made available for women prisoners with mental health-care needs in prison or in non-custodial settings. *Rule 13.* Prison staff shall be made aware of times when women may feel particular distress, so as to be sensitive to their situation and ensure that the women are provided appropriate support. *Rule 16.* Developing and implementing strategies, in consultation with mental health-care and social welfare services, to prevent suicide and self-harm among women prisoners and providing appropriate, gender-specific and specialized support to those at risk shall be part of a comprehensive policy of mental health care in women's prisons.+ A/C.3/65/L.5 (2010).

¹⁹ *Rule 25. 1.* Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation. 2. The health-care service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence and shall encompass sufficient expertise in psychology and psychiatry [ō] *Rule 30.* A physician or other qualified health-care professionals, whether or not they are

In December 2014, the General Assembly approved the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice (UN Model Strategies).²⁰ These strategies and practical measures set a precise set of strategies to prevent violence against children in contact with the criminal justice system and particularly, including their right to mental health:

38. Recognizing that, when children must be detained, the conditions of detention themselves can be conducive to various forms of violence against children, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(f) To ensure that treatment and support is offered to detained children with special needs, including to girls who are pregnant, give birth and/or raise children in detention, and that treatment for mental illness, disabilities, HIV/AIDS and other communicable and non-communicable diseases and drug addiction is offered, and to address the needs of children at risk of committing suicide or other forms of self-harm;

39. Recognizing also that it is imperative to minimize the risk of violence against children in detention, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:ō

(b) To prohibit the use of placement in a dark cell or closed or solitary confinement or any other punishment that may

required to report to the physician, shall see, talk with and examine every prisoner as soon as possible following his or her admission and thereafter as necessary. Particular attention shall be paid to: (c) Identifying any signs of psychological or other stress brought on by the fact of imprisonment, including, but not limited to, the risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication or alcohol; and undertaking all appropriate individualized measures or treatment. *Rule 33.* The physician shall report to the director whenever he or she considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment. *Rule 45. 1.* Solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner's sentence. 2. The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. The prohibition of the use of solitary confinement and similar measures in cases involving women and children, as referred to in other United Nations standards and norms in crime prevention and criminal justice, continues to apply.+E/CN.15/2015/L.6/Rev.1.

²⁰ A/RES/69/194 (2015).

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compromise the physical or mental health of a child;²¹

(j) To prevent violence against and abuse of children suffering from mental illness or drug addiction, including through treatment and other measures to protect them from self-harm.²¹

Despite these clear normative mandates, children deprived of liberty in the criminal justice system suffer violence, abuse and acts of torture or cruel, inhuman or degrading treatment or punishment. Too often children are exposed to psychological, physical and sexual violence during arrest and interrogation, or while being held in police custody; they are likewise vulnerable to violence at the hands of staff and adult detainees in detention centres; and they also endure violence as a form of punishment or sentencing. These include stoning, amputation, capital punishment and life sentencing.²² Considering their age and stage of development, the impact of these forms of violence is more profound in children and adolescents than in adults, including an irreversible detriment on the former's psychological well-being and cognitive development.²³

Sadly, these grave violations to the child's physical and mental health not only take place within criminal detention facilities. Children in institutional care (already vulnerable as a result of the circumstances that led to their separation from their families and communities) are at high risk of violence, neglect and abuse, including sexual abuse, from staff and officials responsible for their well-being.²⁴ In the Americas, for example, the Inter-American Commission on Human Rights has called the attention to the high level of psychiatric medication administered to children in residential institutions.

According to the Commission, the heavy use of medication, including psychiatric medication, is not only for therapeutic purposes; on occasions they are administered as a method for control, due generally to the lack of sufficient staff members. Children are given psychiatric medication even if not required for the child as part of a diagnosed and monitored medical treatment. In addition, the high level of psychiatric medications is tied to the use of medication as the main approach to psychotherapeutic treatment of children and adolescents. Finally, the Commission has also noted the lack of control and supervision by the competent medical authorities on matters involving treatments and medications administered to children in residential institutions, which can pose a risk to the health and personal integrity of the child.²⁵

Considering the disproportionate use of medication and other means of discipline, the United Nations Guidelines for the Alternative Care of Children establish that the use of force and restraints of whatever nature should not be authorized unless strictly necessary for safeguarding the child's or others' physical or psychological integrity, in conformity with the law and in a reasonable and proportionate manner and with respect for the fundamental rights of the child. In particular, the Guidelines dispose that restraint, by means of drugs and medication, should be based on therapeutic needs and should never be employed without evaluation and prescription by a specialist.²⁶

²¹ A/RES/69/194, paras. 38 f) and 39 b) & j).

²² SRSG on Violence against Children, Promoting Restorative Justice for Children, New York, 2013, p. 3.

²³ There are alternatives. A handbook for preventing unnecessary immigration detention (revised edition), International Detention Coalition, 2015, p. 5. See, also, A/HRC/28/68, paras 16, 32 & 33.

²⁴ SRSG on Violence against Children, Toward a World Free from Violence. Global Survey on Violence against Children, 2013, p. 38.

²⁵ IACHR, The Right of Girls and Boys to a Family. Alternative Care. Ending Institutionalization in The Americas, OEA/Ser.L/V/II. Doc. 54/13 17 October 2013, par. 612.

²⁶ A/RES/64/142, 2010, Guideline No. 97.

II. Conclusion.

The CRC also established that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community. This legal mandate is complemented by a series of international instruments and standards that attempt to guarantee that children with physical, mental, sensory or intellectual disabilities have access to suitable medical care for their needs and requirements, while respecting the greatest possible degree of personal development and autonomy, personal integrity and dignity.

Despite of this clear legal mandate, around the world millions of children suffer from the systematic violation of their right to mental health, particularly those who are deprived of their liberty. Many children in custodial settings exhibit signs of mental health problems, or mental illnesses or psychological disorders, which are often aggravated by being detained. Too often children are exposed to psychological, physical and sexual violence during arrest and interrogation, or while being held in police custody; they are likewise vulnerable to violence at the hands of staff and adult detainees in detention centres; and they also endure violence as a form of punishment or sentencing. Sadly, these grave violations to the child's physical and mental health not only take place within criminal detention facilities. Children in institutional care are at high risk of violence, neglect and abuse, including sexual abuse, from staff and officials responsible for their well-being.

Taking into account the negative and in many occasions irreversible effects of deprivation of liberty, children with mental health problems should be duly protected by specialized health institutions -of a custodial character, only under exceptional circumstances- so that they are able to receive the adequate health services according to their condition. At the same time, when deprived of liberty, children need to be protected from all forms of violence against them. Particularly from those forms of violence which have a dire and irreversible impact on children's mental health.

Marta Santos Pais is the Special Representative of the United Nations Secretary-General on Violence against Children.

'Reaching the Heights for the Rights of the Child': The Council of Europe Strategy for the Rights of the Child 2016-2021

Regina Jensdottir & Tara Beattie



Regina Jensdottir

The opinions expressed in this article are the responsibility of the authors and do not necessarily reflect the official policy of the Council of Europe

The Council of Europe protects and promotes human rights, which includes the rights of the child.¹ These form the opening words, as well as the spirit, of the new Council of Europe Strategy for the Rights of the Child. The Strategy will run for six years, from 2016-21, and constitutes the third Strategy for the Rights of the Child.² It forms part of the Council of Europe's Building a Europe for and with Children+programme, which aims to protect and mainstream the rights of the child in Council of Europe member States.

The Strategy is based upon human rights protections that are safeguarded by the European Convention on Human Rights, the United Nations Convention on the Rights of the Child (UNCRC) and through other international human rights standards. It takes full account of civil and political, as well as economic, social and cultural human rights, and seeks to ensure that these rights are made a reality for children across the Council of Europe region. In particular, the Strategy takes into account the general principles of the UNCRC, namely: non-discrimination (Article



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2), the best interests of the child (Article 3), the right to life, survival and development (Article 6) and the right to be heard (Article 12).

The Strategy was formed through consultation with actors and stakeholders at all levels, including member States, civil society, international organisations, and children themselves. This process was guided by the Committee of Experts on the Council of Europe Strategy for the Rights of the Child (DECS-ENF).

1. Progress achieved

Previous Strategies have resulted in significant progress within the arena of children's rights.³ In particular, legislative and policy change has been encouraged through the creation of two binding and 18 non-binding standards on children's rights at the Council of Europe level. These include the Convention on the Adoption of Children,⁴ and the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention);⁵ as well as, notably the Child-Friendly Guidelines on Justice.⁶ The monitoring role of the Council of Europe has been furthered by the collection of data by at least eight monitoring and other mechanisms.⁷

¹ The Council of Europe Strategy for the Rights of the Child 2016-2021 [1]: available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168066cff8>.

² Previous Strategies include the Stockholm Strategy of 2009-2011, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168045d226>, and the Monaco Strategy of 2012-2015, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168045d224>.

³ See e.g. the Implementation Report on the Strategy 2012-2015 (CM(2015)174), available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805a920a>.

⁴ CETS No 202.

⁵ CETS No.201.

⁶ CM/Del/Dec(2010)1098 /10.2abc available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168045f5a9>.

⁷ European Committee of Social Rights (ECSR); Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote

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The previous Strategy (2012-2015) oversaw the organisation of more than 200 activities on children's rights, involving all 47 member States. Overall, children's rights were mainstreamed across the Council of Europe with 35 sectors and policy fields contributing to the previous Strategy's implementation.

Moreover, the views of children were sought and taken into account in the development of recommendations of the Committee of Ministers on children's rights,⁸ as well as in the development of child-targeted communication tools. Finally, those closest to the ground (including children, parents, professionals and policy-makers) were made more aware of the rights of the child through various accessible and attractive tools, audio-visual material, and campaigns of the Council of Europe, including the ONE in FIVE Campaign to stop sexual violence against children.⁹

2. The main challenges that children face today

In spite of this significant progress, there is much that remains to be done. In particular, the Strategy identified seven, key challenges for children's rights today.¹⁰ These are, namely:

- Poverty, inequality and exclusion
- Violence
- A justice system made for adults
- Challenges for families and parents
- Racism, hate speech and radicalisation
- Growing up in a digital world
- Migration¹¹

Committee); Committee for the Prevention of Torture (CPT); European Commission against Racism and Intolerance (ECRI); Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC); Group of Experts on Action against Trafficking in Human Beings (GRETA); European Commission for Democracy through Law (Venice Commission); Committee of Experts of the European Charter for Regional or Minority Languages (ECRML).

⁸ E.g. the Guidelines on child-friendly justice take into consideration the conclusions from approx. 3,800 children in 25 member States. Children's views were also taken into account in the drafting process of the Guidelines on child-friendly health, the Recommendation on child-friendly social services, and the Recommendation on participation of children and young people under the age of 18.

⁹ For instance, the TV spot and children's book *%iko* and the *Hand+* were created within the framework of the ONE in FIVE Campaign targeting young children and their parents (www.underwearrule.org).

¹⁰ (n1), chapter 2.

¹¹ For the purposes of this entry, details are given of only several key challenges.

Poverty constitutes a large stumbling block to children's access to and inclusion within society. The economic crisis, in particular, has deeply affected children: according to Eurostat, children are the age group most at risk of poverty or social exclusion.¹² In a UNICEF report, 20 of the 32 Council of Europe member States monitored showed an increase in child poverty.¹³ Poverty has left deep scars within family units, and can, in turn, lead to further rights challenges, such as increased risk of violence, or the witnessing thereof.

According to a study specifically commissioned to inform the drafting of the Strategy, children identify **discrimination** as a key concern.¹⁴ Especially vulnerable groups are identified as children with disabilities, children in alternative care, and children from minorities, such as Roma; children deprived of their liberty, or children of imprisoned parents, as well as children living or working on the streets.

Children on the move or otherwise affected by migration face limited access to justice, education, social and health services, while unaccompanied and stateless children are rendered highly susceptible to human rights violations. There are also risks of inappropriate detention-use, subjection to abuse within asylum or immigration procedures, and the risk of trafficking and exploitation.

Violence was also a key concern voiced by children.¹⁵ The risk of violence is present in diverse settings, from schools to the digital world, and justice institutions to the home. Violence includes sexual, physical and mental violence, neglect and mistreatment, and violence against children in conflict.

Judicial systems remain adult-oriented institutions, which can be ill-adapted to the needs of the child. Guarantees for children's rights to be heard, informed, protected, and not discriminated against, are not fulfilled in practice.¹⁶ Restrictions of liberty are not always considered a last resort and for the shortest period possible, despite this being a guarantee of the UNCRC.

¹² (n1) [12].

¹³ UNICEF Office of Research (2014), *Children of the Recession: The impact of the economic crisis on child well-being in rich countries*, Innocenti Report Card 12.

¹⁴ Council of Europe (2015) *Challenges to children's rights today: What do children think?*, chapter 8. Available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680643ded>.

¹⁵ *Ibid*, chapter 9.

¹⁶ EU Agency for Fundamental Rights (FRA) (2015), *Child-friendly justice . Perspectives and experiences of professionals on children's participation in civil and criminal judicial proceedings in 10 member States; and various ECHR and ECSR violations .* see e.g. European Court of Human Rights, Factsheet Children's Rights (March 2015).

3. Priority areas

In order to mount a focussed attack upon the identified challenges, the new Strategy pin-points five priority areas,¹⁷ all with grounding in the relevant and aforementioned human rights instruments. The areas are:

- Equal opportunities for all children
- Participation of all children
- A life free from violence for all children
- Child-friendly justice for all children
- Rights of the child in the digital environment¹⁸

Equal opportunities

Guaranteeing equal opportunities for children entails, firstly, protecting children's social rights. The European Social Charter¹⁹ is to be promoted as a set of minimum standards for protecting families and children, particularly within the context of economic austerity. Member states will be encouraged to follow and implement the relevant Committee of Ministers Recommendations on child-friendly social services,²⁰ on child-friendly healthcare,²¹ and on young people from disadvantaged neighbourhoods access to social rights;²² as well as the Recommendation of the Congress of Local and Regional Authorities on social reintegration of children living and/or working on the streets.²³ Member states could also take into account the Recommendation of the European Commission Investing in children: breaking the cycle of disadvantage,²⁴ and its work on integrated child protection mechanisms.²⁵ Moreover, member States will be supported in introducing and enhancing the quality and effect of child impact assessments.

Also vital to guaranteeing equal opportunities is the effective countering of **discrimination**, especially against children within vulnerable groups. In this regard, **children with disabilities** can be protected through the Council of Europe Recommendations on ensuring full inclusion of children and young persons with disabilities into

society,²⁶ and on the deinstitutionalisation and community living of children with disabilities.²⁷

The rights of **children in all forms of alternative care**, meanwhile, can be protected through implementation of the Committee of Ministers Recommendation on the rights of children living in residential institutions,²⁸ as well as the UN Guidelines for the Alternative Care of Children.²⁹

The rights of **children affected by migration** can be supported by member States upholding their obligations under the case-law of the European Court of Human Rights (ECtHR), the conclusions and decisions of the European Committee on Social Rights (ECSR), and the Committee for the Prevention of Torture (CPT), among other bodies. A co-ordinated and rights-based approach can also be fostered through implementation of the Recommendations on life projects for unaccompanied migrant minors,³⁰ on strengthening the integration of children of migrants and of immigrant background,³¹ and on the nationality of children.³² Meanwhile, the Parliamentary Assembly of the Council of Europe (PACE) continues to support the Campaign to End Immigration Detention of children.³³

Implementation of **Roma Children's** rights will continue to be addressed, including through strengthening access of Roma children to education, and through the use of trained Roma mediators and assistants.³⁴

Finally, **LGBT and intersex children's** rights can be protected and enhanced through implementation of the Recommendation on measures to combat discrimination on grounds of sexual orientation and gender identity.³⁵

Violence

The Council of Europe will continue to support the mandate of the Special Representative of the UN Secretary-General on Violence against Children.

In particular, addressing violence against children requires an **integrated approach**. This can be fostered through further implementation of the Recommendation on national strategies for the protection of children from violence.³⁶

To counter **sexual exploitation and sexual abuse**, the Council of Europe will continue to promote and monitor the implementation of, in

¹⁷ (n1), Chapter 3.

¹⁸ Areas one (equal opportunities), three (violence) and four (child-friendly justice) will constitute the main focus of this entry.

¹⁹ CETS No. 163 (Revised).

²⁰ CM/Rec(2011)12.

²¹ Guidelines on child-friendly healthcare, adopted by the Committee of Ministers on 21 September 2011.

²² CM/Rec(2015)3.

²³ Recommendation 253(2008) of the Council of Europe of Congress of Local and Regional Authorities.

²⁴ European Commission Recommendation Investing in Children: Breaking the cycle of disadvantage, 2013.

²⁵ See European Commission (2015), 9th European Forum on the rights of the child: Reflection Paper, Coordination and cooperation in integrated child protection systems.

²⁶ CM/Rec(2013)2.

²⁷ CM/Rec(2010)2.

²⁸ CM/Rec(2005)5.

²⁹ A/RES/64/142.

³⁰ CM/Rec(2007)9.

³¹ CM/Rec(2008)4.

³² CM/Rec(2009)13.

³³ See <http://website-pace.net/web/apce/children-in-detention>.

³⁴ See www.coe-romed.org.

³⁵ CM/Rec(2010)5.

³⁶ CM/Rec(2009)10.

particular, the Lanzarote Convention.³⁷ It will encourage ratification by member States that have yet to do so, and continue its monitoring work through the Committee of the Parties to the Lanzarote Convention.³⁸

The Council of Europe will continue to support a complete ban on **corporal punishment** and other degrading forms of punishment of children within all settings, including within the home. This will be facilitated through creating greater public awareness of children's rights, as well as the long-lasting damage that corporal punishment can have upon children, and through the promotion of positive parenting, in line with the Committee of Ministers Recommendation (2006)19.

Other settings in which children are particularly vulnerable to violence include schools, the home (domestic violence), in the context of trafficking, and within the arena of sports. The Council of Europe will support member States in addressing these forms of violence through the promotion of democratic and human rights-based education and education-materials,³⁹ several Conventions and their monitoring bodies, such as the Convention on preventing and combating violence against women and domestic violence (Istanbul Convention),⁴⁰ and the Convention on Action against Trafficking in Human Beings,⁴¹ as well as the Enlarged Partial Agreement on Sport of the Council of Europe (EPAS).⁴²

Child-friendly justice

The UNCRC contains several guarantees regarding the right of the child to be heard, and access to justice. This is also guaranteed under the ECHR right to a fair trial (Article 6). The UNCRC further obligates children in conflict with the law to be treated with dignity, taking into account the child's best interests.

The Council of Europe will support these guarantees through, firstly, promoting implementation of the Guidelines on **child-friendly justice**,⁴³ which can help member states to strengthen the access to, treatment in and participation of children in civil, administrative and criminal justice proceedings. A range of actions will be carried out in this regard, including an e-learning training course in co-operation with HELP

Network (Programme on Human Rights Education for Legal Professionals)⁴⁴ and other relevant bodies. Co-operation with regional and international actors will continue, and the Council of Europe will support ratification and implementation of the Third Optional Protocol to the UNCRC on a Communications Procedure.

Child **deprivation of liberty** should be a last resort, for the shortest time possible, and in a manner which promotes the child's reintegration into society. According to the Strategy, detention conditions should be improved in line with Council of Europe Standards, and member states' implementation of the European Rules for juvenile offenders subject to sanctions or measures⁴⁵ will continue to be supported. The situation of children whose parents are in detention will also be considered. Finally, the Council of Europe stands ready to support, as appropriate, the UN Global Study on Children Deprived of Liberty,⁴⁶ especially with regard to the European region.

Children's rights in the family will continue to be promoted through support for implementation of the European Convention on the Adoption of Children (Revised),⁴⁷ as well as the Committee of Ministers Recommendations on family mediation,⁴⁸ on positive parenting policies,⁴⁹ and on preventing and resolving disputes on child relocation.⁵⁰ Particular emphasis will be placed upon the assessment processes of the best interests of the child within family matters,⁵¹ including within the context of removal from parental care, placement and reunification decisions.⁵² The child's best interests will also be considered in Council of Europe action regarding new family forms and bioethics, especially with regard to surrogacy and donor-assisted human reproduction.

³⁷ (n5).

³⁸ See <http://www.coe.int/en/web/children/lanzarote-committee>.

³⁹ In line with the Charter on Education for Citizenship and Human Rights Education, CM/Rec(2010)7.

⁴⁰ CETS No. 210, monitored by GREVIO.

⁴¹ CETS No. 197, monitored by GRETA.

⁴² CM/Res(2007)8; and see <http://pjp-eu.coe.int/en/web/pss>.

⁴³ Guidelines on child friendly justice (n6). See also Parliamentary Assembly Resolution 2010(2014) on Child-friendly juvenile justice: from rhetoric to reality, and the orientations on promoting and supporting the implementing of the Guidelines on child-friendly justice by the European Committee on Legal Co-operation (CDCJ(2014)15).

⁴⁴ See <http://help.ppa.coe.int/>.

⁴⁵ CM/Rec(2008)11.

⁴⁶ See UN General Assembly Resolution A/C.3/69/L.24/Rev.1, paragraph 51.d.

⁴⁷ (n4).

⁴⁸ Rec(98)1.

⁴⁹ CM/Rec(2006)19. See also Recommendation Rec(98)8 on children's participation in family and social life.

⁵⁰ CM/Rec(2015)4.

⁵¹ See The Council of Europe, *The best interests of the child – A dialogue between theory and practice* (2016, Council of Europe Publishing, Strasbourg Cedex) available at: <https://book.coe.int/eur/en/children-s-rights-and-family-law/6862-the-best-interests-of-the-child-a-dialogue-between-theory-and-practice.html>.

⁵² See Parliamentary Assembly Resolution 2049 (2015) on Social services in Europe: legislation and practice of the removal of children from their families in Council of Europe member States.

4. Implementation

The Strategy will be implemented with the help of a newly established Ad hoc Committee on the Rights of the Child (CAHENF),⁵³ which is answerable to the Committee of Ministers. CAHENF will develop an action plan, and submit annual reports. It will focus on the main methods of delivery for the strategy, namely:

- Making the existing standards work for children
- Involving all relevant stakeholders
- Communication and outreach work
- Evaluating performance

Given the wealth of existing standards and guidelines, the new Strategy will focus on **effective implementation**, rather than standard-creation. It will do so through increased efforts to support co-operation activities in member States, and through mainstreaming children's rights across all relevant projects and activities within other sectors of the Council of Europe. It will continue its thematic and country-based monitoring of conventions, and will support member States to follow up the results of monitoring activities.

Implementation is dependent upon the **cooperation of all stakeholders**, which includes member States, international organisations, civil society, the academic network, professionals and decision-makers, the private sector, and children. To this end, the Ad hoc Committee will be composed of representatives of the 47 member states, as well as other relevant actors.

On the basis of a Joint Declaration of 2007, both UNICEF and the Council of Europe seek to reinforce their co-operation. Other partners include the Special Representative of the UN Secretary-General on Violence against Children, the UN Special Rapporteur on the sale of children, child prostitution and child pornography, the Office of the UN High Commissioner on Human Rights, and the Office of the UN High Commissioner on Refugees. The Strategy also highlights the Council of Europe's commitment to contribute towards the implementation of the UN 2030 Agenda for Sustainable Development.⁵⁴

The European Union, and in particular the European Commission and the Fundamental Rights Agency (FRA), will continue to be key partners in promoting Council of Europe Standards.

Other vital players include Ombudspersons for Children and their European Network (ENOC), international and national NGOs.

Raising awareness of children's rights among children, parents, carers, professional and policy makers will be a priority. In this regard, the Council of Europe will rely heavily upon the efforts of its cooperative stakeholders, and further develop the website www.coe.int/children into a comprehensive hub for tools and information on children's rights.

5. Launching the Strategy

The Strategy was adopted by the Committee of Ministers on 2 March 2016, and launched at a high-level conference⁵⁵ in Sofia, Bulgaria on 5-6 April 2016 during the Bulgarian Chairmanship of the Committee of Ministers. It is thereby called the **Sofia Strategy**.

The conference provided an opportunity for an in-depth discussion on the five priority areas among and for stakeholders, as well as for the identification of methods for implementing the Strategy over the coming years. The conference was held under the patronage of the President of Bulgaria and attended by the President of Malta and many ministers and other high-level representatives. Additionally, 10 young delegates took an active role in the conference as rapporteurs in all thematic sessions.⁵⁶

The highly successful conference is a reflection both of the transversality and prominence that children's rights have gained across the Council of Europe region. If this level of commitment and participation is an indication of the vigour with which the Strategy will be implemented, then one can indeed look towards a brighter future for children across Europe.

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⁵³ See <http://www.coe.int/en/web/children/cahenf> and CM(2015)171-final.

⁵⁴ UNGA A/Res/70/1 of 25 September 2015, Transforming our world; the 2030 Agenda for Sustainable Development.

⁵⁵ See <http://www.coe.int/en/web/children/sofia2016>.

⁵⁶ See Council of Europe (2016) High-Level Launching Conference Report, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680658964>.

Damages for possession of child pornography: legal possibilities and practical obstacles

C.E. Dettmeijer-Vermeulen & Linda van Krimpen



Corinne Dettmeijer-Vermeulen

Watching child pornography is not a victimless offence. The knowledge that child pornography in which they figure is circulating forever on the Internet can cause the victim great psychological harm. It is therefore correct that perpetrators of this offence¹ should be liable for the damage that possession of child pornography causes the victims. However, the nature of the offence raises a number of legal and practical issues which are discussed in this article.

Introduction

Judges impose an order to pay compensation on almost one in three persons convicted of a paedosexual offence.² The order is usually imposed on offenders who have been convicted of a hands-on³ sex offence.⁴ However, even hands-off offences, including possession of child pornography, can cause victimisation and damage.

Child pornography can be produced in various ways: its production is often preceded by sexual abuse of a child, but on occasion adolescents voluntarily produce images of themselves (sexting) or images are manipulated in a manner that makes them pornographic (virtual child



Linda van Krimpen

pornography). When the person in possession of the images knows the victim (because he is also the person who produced the image, for example) and abused the child for the purpose of producing it, awarding compensation is straightforward.⁵ The situation is different if the person in possession of the image does not know the child who is depicted and the child⁶ is (initially) unaware that the image of the abuse is in the suspect's possession. With the technology that is available for downloading and saving large quantities of child pornography, the person in possession of the pornography will generally not know the identity of the victims who are portrayed. A further complicating factor is the fact that the victims who are depicted can also come from a different country than the person in possession of the images.

1. Legal framework

As already mentioned, the production of a pornographic image of a child is often preceded by sexual abuse of the child. In the first place, the child depicted is the victim of hands-on sexual violence, often committed by the person who has produced the pornographic image. The filming of the sexual abuse adds a second dimension to the nature of the child's victimisation⁷ in the form of the consequences the child suffers from figuring as an object of the pornographic material.⁸

¹ This article concerns individuals who possess child pornography and those who provide access to child pornography pursuant to Article 240b of the Dutch Criminal Code (DCC), further referred to as possessors.

² National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, *On solid ground. Tackling sexual violence against children*. The Hague: National Rapporteur 2014, pp. 219-220.

³ For the distinction between *hands-on* and *hands-off* sexual violence, see National Rapporteur on Trafficking in Human Beings, *First Report on Child Pornography*. The Hague: BNRM 2011, pp. 41-44.

⁴ National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, *On solid ground. Tackling sexual violence against children*. The Hague: National Rapporteur 2014, p. 220.

⁵ See, for example, Amsterdam Court of Appeal 26 April 2013, ECLI:NL:GHAMS:2013:BZ8885; Utrecht District Court 24 February 2012, ECLI:NL:RBUTR:2012:BV6879; Zwolle-Lelystad District Court 16 September 2010, ECLI:NL:RBZLY:2010:BR4213.

⁶ This can also be a person who was a minor at the time of the production of the image, but has since reached adulthood.

⁷ National Rapporteur on Trafficking in Human Beings, *First Report on Child Pornography*. The Hague: BNRM 2011, p. 70.

⁸ National Rapporteur on Trafficking in Human Beings, *First Report on Child Pornography*. The Hague: BNRM 2011, p. 70.

A German study⁹ has shown that professionals presume that the discovery of the existence of material showing the sexual abuse will always cause additional psychological stress for the victim.¹⁰ For many victims, the realisation of the permanent nature of the material in which they are depicted creates feelings of a total loss of control, powerlessness, helplessness, shame and fear.¹¹

1.1 Possession of child pornography and victimization

From a psychological perspective, therefore, the child portrayed can be a victim of the fact that the image depicting the sexual abuse is in the possession of a third party. It can also be assumed that the child is a victim from a legal perspective.

Pursuant to Article 51a(1) of the Dutch Code of Criminal Procedure (DCCP), a victim is ~~the~~ person who has suffered damage as a direct result of a criminal act. As explained earlier, victims of child pornography can continue to suffer the (psychological) consequences of knowing that the images of the abuse can be seen by others for a long time. This psychological impact is the direct result of the crime that is punishable under Article 240b of the Dutch Criminal Code (DCC). In the so-called Amstelveen vice case, in which two suspects were tried for offences including possession of child pornography, it was found that the mere possession of child pornography can also cause victimization. In that case, which can be linked to the Robert M. case, some children had joined the proceedings as injured parties. The Amsterdam District Court ruled in an interim judgment:

~~The~~ court is further of the opinion that there can be victimization of a very young child not only due to abuse of the child, but also due to the possession of pornographic images or films in which the child is depicted.¹²

1.2 Possession of child pornography and compensation

A child can therefore be a victim solely of the possession of child pornography. The question then is whether the victim who is depicted also qualifies for compensation for damage suffered as a result of featuring in child pornography. Article 51f(1) DCCP provides that a person who has suffered damage as a direct result of a criminal

act can join the criminal proceedings to pursue a claim for compensation as an injured party. ~~There~~ is direct damage if a person is affected in an interest that is protected by the provision of criminal law that has been breached.¹³ The interest protected by Article 240b DCC is ~~the~~ prevention of [...] sexual abuse of children and their exploitation.¹⁴

That there can also be direct damage in the case of possession of child pornography is apparent from the aforementioned judgment of the Amsterdam District Court, which found as follows in its interim judgment:

~~At~~ this stage the question is whether the possession of child pornography can cause direct damage for the child who is depicted in that material. The court answers that question in the affirmative. Feelings of guilt and shame can be a direct consequence of the knowledge that a person is in possession of child pornography in which the individual concerned is depicted.¹⁵

In the final judgment, which followed a month later, the court ruled that by possessing and viewing the pornographic image of one of the victims, the suspect had seriously violated that child's fundamental right to privacy.¹⁶ As a result of that violation of Article 8 of the European Convention on Human Rights,¹⁷ the court ordered payment of "2,000 euro as an advance on the compensation for the child's immaterial damage.

The question of liability for damage arising from possession of child pornography also played a role in the case of Robert M., whose partner, Richard van O., was convicted on appeal, among other things, of co-perpetration of the offence of possession of child pornography. The Court of Appeal in Amsterdam ruled:

~~In~~ the cases in which it is found that it has been legally and convincingly proved that Van O. was guilty of co-perpetration of the crime under Article 240b DCC, he shall be ordered to pay "500 per child, since he has been convicted solely of possession of child pornography and not also of its production or distribution.¹⁸

¹³ C.P.M. Cleiren, J.H. Crijns & M.J.M. Verpalen, *Tekst & Commentaar Strafvordering*, Deventer: Kluwer 2013, art. 51f DCC, note 2.

¹⁴ C.P.M. Cleiren & M.J.M. Verpalen, *Tekst & Commentaar Strafrecht*, Deventer: Kluwer 2012, art. 240b DCC, note 4.

¹⁵ Amsterdam District Court, 21 June 2012, ECLI:NL:RBAMS:2012:BW9108.

¹⁶ Amsterdam District Court, 23 July 2012, ECLI:NL:RBAMS:2012:BX2325.

¹⁷ In this context, it referred to a judgement of the European Court of Human Rights on 15 January 2009, 1234/05 (*Reklos and Davourlis/Greece*), in which the unsolicited photographing of a new-born baby by the hospital's photographer in a private ward of the hospital was found to be a violation of Article 8 of the European Convention on Human Rights.

¹⁸ Amsterdam Court of Appeal, 26 April 2013, ECLI:NL:GHAMS:2012:BZ8895.

⁹ J. von Weiler, A. Haardt-Becker & S. Schulte, *Care and treatment of child victims of child pornographic exploitation (CPE) in Germany* *Journal of Sexual Aggression* 2010, 16(2), pp. 211-222.

¹⁰ National Rapporteur on Trafficking in Human Beings, *First Report on Child Pornography*. The Hague: BNRM 2011, p. 71.

¹¹ J. von Weiler, A. Haardt-Becker & S. Schulte, *Care and treatment of child victims of child pornographic exploitation (CPE) in Germany* *Journal of Sexual Aggression* 2010, 16(2), p. 211-222.

¹² Amsterdam District Court, 21 June 2012, ECLI:NL:RBAMS:2012:BW9108.

As far as is known, the above judgments are the only (published) judgments in which victims unknown to the perpetrator have joined a case as injured parties solely with respect to possession of child pornography. There have been no known cases involving possession in which a claim for compensation has been rejected by the court.

Accordingly, it is possible for a victim to recover damages from the possessor of the pornographic image on the grounds of Article 51f(1) DCCP. However, although there do not seem to be any legal obstacles, in practice the situation is more complicated. Some of the practical obstacles are discussed in the following section.

2. The complex practice

The two judgments discussed earlier concerned victims who were unknown to the perpetrator, but it was clear that the victims who were depicted could be linked to a hands-on case in which the perpetrator of the hands-on offences knew the possessor. What also made the cases more straightforward in practical terms was that both the possessors and the victims were from the Netherlands. However, in most cases the situation is not that simple. Child pornography is by its nature a transnational phenomenon. Once they have been produced and posted on the Internet, images are easily circulated around the world and can be viewed indefinitely by thousands of perpetrators in dozens of different countries. Depending on the legal framework in the country where the possessor is tried, victims depicted in those images can also claim damages from the possessors in those countries.

In this section, three issues relating to obstacles to claiming compensation are discussed: the formulation of the indictment; informing and notifying victims; and the allocation of damages among possessors. The latter subject will be explained in part on the basis of a recent judgment by the American Supreme Court.

2.1 Formulation of charges

With the rise of high-speed Internet and the increase in the storage capacity of data carriers, possession of child pornography now often involves far more than single images or short films, but embraces thousands and even millions of pornographic files. A practical consequence of this is that charges are not brought for each individual image. However, that in turn has implications for the possibilities for the victims who are depicted to recover damages.

In a recent judgment,¹⁹ the Dutch Supreme Court formulated principles for the assessment of criminal cases in which a suspect is charged with possession of a large quantity of child pornography. Regarding the method of drafting the indictment in this type of case, the Supreme Court found as follows:

[%a.] the foregoing means that the author of the indictment should preferably confine himself to describing a small number of images, if possible not more than five, without including any mention of or reference in the indictment to a possibly larger quantity of which those images are part.²⁰

The large-scale nature of the offence can then be taken into account in the sentencing:

[%b] that context, one option is the so-called addition of offences *ad informandum* if the applicable conditions are met.²¹

What are the consequences of this method of formulating the indictment for victims whose images are not included in the indictment? On the grounds of Article 361(2)(b) DCCP, the claim by an aggrieved party is also admissible when it relates to offences appended to the writ for the information of the court (*ad informandum gevoegde feiten*), provided the similar offence included in the indictment is declared proven and the offences appended *ad informandum* are admitted by the suspect. However, it does then have to be certain that the relevant image was part of the suspect's collection. The Supreme Court noted in its judgment that adding cases *ad informandum* constitutes recognition of the large-scale nature of an offence, thus avoiding the need for a discussion of the specific images or the precise quantity of child pornography involved.²² This can lead to problems if it is uncertain whether the victim who is claiming compensation is depicted in any of the images in the suspect's collection. In that case, a possible solution might be to include a list of file names in the case file, from which a link can be made with a victim who has joined the case as an aggrieved party. However, another problem is that if the suspect denies the offences appended *ad informandum*, the victim will be left empty-handed anyway.

Accordingly, a decision by the public prosecutor to bring charges only for a number of the images in a larger collection can have a major impact on the chances of the depicted victims receiving compensation, since it is impractical to bring charges for all of the images and the victim is left with nothing if the suspect denies possession of files that have been added *ad informandum*.

2.2 Informing and notifying victims

Pursuant to the Board of Procurators General's Instructions on Care of Victims²³, victims of sex offences must be informed of the possibility of claiming compensation. However, this is not yet standard practice when the image of a previously

¹⁹ Supreme Court, 26 June 2014, ECLI:NL:HR:2014:1497.

²⁰ Supreme Court, 26 June 2014, ECLI:NL:HR:2014:1497, consideration 3.7

²¹ Supreme Court, 26 June 2014, ECLI:NL:HR:2014:1497, considerations 3.8.1 and 3.8.2.

²² Supreme Court, 26 June 2014, ECLI:NL:HR:2014:1497, consideration 3.8.2.

²³ *Government Gazette*, 2010, 20476.

identified victim is found in a later case involving possession of child pornography. Victims of child pornography are therefore not automatically notified. They will generally not even know that images of themselves have emerged in a case involving possession or, if they do, in which case they have been discovered.

One country where it is normal practice to notify victims is the United States. The US government is obliged to notify all identified victims whose images are discovered in criminal cases.²⁴ The victims can then decide to claim damages. Given the cross-border nature of the offence, this duty of notification cannot be confined to victims within the national borders of the United States. The practical effect of this is still unclear. However, the parents of some of the victims in the Amsterdam vice case have claimed compensation from possessors in the United States since their lawyers were notified by the American government.²⁵

Victims who are unaware that their images have been found in a case are also unable to join the case as an aggrieved party, even though as victims they are entitled to compensation for the damage they have suffered. It therefore seems that a logical first step would be to establish a system for notifying identified victims of child pornography in the Netherlands. However, victims (and the parents of young victims) should only be notified if they wish to be. Victims should be informed of the option of claiming compensation from (future) possessors when they are first identified by the police. The victims could then be explicitly asked whether they wish to be notified if an image of the abuse emerges in a later child pornography case. The victims should also be allowed to reverse their decision that they do or do not wish to be notified.

It is important that the necessary infrastructure is in place for victims who have said that they do wish to be notified. Although records are kept of whether the victims of images saved in the national child pornography database have been identified, that information is not linked to the personal details of the identified victims. There are also a number of aspects relating to privacy involved here. It would therefore be useful to start by studying the practice in countries like the United States, where such a notification system has been used for some time.

²⁴ National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, *On solid ground. Tackling sexual violence against children*. The Hague: National Rapporteur 2014, p. 221.

²⁵ Good chance of success for claims after child porn De Telegraaf, 24 April 2014. Partly because of its unprecedented scale, from the outset the investigation in the Amsterdam vice case had an international character.

Another aspect that will have to be considered is how the Public Prosecution Service (PPS) can notify victims in other countries: how will the PPS discover their contact details and how will it know whether they wish to be notified? These and other questions are inherent to the complexity and transnational nature of child pornography and are best addressed at international level.

In order to award compensation, the victim's identity has to be known. In addition to a claim as an aggrieved party, an order to pay compensation and compensation as a special condition of sentencing, in the case of unidentified victims it is also possible to impose the special condition referred to in Article 14c(2)(4) DCCP, in which case the perpetrator is obliged to deposit a sum of money with the Criminal Injuries Compensation Fund. At present, the Fund only pays compensation to victims of hands-on sex offences, since hands-off sex offences, including possession of child pornography, are not regarded as violent crimes.²⁶ Victims of possession of child pornography are therefore unable to make any claim for compensation from it. This policy perhaps needs to be reviewed, since hands-off sex offences, including possession of child pornography, also fall under the broad definition of sexual violence and, as previously explained, can also have traumatic psychological consequences for victims.²⁷ Another option available under Article 14c(2)(4) DCCP is that the perpetrator would deposit the sum of money with an institution (that would still have to be established) created to represent the interests of . in this case . victims of child pornography.²⁸

2.3 Allocation of damages

A single image of a single victim can be viewed by thousands of people, now and in the future. In theory, a victim can claim compensation from everyone who possesses that image, if the perpetrator is convicted and legal system in that country allows it. At the time of the prosecution of a possessor, it is not known whether and, if so, how many other persons will be prosecuted for possession of the same image. How does the court decide the share of the damages that the relevant possessor is liable for?

²⁶ Information provided in a telephone call by the Criminal Injuries Compensation Fund, 7 July 2014.

²⁷ See National Rapporteur on Trafficking Human Beings, *First Report on Child Pornography*. The Hague: BNRM 2011 and National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, *On solid ground. Tackling sexual violence against children*. The Hague: National Rapporteur 2014

²⁸ The presumption in the Explanatory Memorandum is that the court will establish a relationship between the offence and the institution in favour of which the sum of money must be paid. See C.P.M. Cleiren & M.J.M. Verpalen, *Tekst & Commentaar Strafrecht*, Deventer: Kluwer 2012, art. 14c, note. 7.

In the Robert M. case, Robert M. and his partner Richard van O. were found jointly and severally liable for the damages relating to the possession²⁹ of the child pornography. The joint and several liability applied solely for the possession, which is understandable in this case since the images were on their jointly owned computer and the cases were heard simultaneously. The court of appeal awarded the claims in full and fixed the share of the claims relating to possession at "500 for immaterial damage. Does that decision mean that the child's damages have been fixed once and for all? And what does that in turn signify, on the assumption of joint and several liability, for other persons who are found in possession of the same images as Robert M. and Richard van O. now or in the future? Or is it the case that the larger the number of possessors of the images, the greater the (immaterial) damage becomes? In that context, is distributing images more harmful to the victim than possessing them? These and many other questions are difficult to answer and will also have to be addressed and resolved in Dutch case law.

Quite apart from the allocation of damages among possessors, with only two rulings in the Netherlands it is also not yet possible to discern a pattern in the amount of damages awarded. Richard van O. had to pay his victims "500 each; the suspect in the Amstelveen vice case had to pay "2,000 as an advance on immaterial damages. By comparison, in a recent case (which is discussed in the next section) the American Supreme Court estimated the victim's total damages, material and immaterial, at \$3.4 million; because of the trauma she had suffered the victim was unable to complete her studies or find a job and she was unable to put the abuse behind her because the images continued to circulate on the Internet.

2.4 Paroline v. United States³⁰

The case of Paroline v. United States centred on Amy Unknown who was sexually abused by her uncle when she was eight years old. The uncle produced and distributed pornographic material depicting the abuse. The series of pornographic images of Amy proved very popular in the following years; images of her were found on many computers, including the suspect Paroline's, on whose computer two images were found by the police nine years after the abuse had occurred.

The court of appeal in New Orleans ruled that Paroline was jointly and severally liable for the entire amount of damages and ordered him to pay the \$3.4 million for possession of the two images.³¹ The Paroline case ultimately reached the American Supreme Court, which was asked to rule on the causal link between viewing a number of images and the total damages. In view of her expertise, the Dutch National Rapporteur was asked by Amy's lawyer to give her opinion on this question by means of an *amicus curiae* brief.³²

The Supreme Court ruled, in line with the National Rapporteur's *amicus curiae* brief, that there was a causal connection between the damage and the possession of the images. The reaction was typified by the words of one of the nine judges, Justice Sotomayor, in response to Paroline's defence that there was no causal connection between his possession of the two images and the damage to Amy:

"Are you trying to tell me that when one person views these images he is liable for damages, and that when a thousand persons view these images nobody is liable? You've got to be kidding me!"

Contrary to what the National Rapporteur had advocated, however, the Supreme Court ruled that the suspect was only liable for his relative share of the damages, thereby rejecting joint and several liability for the total amount of the damages.³³ In reaching this decision, the Supreme Court discussed at length the doctrine of proximate cause, which embraces the causal relationship between an offence (possession of child pornography) and damage:

"The unlawful conduct of everyone who reproduces, distributes, or possesses images of the victim's abuse – including Paroline – plays a part in sustaining and aggravating this tragedy. [...] Thus, where it can be shown both that a defendant possessed a victim's images and that a victim has outstanding losses caused by the continuing traffic in her images but where it is impossible to trace a particular amount of those losses to the individual defendant utilizing a more traditional causal inquiry, a court should order restitution in an amount that comports with the defendant's relative role in the causal process underlying the victim's general losses."

²⁹ Robert M. was also liable for the damage caused by the production and distribution of the child pornography. He and Richard van O. were not found to be jointly and severally liable for this element of the damages, since the latter was convicted solely of possession.

³⁰ Paroline v. United States et al., 23 April 2014, No. 12-8561.

³¹ In re Amy Unknown, 636 F. 3d 190, 201 (2011), United States Court of Appeals for the Fifth Circuit.

³² See for a complete description of the case and the accompanying documents: www.nationalrapporteur.nl/actueel/nieuws/2013/20131127-rapporteurlevert-bijdrage-aan-zaak-supreme-court.aspx?cp=63&cs=59417.

³³ In a dissenting opinion, one of the nine judges explained why she did in fact agree with the Court of Appeal in New Orleans, which had found that joint and several liability did apply for the full amount.

Because the Supreme Court found that allocating the entire amount of damages to a person who possessed two images was not proportionate, Amy will have to repeatedly join cases involving possession of the images as an aggrieved party in order to secure compensation of part of the total damages. In view of the undesirability of this situation for the victim, a bill to address it was recently submitted in the US Congress³⁴.

The judgment of the American Supreme Court, and the possible legal amendment ensuing from it, are also of interest to the Netherlands, not only for the question of how to deal with the issue of causality, but also because of the possible consequences for Dutch victims whose images are found in the possession of American citizens.

3 Conclusions

Victims of child pornography can suffer damage from the knowledge that images of their abuse are being viewed by others. They are therefore entitled to compensation for the damage caused by the possession of those images. In practice, however, scarcely any use is made of this possibility to claim damages from possessors in the Dutch courts. A first step would be to inform victims of their right and to notify them of the discovery of their images if they wish to be so informed and notified. There are a number of obstacles to the practical implementation of claims for compensation, mainly due to the complexity of the offence and its transnational character. It would be useful if further consideration were given to these aspects at international level, so that ways can be found of enabling victims to secure compensation for the damage caused to them by the possession of images of their abuse while making the fewest possible demands on them.

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³⁴ See www.huffingtonpost.com/james-r-marsh/congress-proposes-to-fix-_b_5619206.html?utm_content=buffer4d9a5&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer. The National Rapporteur set out her views for the Congressional Staff earlier this year.



*Transcription of a two-day conference organised by the AFMJF
5-6 June 2015*

**An introduction to the place of secularism
(*laïcité*) and religion in the way adolescents
construct their identity**

**Judge Marie-Pierre
Hourcade**



Good morning everybody,

I am delighted to welcome you all here in this beautiful room which has been put at our disposal by Madame Arens, President of the Paris Court of Appeal, and would like to extend our grateful thanks to her.

We are very pleased to bring together, as we do every year with the support of the ENM (Training School for Judges), a number of colleagues from different sectors: juvenile court judges and members of the juvenile prosecution service; lawyers working with juveniles; assessors; social workers from the public sector and non-profit organisations; staff from the ASE (child welfare service) and also other associations working on issues of prevention, and the integration and protection of young people. We have the great honour of welcoming M. Robert Badinter, who will be with us this morning, and M. Pierre Joxe, who has manifested his support over the last few years, since exchanging his ministerial attire for that of a lawyer working with minors.

Last year we focused on justice in the 21st century, in particular the role of the judges, paying special attention to juvenile court judges in a rapidly changing society.

Little were we to know at the time that the month of January 2015 would see our country in the throes of a series of terrorist attacks. This led us to decide this year to examine the radicalisation of

certain young people and, more broadly, to consider the place of religion in the way adolescents construct their identity.

This is an ambitious choice, not only because it covers so many disciplines but also because the subject itself is a highly sensitive one.

The impact of religion can be positive and, in theory, religion offers individuals a spiritual element which is inherent to human nature. Furthermore, depending on each person's convictions, religion is a cultural if not political fact which constructs or deconstructs.

In their everyday practice, judges are consciously or unconsciously aware of this reality, when they are asked to examine applications for youth protection orders, when they have to arbitrate between positions with different or even incompatible cultural references, when they have to try to reconcile or persuade the parties, or sometimes to choose between respect of beliefs and convictions, religious or otherwise, on the one hand, and the freedom of the child or the adolescent, on the other. Or when they have to choose between the position of the parents, which may be too rigid, and the best interest of the child, which is to grow and develop in such a way as to be able to become a fully autonomous human being who has chosen what they want to be as an adult.

These cultural issues, whatever the religion, have an increasing impact on the work of juvenile court judges even if they are not necessarily made explicit, as is often the case when a child is referred to the authorities.

However, the judge is rapidly informed of the difficulties which arise when the beliefs and religious practices of the foster family do not correspond to those of the family of the child who has been taken into care. Similarly, should the care hostels adapt their calendar, their schedule and their rules to delinquent minors in the name of

respect for religious convictions? Should Muslim social workers be allowed to pray with the Muslim minors in their care, for example? Religion is moving more and more out of the private sphere and more and more into a clearly expressed demand on the part of these adolescents that their religious identity be recognised.

We are not the only ones to be asking these questions, and a study led jointly by the IGA (Inspectorate-General of Home Affairs), the IGAS (Inspectorate-General of Social Affairs) and the ISJ (Inspectorate-General of the Judicial Services) to examine the respect of the principles of *laïcité* (secularism) within the establishments and services of the PJJ (Judicial Protection Service) is currently under way.

Catherine Sultan, director of the PJJ, will be telling us what the PJJ has decided in this matter.

A judge may be asked to examine cases of possible indoctrination or influence and will have to try to decide whether the child or the adolescent is in the hold of a person or a group of persons who, under the cover of religion and good intentions, may in fact have other intentions which have nothing to do with religion or spirituality.

It is a sensitive matter and open to interpretation. We rarely face it head on, although we know full well that adolescents search for absolute values and ideals, and that different kinds of utopia rarely have a place in our individualistic societies where individual success is considered the be all and end all, despite the fact that many of the young people we deal with have no hope. What can they hope for if they have already been defined as failures of the school system by the time they reach the end of their primary education? Or at least that is what they think. For some, their only prospects are crime and trafficking, for others it is exclusion and boredom, and it is no doubt in such a desperate and hopeless context that the most illusionary and extreme types of propaganda have an impact.

For months now we have been living in a state of fear of terrorism and of the radicalisation of young people. The government has started to take action to fight terrorism and has set up a %Deradicalisation Centre+run by Dounia Bouzar.

But what do we see when we look at the legal system and the courts for juvenile offenders or young people in difficulty?

Requests for juvenile court judges to hear applications are beginning to appear, and the juvenile prosecution service has reported around twenty incidences of radicalisation, some of them extremely worrying. The Paris juvenile court has set up a working group to examine the issue; the PJJ has recruited liaison officers for *laïcité*; the ENM (Training School for judges) has introduced special training sessions; the IHEJ (Institute for Advanced Studies in Justice) is working on the matter.

Various initiatives are being taken in the courts but it is clear that we don't know enough about the realities of this radicalisation. What is it, exactly? How can and do these messages have an impact? In what context? Which young people are involved and how can we respond, vis-à-vis the young people themselves and also their families? How can we stop people leaving for jihad and what should we do with and for those who return? Should we have the same approach towards young girls and young boys?

Many questions, many hypotheses and, above all, the risk of making dangerous generalisations and losing our points of reference when we take emergency actions and/or bow to the pressure of the media. Not forgetting the risk of acting ineffectively and being incapable of finding the right words to help a young person change direction.

For this is what lies at the heart of our work, to find a way to get a young person to change their attitude, to change their behaviour; in this area we find that children or adolescents who have been indoctrinated or are in permanent conflict or opposition refuse to listen to arguments based on reason.

The interest of our conference is to understand the phenomenon and to find out what can stop it. We need to challenge our ideas and assumptions, allow ourselves to return to earlier positions, we need to avoid the breakdown of family and other relationships, rebuild links and ties between people.

We asked the Institut d'Études de l'Islam et des Sociétés du Monde Musulman (Institute for the Study of Islam and Muslim Societies) to help us prepare the programme for this morning's session and also called upon other specialists, a sociologist and a psychoanalyst, to help provide answers to our questions. The round tables will be the occasion for an exchange between theory, concrete experience and your interrogations.

On Saturday we will pursue our work and extend it to a much needed collaboration between juvenile justice and civil society. The judges are overworked and don't have enough time to elaborate strategies with those who work on the ground and whose analysis of the realities of the situation is far superior but whose knowledge of the system of justice is often lacking. The AFMJF has signed a convention with the *Forum français pour la sécurité urbaine* (French Forum for Urban Security) to set up joint programmes. Bordeaux will probably be the first test site.

We have also used this meeting to state our position and say what we hope for from the reform of the *Ordonnance de 1945* (1945 Order). The AFMJF has drafted a motion which has been signed by a number of associations and public figures, and a debate has been scheduled for 11 o'clock Saturday, during which different

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professionals will be able to say what they hope for and expect from the reform. Madame Taubira, Minister of Justice, will honour us with her presence. Journalists have been informed of the debate and we hope they will come and cover the event. But how many will attend on a Saturday morning?

I think I have told you everything about the programme over the next two days. Those judges who are here as part of their ongoing education must sign in every morning and every afternoon on lists which have been prepared specially. We have called on several students to help with practical and logistical matters. Cécile, who is

preparing a Master's degree, is in charge of transcribing our presentations and exchanges. Please make sure you give your name and speak into the mike. Two students who have qualified in cinema studies will be making a film; they may film you or ask you for an interview. The film will be available on our website but if you have any objections to being filmed or interviewed, just say so, it is not a problem.

So, with no further ado, may I ask our first speaker, Samir Amghar, to come and join me.

Marie-Pierre Hourcade*, President of AFMJF

Radicalisation: a phenomenon specific to young people?

Dr Samir Amghar

Introduction by Mme Hourcade

The research leading to your doctorate in sociology at the École des Hautes Etudes en Sciences Sociales in Paris focused on the dynamics of re-Islamisation and the transformations of Islamism in Europe. You are a member of the Institut d'Études de l'Islam des Sociétés du Monde Musulman and a consultant for the Swiss Ministry of Defence. Among other publications you have edited a collection of articles entitled *Islamiste d'occident et état des lieux des perspectives*. You are currently a researcher at the Free University in Brussels.

Good morning ladies and gentlemen,

I would like to begin by thanking your association for the interest you have shown in my research. My aim this morning is to identify what I consider to be the central issue today and to try to understand, in both quantitative and qualitative terms, the dynamics of re-Islamisation not just in France but also throughout the rest of Europe.

To do so, we need to begin by a quantitative presentation of what is at stake.

In France there are between 2.5 and 6 million Muslims, although certain experts and also religious leaders may disagree with these figures. France is the country in Western Europe with the largest Muslim community, while the Muslim population in Great Britain or Germany is around 2 million. In addition, the Muslim population in France is considerably bigger than that in certain Muslim+ countries such as Bahrain, Qatar or Lebanon. This point is very important.

The other important point is that, in the last 20 years or so, there has been a dynamic of re-Islamisation, i.e. a return to Islam which affects mainly 2nd or 3rd generation Muslims. This is a relatively new phenomenon which raises a large number of questions, and most sociologists and political scientists disagree as to how to interpret it. Some think that it is mainly the result of the quest for an identity for those who wish to find a meaning to life in a society which they find alienating. For others, this dynamic of re-Islamisation, this return to Islam is mainly the result of a very specific form of the religion.

In other words, the re-Islamisation movement we see today, the Islamisation of a certain number of social practices, a greater expression of Islam in public spaces, all of this is due to re-Islamisation movements that we could define as forms of Islamic militancy.

I will break my presentation down into two parts:

To begin with, I will brush a broad portrait of Islam in France, with particular emphasis on what are called re-Islamisation movements. I will try to

identify the main movements concerned. What they have in common is a very specific view of Islam which is not necessarily radical but which considers that Islam should not only concern the individual on a religious and spiritual level but should also, to a certain extent, occupy the public space in France.

I will go on to identify and define what Islamic radicalisation is, based on the research I have been doing for a number of years, and to identify those factors which push young people into becoming radical Muslims. It should be noted that the term radicalisation has at least two meanings: what one could call sectarian radicalisation, in the sense used by sociologists, and what one could call politico-religious radicalisation.

I. Description of Islam in France

Three major trends can be identified in what can be called militant Islam and which is part of the dynamic of re-Islamisation.

First, we have individuals who claim a political interpretation of Islam and follow the doctrinal line of the Muslim Brotherhood.

Secondly, we have movements where one's actions or main activities should take the form of religious preaching. These movements could be described as missionary movements.

Lastly, there are movements whose reading of Islam is far more radical and which insist on the need to defend Islamic identity when it is challenged or threatened, through the use of violence.

Political Islam following the line of the Muslim Brotherhood

A large number of associations, structures and public figures claim a greater or lesser affiliation to the position of the Muslim Brotherhood. What is characteristic of these individuals is that at some point in the past they have lived either in the Maghreb or in the Mashriq and they have decided to come and settle in France or elsewhere in Europe for political reasons.

In other words, they are individuals with Islamic sympathies they had in their countries of origin in the 60s, 70s and 80s and who decided to settle in France in order to avoid or escape the repression of their countries which, at the time, were considered to be authoritarian regimes. And they used France as a political platform. In their eyes, France is a country which allows them to continue to be politically active in the name of Islam, not in order to Islamise or direct the Muslim populations living in France with a political aim in mind, but to use France as an echo chamber so as to address the authoritarian regimes in their own countries in the eventuality that they would return, once the

country had become democratic and politically open. It is essential to bear this aspect in mind.

One of the major organisations following this logic is the UOIF (Union of Islamic Organisations in France), which was founded in 1983 by Tunisians who were members of the Islamic movement of the time, the *Mouvement de la Tendance Islamique* (Movement of the Islamic Tendency). This movement was fairly active in the 70s and 80s and still is today, in different forms, in that it was part of the Tunisian government until very recently. At the beginning, the aim of the organisation was to provide a place for isolated Islamists. They included refugees who had settled in France and also individuals who had come to France to study and who had acquired Islamist sympathies at university in their home countries.

Up to the beginning of the 90s, their speeches were highly politicised, not with the Muslim populations living in France in mind, but their countries of origin. From 1989 onwards there was a shift in emphasis, in particular on the part of the UOIF. The idea was no longer to serve Islam as a political tool aimed at the Arab regimes but to try to take root in the political, cultural and social life of France. For them, it became important to try and put in place a form of Islam ~~of~~ France, as opposed to an Islam ~~in~~ France. Remember that UOIF meant the Union of Islamic Organisations in France and in 1989 this was changed to ~~of~~ France~~+~~, thus reflecting the desire to ground the demands of the Muslim Brotherhood in a French reality. For the officials of the Muslim Brotherhood who belonged to the UOIF, the idea was to adapt the text to the context, and this was repeated regularly in their speeches. What needed to be done was to define a Muslim religious practice while taking the French context into account. Their starting point was that Islam must necessarily adapt to a country when in the minority in that country. One of the theoreticians of this contextualisation of Islam in France was Tareq Oubrou, a Moroccan imam from Bordeaux, who in the 2000s wrote an article which has served as a conceptual matrix for the ~~Sharia~~ of the minority~~+~~.

The specificity of this religious approach is that it also entails the creation of an Islamic citizenship, i.e. the possibility that Muslim religious practice can adapt perfectly to the exercise of one's citizenship. The idea was put forward that there is a close correlation between citizenship and Islam: because one is a good Muslim, one is necessarily a good citizen.

In the 1990s a new rhetoric based on an Islamic citizenship was developed, the theoretical foundation of which was put forward by Tariq Ramadan in a number of speeches and publications where he underlined the need for such an approach. In its presentations, conferences and publications, the UOIF systematically put forward the idea that the values

of the Republic and of Islam were compatible. Surprising though this may seem, the Muslim Brotherhood, whose interpretation of Islam could be said to be both orthodox and orthopractic, consider that this is indeed compatible with the values of the Republic. In other words, a Muslim is a Muslim who has a fundamentalist interpretation of Islam. Islam isn't merely a relationship with the divine, but also a relationship between Muslims and non-Muslims. Consequently, in the name of republican values as claimed by the Muslim Brotherhood, these Muslim leaders give themselves the right to defend Muslim reality when they feel it is being challenged. In 1989, for example, they defended young schoolgirls who had been expelled from school for wearing Islamic headscarves. Their arguments weren't based on religious values but essentially on the values of the Republic, since they asserted that by expelling these schoolgirls the fundamental right to freedom of conscience had been violated.

A number of different structures and organisations were set up as part of this dynamic, including the *Collectif Contre l'Islamophobie en France* (CCIF, Collective against Islamophobia in France). The aim of this association, which has a distant connection with the heritage of the Muslim Brotherhood, is to defend Muslims in the courts or to sue in their name every time they are attacked because of their Muslim identity. Although the majority of the CCIF's members are orthodox Muslims, the arguments they put forward are not based on religion, even if the underlying reason for their action is religious or as a result of Islamic solidarity, but are strictly legal in nature. To help them prepare their cases, the association called on a large number of lawyers specialised in French law, and not on imams.

What is important here is that this interpretation of Islam was both orthodox and orthopractic while at the same time enabling Muslims to be fully integrated in French society. It mainly addressed individuals from the middle and upper middle classes, for the following reasons. Firstly, the style of language used by these organisations, which follow the line of the Muslim Brotherhood, includes a number of relatively abstract concepts such as the ~~values~~ of the Republic~~+~~ or ~~citizenship~~+, which are easier to understand if one is educated and has possibly gone to university. Secondly, those people who espouse this form of Islam are searching for arguments which justify their upward social mobility and social status. If you are a Muslim, it is in your interest to pursue your spiritual quest in a form of Islam which enables you to justify your integration in society from a religious standpoint rather than from a position which justifies your exclusion from society and thus disqualifies this integration.

This form of Islam develops around individuals who are infused with a kind of religious authority,

coupled with a certain charisma, and Tariq Ramadan is a prime example of such a person.

Allow me to digress a little in order to illustrate the importance of a charismatic figure of authority in the process of re-Islamisation, through something that happened when I was a student. A friend of mine very much appreciated Tariq Ramadan, but I didn't share his enthusiasm. In the eyes of my friend, Tariq Ramadan worked for the good of the community, while I tried to deconstruct his discourse. My friend told me that one day his sister was checking Tariq Ramadan's luggage in at the airport and, having recognised him, gave him her brother's phone number. A few days later Tariq Ramadan called my friend and they discussed things for about ten minutes. A year later the neighbourhood association where my friend lived invited Tariq Ramadan to give a talk. At the end, my friend went over to Tariq Ramadan, who recognised him, and they kissed. My friend told me that as he took Tariq Ramadan in his arms he had a sensation of infinity. The point of this story is to give depth to this dynamic type of re-Islamisation.

The Muslim Brotherhood have played an extremely important role in this dynamic of re-Islamisation, thanks to their ability to mobilise young people. Through their various activities they have introduced Islam to a number of young people, with the result that many middle class adolescents have had more or less close contact with the Muslim Brotherhood.

The second trend to play an essential role in the dynamic of re-Islamisation is the Tabligh movement.

The Tabligh movement

This movement is considered to be the most important Islamic movement in the world. It originated in India/Pakistan and, thanks to its enormous ability to mobilise people, organises every year a huge gathering of followers, second only to the annual pilgrimage to Mecca. Between 1 and 2 million people meet at the International Tabligh Centre in India and Pakistan.

The Tabligh movement has two important principles. It considers that the aim of all organisations should be a proselytising one. It is therefore a missionary-style movement, which is why a number of specialists have described it as the Jehovah Witnesses of Islam. It is made up of organisations which are set up around 4 or 5 individuals who travel from city to city, from mosque to mosque, from country to country, in order to bring nominal Muslims back to Islam. It is a movement which has helped structure the dynamic of re-Islamisation in that the majority of people who were converted to Islam or reaffirmed their Islamic identity in the period 1990-2000 did so as the result of contacts with the Muslim Brotherhood or the Tabligh movement.

Other organisations also played a relatively important role but I won't go into detail here, given that my time is limited. But let us nevertheless briefly consider the third trend which regularly hits the headlines: the Salafist movement.

The Salafist movement

One thing which is extremely important is that Salafism is multi-faceted, with three main strands and a very specific understanding of Islam. What is common to all three strands is that they all have a literal interpretation of Islam, both in terms of how to interpret the Qur'anic verses and how to interpret the traditions of the Prophet. A good Muslim is a Muslim who has an orthodox understanding of Islam and who tries to imitate the gestures of the prophet. If the prophet sleeps on his right side, then this is how one should sleep.

Salafism is divided into three major strands:

The first one, which we could call quietist, has developed a literalist approach to Islam and gives priority to Islamic education. This means teaching Muslims what true Islam is. The specific feature of this strand is that it is apolitical and non violent. Apolitical, as it considers that excessive politicisation is harmful and that it is urgent to bring Muslim populations back to Islam. It is fundamentally opposed to the political strategy of the Muslim Brotherhood, in particular in the person of Tariq Ramadan. Equally interesting, this strand of Salafism preaches non violence; orthopractic and ultra orthodox but non violent. It is for this reason that the Salafist leaders, most of who come from the Arabian Peninsula, unanimously and unambiguously condemn the different terrorist attacks carried out by Daech (ISIS, Islamic State) or Al Qaida. They condemned the terrorist attacks of 9/11 (September 11, 2001), the attacks in London and Madrid in 2004 and 2005, etc. Salafism is thus a form of Islam which is radically opposed to jihadism.

The second one, which we could call political, considers that it is important to develop a literalist approach to Islam, coupled with a commitment to French society. This strand is very much in the minority.

And then there is the third and last strand, which emphasises violence. I will focus on this strand in the second part of my presentation.

We should bear in mind the fact that the vast majority of individuals who claim to be Salafists in France belong to the first category. This third strand is thus most upsetting for apolitical and non-violent Salafists, who are lumped together with the violent group and find themselves being labelled as jihadist Salafists. What they are interested in is the practice of Islam and they are not interested in what is going on in France and they don't want to mix with the rest of French society. They don't recognise the dominant values

of French society: *laïcité*, social diversity, democracy, etc. Ultimately, they feel they will have to leave France for a Muslim country. Having said this, even if this form of Islam can be considered to be fundamentalist, an ultra orthodox form of Islam since they do not recognise the dominant values of the society in which they live, they nevertheless try to respect the laws of the Republic and not challenge them.

II. Definition of Islamic radicalisation and identification of the factors leading to the radicalisation of young people

In my second part I will try to identify the dynamic of re-Islamisation on the basis of revolutionary Salafism.

Revolutionary Salafism is a form of Salafism which has developed a literalist approach to Islam and which elevates to the level of a religious obligation the need to defend Muslims through the use of direct action, violence, physical pressure, etc.

For these jihadists, religious proselytism is useful but is not a priority at the moment. They also consider that although the political strategy of a Muslim or of political Salafists may be useful, given the balance of power today it doesn't get them anywhere, or rather to the opposite of what they would like to achieve. For example, jihadists will say systematically that anti-Muslim laws have been passed, such as those proscribing the wearing of ostentatious signs of religion or full-face veils. It follows on therefore that the next step is to use violence, as political strategy doesn't work.

What we need to do is to distinguish between the different forms of jihadism. There is what we can call international jihadism, where an individual decides to leave France and go to conflict zones where Muslim identity is under threat. Then there is what we can call home grown terrorists, who commit terrorist acts on French soil.

These two forms of jihadism are based on different logics, even if the intellectual ideological matrix is identical.

International jihadism

In this category we find individuals who decide to leave for conflict zones. This is not new and in the 1990s, for example, individuals left for Bosnia Herzegovina, for Chechnya, in the period 2000-2005 for Iraq and, more recently, Syria, which seems to be a popular destination.

The logic behind these decisions is rather specific. Jihadists who function within international jihadism do so for different reasons. Firstly, they act out of Islamic solidarity with those they consider to be their brothers as such. Secondly, they consider that this community which lives in conflict zones is under threat by enemies, or those they consider to be enemies, of Islam.

During the Iraqi conflict, the enemy was made up of non-Muslim, western armies, and in particular the US army. In their speeches they were very anti-imperialist, anti-American and anti-Western. With the conflict in Syria the target changed and became less anti-American and anti-imperialist and more anti-Shiite. Individuals who leave for Syria go there less for anti-Western reasons than to fight those they consider to be internal enemies of Islam, i.e. Shiites, given that the ultimate aim is to fight the regime of Bashar El Assad and all his allies, including Iran.

This point has been confirmed by different studies on the ground. Last year I analysed anti-Semitic speech in mosques and on the part of Muslims and what became clear was that it wasn't anti-Semitism which was important in the dynamic of radicalisation but an anti-Shiite discourse.

So we have those individuals who decide to leave for many different reasons, including those we have just seen, and also those individuals who prefer not to go to conflict zones in Arab countries but to commit terrorist acts on French soil. Although they share a common logic their aims are totally different.

Home grown terrorists

Here the aim isn't to defend an imaginary Muslim identity the other side of the border or within the Muslim world, but to defend this identity which is threatened and discriminated against by Westerners, and in particular the French.

If we look at the short interview given by the Kouachi brothers and Coulibaly on BFM TV, we see that at no time did Coulibaly mention either the Israeli-Palestinian conflict or what is happening in Iraq or American imperialism. He explained that the reason why he had decided to commit this type of act was to avenge persons of the Muslim faith living in France who he felt were treated unfairly.

Now that the distinction between these two types of jihadism has been made clear, we need to return to what could be called the process of radicalisation and the object of radicalisation. We need to try to understand why certain individuals decide to turn to Islamic violence.

There are several major explanations:

The first is sociological and is based on the principle that these individuals are excluded from society and wish to express their disagreement with this exclusion through violence. These people are disadvantaged, underprivileged, unemployed, lower working class and do not feel that they have a place in the French economic system.

This sociological explanation is fine as far as it goes but becomes problematic as soon as we look more closely at the sociological profiles of those who either commit terrorist attacks in France or decide to join the ranks of Islamic State or go to Syria. What we find is a fairly high

proportion of people from a lower or upper middle class background. There are two main reasons for this phenomenon, which can be found in most revolutionary organisations, be they left-wing or right-wing.

The first is that there is a close correlation between the level of education and the level of political awareness--the greater the level of higher education, the greater the level of political awareness and the desire to commit oneself. The second is that jihadist organisations are selective. It is much more in their interest to recruit someone with a good university education than someone who has very little education. It is much more in their interest to recruit someone with computer skills or a qualified chemist than a plumber or a locksmith.

The second factor or lever for radicalisation is that these jihadists have a very specific interpretation of Islam. Islam would in fact be in part the result of these processes of radicalisation. Remember the reaction of the Muslim religious authorities following the attacks on Charlie Hebdo. They all explained that what had happened at Charlie Hebdo had nothing to do with Islam. What is interesting is that all of these religious authorities denied any responsibility for the events. Yet it is clear that the forms of Islam proposed by a certain number of preachers or Muslim associations sow the seeds of a possible radicalisation. One interpretation of Islam authorises this recourse to violence.

The third factor which helps explain this radicalisation is the idea that these processes of radicalisation feed on political frustration. Since these individuals cannot express themselves legally, they turn to violence.

To take a simplistic view, let us look at what happened in 2012, when a film on the life of the Prophet created a great scandal. Two hundred Muslims demonstrated against the film in Paris. However, the demonstration had not been authorised by the police, and this led to the riot police being called in; they arrested the majority of demonstrators, even though it was a pacific demonstration, with people praying in the streets. Some of those arrested were held in custody, others were charged with various offences. As a result, a number of people said that given the fact that if they demonstrate their views on Islamic identity peacefully they are immediately arrested, then why not turn to violence since they have nothing to lose as they will be arrested anyway. Radicalisation is very often the consequence of a kind of political frustration and a number of Arab regimes have understood this perfectly. The political system is blocked and it would be necessary to open it up a bit in order to short-circuit this type of demand.

In 2003, a terrorist attack in Casablanca caused the deaths of about 50 people. The reaction of the

Moroccan authorities was to outlaw the Moroccan Islamist Party. A number of top politicians in Morocco considered that this was not the right solution. By banning the freedom of expression of those who follow a political Islam it would merely push individuals who up until then had enjoyed a legitimate form of political expression into clandestinity and secrecy. It was the second version which won the day, with the idea of short-circuiting a possible radicalisation by allowing members of the PJD (who were responsible for the attacks) to express the grievances of those who are not necessarily represented by the traditional Moroccan political system. Provided they abide by the rules of the political game, the most radical Islamic forces can play the role of spokespersons in order to prevent a minority from turning to violence because they are not recognised by the political system or traditional parties.

The fourth element which I feel is important is that these processes of radicalisation feed off excessive recourse to the law in the face of radicalism. Until recently, the political system or strategies adopted in the fight against jihadism in France were essentially based on repression, with a threefold approach: identify, dismantle and arrest. Thanks to this system a certain number of terrorist cells were dismantled, a certain number of leaders were incarcerated and a certain number of terrorist attacks on French soil were prevented. The underlying idea is that prison can both deter and rehabilitate and can make the individual think about the immorality of the act. This technique can and does work, but not for all.

If we take the case of Farid Benitou, who had been sent to prison for 6 or 7 years, having been found guilty of belonging to an Iraqi network, prison turned out to be effective as, on release, he decided to return to society and trained as a nurse. But if we take the case of one of the Kouachi brothers who had also served a prison sentence, this was neither a deterrent nor a source of rehabilitation. The question thus arises as to the efficacy of the repressive strategy adopted in France. In my opinion, this excessive recourse to the system of criminal justice when dealing with radicalisation pushes individuals to radicalise even more and to shift to the margins of society.

As a result, in a number of ministries of justice in Western Europe and the Middle East, discussions are under way concerning the need to introduce deradicalisation programmes. In other words, repression works but is not a perfect solution. In Saudi Arabia a deradicalisation programme has been put in place for the first time and you have seen that a similar type of programme has recently been introduced in Denmark.

The Danish deradicalisation programme is interesting. Its aim is to look after those who

return from Syria, but on a voluntary basis, the idea being to avoid criminalising them and to refrain from making value judgments on their activities. The Danish authorities do not consider these people as terrorists but as rebels. This is in no way based on a humanistic approach but is purely pragmatic and is seen as the best way to prevent these young people from turning to violence. It is important to underline the fact that these deradicalisation programmes reflect the idea that one must show a certain flexibility towards people who may have committed terrorist attacks, a position which can be found elsewhere in Europe and also in the Arab world.

If we take the case of Morocco, I have already spoken about the 2003 terrorist attack in Casablanca. One of those responsible for the attack was Mohamed FIZAZI, who declared that he was a jihadist Salafist and who was found guilty and sentenced to prison for having been the intellectual and spiritual inspiration of this kind of

attack. He was released after serving 7 years, having received a royal pardon. This pardon was motivated by a form of pragmatism, as it was felt that Mohamed FIZAZI could be used as a tool to fight the development of terrorism in the country. And so it was his authority and religious legitimacy that they hoped to harness through efficient counter speeches, as he was still a role model for a number of Moroccan jihadists. This individual who had openly criticised the monarchy in 2003 has become one of its most fervent supporters and considers that the king is a factor of unity and cohesion.

Various countries in the Arab world are going to try to use individuals who could be described as *pentito*, i.e. who have repented, in order to fight terrorism through the development of counter speeches, in the hope that this could be quite efficient.

Samir Amghar, PhD.

Questions and answers

M-P Hourcade: *Thank you for this presentation. It is interesting to hear about these different religious movements which challenge republican values to a greater or lesser degree. How many people are followers of the revolutionary Salafist movement?*

S. Amghar: I don't have any statistics or even a range of figures.

M-P Hourcade: *The young people we deal with may also be attracted by these revolutionary Salafist movements, more so than by the first movement you spoke about. Young people also follow the religion of their parents and follow this far less orthodox form of Islam. When you tell us about the experimental approaches adopted in Denmark or in Saudi Arabia, which are more about prevention, unlike what we do in France, it is fair to say that we are a long way away from this type of reasoning. We are very much into repression, which is efficient in the short term, but given the concentration of these populations in the prisons we have problems finding solutions vis-à-vis these terrorists. Could you tell us how it works in Denmark, what kind of programme is put in place? What happens to the rebels, what do the Danish authorities do with them?*

S. Amghar: This programme is based on a number of elements, the aim being to provide a form of Islam which deconstructs the jihadist ideal. The second aspect is to provide psychological support. The third aspect is to help the person to go back to university and/or to find work.

As for the polemic following the terrorist attacks in 2015, our politicians immediately shifted the debate away from the political dimension of the events but ultimately to the lack of *laïcité* in our institutions. If the Kouachi brothers and Coulibaly

decided to become radicalised it was that basically they were not secular. In my opinion that is maybe what should be considered. But it may also be a faulty analysis which has led to the underestimation of the political variable as an explanation of the process of radicalisation. It may be the result of political frustration, of a particularly strong feeling of political resentment which it is impossible to channel other than through the use of violence. And so it is as absurd as saying that if the members of *Action Directe* (a French terrorist group) committed terrorist acts or carried out political assassinations in the 70s and 80s, it is because when they were young they didn't have any civics classes in school. It is this type of reasoning which is a real error in analysis or a misunderstanding of the situation and the processes of radicalisation.

Hervé Hamon, former President of the Paris juvenile court: *About adolescence and the different movements. How do you see the two fit together? Taking Coulibaly, for example, how come a repeat petty offender turns to radical Islam? Do you have an explanation which would take on board the particularities of adolescence?*

S. Amghar: I think it is important not to reduce these processes of Islamisation or of re-Islamisation to a simple question of identity. This aspect exists and is fundamental, it is the desire to define one's own identity but at the same time to find a group of peers one can recognise oneself in. But there are other important elements. One element which is often underestimated is that this dynamic of re-Islamisation and the process of radicalisation are often a response to what could be called a logic of social distinction.

That is to say that if I become a Muslim, if I grow a beard, it is a way not only to show society that I disagree with it but also to show my superiority vis-à-vis other Muslims who could be considered to be ~~%wishi-washy+, %easy-going+, %soft+~~. There is this desire to stand out, socially speaking, it is a question of respectability. The f

act of wearing a face-veil is a way for the individual to exist.

Let me illustrate what I mean with a brief anecdote. When I was preparing my doctorate on Salafism, I met an Algerian with whom I had a long discussion. He suggested that it would be instructive to go for a walk in the neighbourhood of the town he lived in, once our interview was over. He had a long beard, wore a djellaba and as we walked along he greeted everybody. He explained that having a beard and wearing a djellaba represented his soul. I wanted to repeat the experiment. I did so in a poor area in Seine Saint-Denis with a fairly large Muslim population and observed that although I walked past people who I didn't know, they looked at me and some of them greeted me. I existed, whereas previously, without this attire, I was totally invisible. I said to myself that it would be interesting to repeat the experiment in another district, and I chose the Place Vendôme (a wealthy part of Paris). The reaction was somewhat different, but even though people looked at me suspiciously, I existed.

And this feeling of existing helps explain these processes of re-Islamisation or radicalisation. And from these processes of existence another process is born which is the aestheticisation of Islam, i.e. that religious behaviours or a return to Islam or to violence should not systematically be measured against the yardstick of the ideological variable. In other words, if an individual becomes radicalised it is because preachers have incited him to do so, but it is necessary to add another variable which is that, basically, when I am an individual who wishes to become Islamised I am trying to use a cost/benefit analysis. Which religious practice will be the easiest to implement and will take up the least time? Which religious practice will enable me to be the most visible among Muslims and will require little investment? It is from this perspective that you can understand the different visible forms of Muslim practice. If we do a quick survey of Muslim practices, we will see that it is those of the 2nd and 3rd generations who respect the five prayers a day rule relatively flexibly, between roughly 15 and 20% of people obey the rule assiduously, but the vast majority will respect the dietary rule and only eat halal meat. First, because it is easier to eat halal meat and second, because it is a practice which is far more visible than praying.

Daniel Pical, honorary judge: *I was extremely interested in the different categories you have just described for us and have a number of questions. You have explained the arrival of different waves*

of more or less radicalised Muslims in the 80s or earlier and have observed that especially in the more recent waves of arrivals, intellectuals or better educated people were preferred, in order to develop more sophisticated concepts. But if we examine what happened in January with the terrorist attacks and even if we go back to the case of Mohamed Merah, we see that they weren't intellectuals, they weren't highly educated people capable of working with sophisticated concepts. In the cases of the Kouachi brothers and Coulybaly, for instance, we have individuals whose education is limited and who are involved in ordinary petty crime, in a life of delinquency. Above all, they are 2nd, 3rd or 4th generation youngsters born in France of parents who are already more or less French and they went to French schools, etc. So how can we explain that these young people are actively involved in terrorism, even though they don't fit this profile?

In addition, concerning those who have grown a beard and wear a djellaba, although it is clear that this is a way for them to assert their identity, are they really the most dangerous individuals and the most likely to turn to violence? We have also observed, both in prisons and outside, that the most dangerous individuals are maybe those who don't have a beard and who are dressed like everyone else, and that they are the most dangerous as they want to go unnoticed and to melt into the background.

S. Amghar: As far as the question of the recruitment or background of people who turn to violence is concerned, I didn't say that they only came from a lower or upper middle class background but that many of these recruits were indeed from these social categories. Alongside these people we find working class individuals who don't necessarily have a good grasp of religious matters or really understand the jihadist ideology. We are in a period which could be described as the end of ideologies. Unlike during the 60s and 70s, it is no longer necessary to be trained in a particular ideology. Among those present here today some of you may be UMP or PS party activists or party officials. But does being an activist mean that we have read all of Jean Jaurès's speeches or de Gaulle's memoirs? No. You don't need to understand the ins and outs of the ideology of such or such organisation in order to feel an empathy with their position.

The second fundamental element which helps understand these processes of radicalisation and the presence of what we could call underprivileged or marginalised individuals is the concept of family altruism, which has been proposed by a group of Belgian researchers. Family altruism helps understand how and why individuals from a working class background or who are marginalised turn to violence. Let me give you an example. In the 50s or 60s, during the awarding of the Nobel prize for literature Albert

Camus was asked %what is your position on the war for national liberation?+ His answer: %love justice but if I have to choose between justice and my mother, I will always choose my mother.+ In other words, choose France, even if France defends a position which could be considered unjust.

Using this concept of family altruism we can understand how some of those who are marginalised or who have little money or who go through long periods of precarity turn to violence. According to this concept, a person is more likely to become radicalised if this radicalisation has no financial impact on the family. If I, as an individual, decide to leave home, I am going to think of the possible consequences of this choice on the family's finances. If I am out of work and if I have a family who depend on me financially, and if I get low state benefits, I am more likely to turn to violence than if these benefits are sufficient to keep the family going, financially speaking.

The question of the visibility of Islam is an interesting one. One of the strategies of the Ministry of the Interior was to try to identify the signs of radicalisation early enough to prevent the person from possibly turning to violence. But what exactly are the signs of radicalism? It is the fact of no longer listening to music, for example, or no longer watching television, or refusing to shake a man's or a woman's hand. However, what we see is that the processes of radicalisation are at times totally disconnected from the processes of Islamisation. If we take the case of Mohamed Merah, for example, he did not show any outward sign of being a jihadist, he didn't have a long beard, he didn't wear a djellaba, and when the police arrived he was on a Play Station. So in my opinion it is important to try and distinguish between the different signs of radicalisation which we could call religious signs of radicalisation and those which are truly problematic or political. There is a jihadist literature which invites militants, at least in the West, to try and espouse the customs of the host country. What is important is to be invisible, to go unnoticed.

Maxime Zennou, Director General, SOS jeunesse (SOS youth) which runs establishments for the protection of young people and the legal protection of young people: *Have you observed a change since Charlie Hebdo? Is there a before and an after? From a public policy point of view, in particular concerning the issues of minors and young people, which are of great importance to us, it is true that we were probably wrong to pay scant attention to and be relatively indifferent to questions of religious belief and practice, within organisations whose task is the protection of minors and young people. A relative indifference and possibly a form of denial in the face of a certain number of manifestations which were not reported to the higher echelons of the system.*

Today we have a deployment strategy which starts with greater police and judicial action and continues with those who are specialised in child protection asking themselves what should be done. How should we analyse the phenomenon, how can we understand it, what responses should we give, how can we prevent it?

S. Amghar: Yes indeed, the authorities are now more aware of what is going on, that is to say that before the terrorist attack on Charlie Hebdo, the French approach to security and their strategy to fight jihadism were basically repressive. This type of attack has given the authorities the opportunity to reassess their strategy and to shift more and more towards prevention. An important point: the authorities are incapable of dealing with religious manifestations of Islam even when they are conflictual, in a way other than when dealing with the processes of violent radicalisation.

In a nutshell, they started from the principle that words preceded actions. In other words, if I say that I hate France then sooner or later I will inevitably express this hatred through violent action.

However, we know perfectly well that verbal violence, a declaration of violence, is a way of diverting a person away from actually committing a violent act. In addition, we had a linear view of the processes of radicalisation, i.e. that an individual always progresses from stage 1 to the next stage. Very often this radicalisation was preceded by a religious form of radicalisation such as growing one's beard, regular attendance at the mosque, etc. But today we observe that in reality this linear process is no longer the case, unlike in the 90s. Then people would become involved in an organisation like the Tabligh and a minority of individuals did indeed turn to violence.

Today things have completely changed, i.e. the fact of becoming a strictly observant orthodox Muslim is no longer an indication of systematic recourse to violence later on. If we take the example of apolitical Salafism, it has a cathartic effect on certain young people and prevents them from turning to violence since they develop a form of religious reasoning which is ultra orthodox, based on the idea that if you are a Muslim you must direct your energy to Islam and nothing else, and not become involved in violence or politics. A number of Arab countries, and even European ones, have understood this. So we can work with this type of person, even if we disagree completely with their interpretation of Islam, even if we think this type of Islam is backward, because it can be used to try to divert these young people away from actually committing violent acts. We have seen this in Algeria, in Egypt, etc. Jihadism was powerful and constituted a threat to the security of these two countries, which is why the authorities decided to let this quietist version of Salafism prosper.

Mélanie Hague, juvenile court judge: *I would like to know if your analysis especially of the profiles which lead to radicalisation is valid for young people. And how extremist movements exploit this.*

S. Amghar: It all depends on what you mean by young people. If it is minors we are talking about, then yes. But in my research I have never studied minors so I cannot suggest any explanations. What I have always been interested in are young adults of 18 and over.

M-P Hourcade: *A study has been done in the USA which shows that these young Islamists who leave to join the Jihad are becoming younger and younger, that there are more and more of them, and that young women are also involved. Do we have any information on the increasing youth of these young adults?*

S. Amghar: I don't want to disappoint you but I don't have any information on this precise point.

Geneviève Lefevre, juvenile court judge in Paris: *I would like to know how revolutionary jihadism is structured, I mean are there small fairly autonomous groups which share the same ideology or is it more structured than that? I would also like to know if there are any links between those who leave for Syria and those who commit or try to commit terrorist acts in France, in other words is there an overall strategy.*

S. Amghar: As far as the structuring of jihadism is concerned we mustn't forget that things have changed considerably. Jihadism is an ideology based on a rigid interpretation of a number of aspects of Islam. But at the same time it feeds on and is constructed by its environment. Changes have occurred both in terms of where recruits are found and the method used to convert them to jihadism. In the 90s most young people were recruited in the mosques. People came to preach there, not necessarily imams, but people who gave informal classes and took advantage of these classes to recruit individuals or encourage them to leave for Iraq or Bosnia, or to commit terrorist attacks on French soil. Since 9/11 (2001) the authorities have realised that mosques are the place where young people are radicalised, hence the importance of monitoring what goes on in these places of worship. As a result of this increased surveillance and intelligence in the mosques, the jihadists have changed their way of recruiting people and now function essentially on networks of interpersonal relationships. It is these relationships which underpin the jihadist cells.

Before, there used to be a hierarchical structure made up of a small number of individuals. Now we find an individualised approach to jihadism. You no longer need to be part of a group to adopt a jihadist position. You do, however, need to be in contact with a charismatic leader or a group but you can rapidly separate from the group in order to commit these terrorist attacks. A certain

number of jihadist theoreticians have realised that one of the weaknesses of modern jihadism, in particular as promoted by Al Qaida, was due to the institutionalisation of jihad. It made it very easy to identify individuals since it was easy to identify a group of persons with suspect activities. But, in order to be efficient, one has to be invisible, and so the jihadist has to organise himself around relatively autonomous individuals, while at the same time maintaining more or less close links with the group.

M-P Hourcade: *Just before thanking you, M. Amghar, for the quality of your presentation and the thought-provoking remarks you have made, I have a final question. When you explained that the reaction of the Government, whether through repression, and the response based on the republican values which are the bedrock of our society, we could ask ourselves whether this can have an impact. We have the impression that the impact would be very limited as we are in a different political register and a different kind of commitment.*

S. Amghar: It is quite clear that the aim of all these debates in parliament and all the questions politicians ask themselves about the issue of radicalisation is not so much to try to tackle and get to grips with the source of the problem as to try to respond to the fears of the population at large or to pacify public opinion.

The day after the terrorist attacks on Charlie Hebdo I met the advisor to one of the ministers involved in these issues and we spoke at great length about the reasons why young people become radicalised and I told him about this famous poster which the Ministry of the Interior had put online and which tried to identify the signs of radicalism. And I told him that it was maybe somewhat problematic to generalise and to lump orthodox Muslims and violent radical individuals together in one category. And his reply was extremely interesting and a perfect reflection of the attitude of French politicians on this question.

I mean that this is the answer he gave: Yes but, M. Amghar, by refusing to shake hands with a woman one is challenging the notion of social cohesion. I replied that they were not challenging public order and public interest or national identity. We are talking on two different levels and even if there is an overlap, the responses are completely different. Radical practices which may threaten social cohesion, and there is no doubt that this exists, and radical practices which threaten national security are two different things and shouldn't be confused one with the other.

Radical jihadist discourse and its vectors**Dominique Thomas****Introduction by Mme Hourcade**

We are delighted to welcome Dominique Thomas, a researcher who graduated from the Institut National des Langues et Civilisations Orientales (National Institute for the Study of Oriental Languages and Civilisations) and the Political Science Institute in Paris. He is a specialist of Islamism and a consultant for the Department of Strategic Affairs of the Ministry of Defence. In particular, he has worked on Islamist systems in Europe and in Great Britain and he is here today to tell us about the vectors of radicalisation and how young people, minors, are attracted by this radical speech.

Good morning ladies and gentlemen,

My focus this morning will be on an overview of Islamism today and why a large number of young and less young individuals are attracted to and become involved in this movement. Islamism is developing rapidly worldwide.

One should be aware that this radical discourse is propagated through a certain number of interconnected elements: we have those who develop and disseminate the ideas and the places where these ideas are received and where social connections are put in place. In order to construct a discourse a source is necessary and I would like to insist on this point. There would be no jihadist discourse if there were no sources and this is what is important as this is what the discourse feeds off. Jihadism is not the result of spontaneous combustion; it takes advantage of a favourable context.

Jihadism today is very much connected to a favourable context, but in the past, too, there was a very favourable context in the Middle-East for the liberation of radical groups, who expressed themselves through other forms of activism but not Islamic activism. We have seen violent and less violent forms of activism, radical but not necessarily accompanied by jihadist discourse. We have seen groups who declared themselves to be on the far left of the political spectrum who have also used violence as a system and who were present in the Arab world. Arab nationalism, too, has seen the development of insurrectional and violent movements which had recourse to arms and took advantage of a context which was favourable to them at the time. We are in a space where there are important sources, and I will return to this later.

Violent Islamic Radicalisation

I will begin by making a number of useful general points. When studying the phenomenon of jihadism it is essential to remember that identifying and drawing up the profile of a typical jihadist is an extremely difficult exercise.

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There is no such thing as a typical profile because jihadism and radicalisation in this context develop through the interaction between different factors: those factors which are local and specific to the individual in his environment and those factors which are linked to the international context. This interaction is important as it determines whether or not the individual will become radicalised. If, therefore, we have a multiplicity of local and international factors, there is a combination of factors which cannot produce typical profiles.

A combination of several factors is therefore necessary. A person doesn't become radicalised simply because they come from an underprivileged background. The key factors are still essentially political and religious. There has to be the influence of a political discourse or a religious discourse in order for an individual to turn to radicalisation and violence. This is not to say that no other factors exist, but I suggest that if we wish to classify the factors in some kind of hierarchy we need first of all to focus on politico-religious discourse. And as I have already pointed out, economic precarity alone cannot systematically lead to radicalisation and violence. We find people who are more or less integrated, have a social capital, are educated and yet have been radicalised. We find people who live in underprivileged conditions, with problems in their social or family environment who have also been radicalised.

All this needs to be borne in mind since we tend too often to assume that if a person is poor, an immigrant and a Muslim, then there is a good chance they will become radicalised. Yet as we can see this is not the case and we have many examples from other countries, especially those where the percentage of radicalised individuals in the jihadist movements is high, as in Saudi Arabia, for instance, where these individuals do not necessarily come from underprivileged backgrounds, do not live in precarious social and economic conditions but have turned to violence. Between 2500 and 3000 Saudis have left for jihad. There is a factor which is that of education, an internal factor and which is not necessarily economic.

There would not be any jihadism if there wasn't a favourable context the discourse can latch on to. There have been a number of events over the last 20 years which have structured global Islamism and which can help explain these crises and why jihadism is thriving today. From Afghanistan in the 80s to the uprisings in Arab countries in 2011 a certain number of events have structured the Arab-Muslim world and stimulated jihadism: the Israeli-Palestinian conflict, the crises in countries

such as Yemen, the Sahel, Somalia, the war in Iraq in 2003, the Bosnian and Chechnyan crises and, underlying all this, Afghanistan which, for 30 years, has been a strong magnet. Today the Arab uprisings and their consequences, combined with the breakdown of some of the states in this Arab world, the collapse of the Libyan State, the collapse of the state and the revolution in Tunisia have also led to major upheaval.

Even more serious, the collapse of Yemen today has provided an example which is being copied in the Syro-Iraqi region. The Syrian State has collapsed and the minority regime is in a very difficult position. Iraq is still very unstable and has been since 2003; with the events in 2011-2012 there has been a return of Islamic State.

All these events fuel the radical discourse which in turn energises jihadist activity today. It is essentially conflict zones which are affected and which create poles of attraction. For a long time Afghanistan was one such pole, followed by Bosnia, Chechnya, Iraq in the first decade of the 21st century, Yemen, the Palestinian territories and Syria. In all of these conflicts today, it is the absence of a lasting political solution over the last 30 years which continues to fuel jihadist discourse. Until a lasting political solution to these conflicts is found, jihadism will continue to develop and to flourish. Preventive policies can be introduced at the level of each conflict, but as long as there is an Israeli-Palestinian conflict, a Syria or an Iraq, the preventive policies will be efficient but will not be able to contain the phenomenon. Action at international level is therefore necessary too in order to achieve significant results.

As for the interaction between populations who have settled in the West and the influences in the conflict zones, in the period 1980-2000 we thought that the jihad in Afghanistan or in Chechnya was the problem of the Arab countries and Arab combatants. Since 2003, we have seen that the war in Iraq and the conflict in Syria have a real impact on European countries as hundreds if not thousands of people leave Europe to join the jihad in the conflict zones.

The impact is also much greater thanks to the social networks and excessive use of internet. Some of these movements have set up a permanent interaction between the conflict zones and the populations living a long way away but who feel concerned as a result of this virtual proximity to the Syrian, Palestinian and Yemeni conflicts.

A generational phenomenon

Jihadism has always functioned by generation. There was the Afghanistan generation in 1990 and 2001 which created a certain number of groups including Al Qaida in the mid-90s. Then we have the second generation of combatants and jihadists, the Iraq generation, which was born out of the US intervention in 2003 and which continued to feed off the Iraqi conflict up to 2010.

A certain number of groups followed on from this, not necessarily directly from Iraq but which sought their inspiration in this conflict; they set up new groups on their own territories. This Iraq generation was important as it provided the foundations and the basis for what was to come with the Arab uprisings and which was to lead to the third generation: people of between 16 and 20 who were too young to have known Afghanistan, but not too young to have known Iraq, even if they were only pre-teenagers or even young children at the time. Although they hadn't really known the jihad in Iraq in the period 2003-2010, they are the children of all these uprisings in Libya, in Syria, in Yemen and elsewhere, all of which received enormous coverage on the internet.

It is this generation which is fighting in Syria. The Iraq generation is in command and the Afghanistan generation represents individuals who are now in their fifties, sixties or even seventies. They have distanced themselves from jihadism. Some are still charismatic figures but very few active members are left in this generation. The Iraq generation is that of the leader of Islamic State, the head of AQIM, of AQAP. In the next 10 years the new generation may gain experience, continue to fight and become hardened combatants, and possibly become the leaders of tomorrow's jihadist movements.

The case of Syria and Iraq

I am now going to focus on these conflicts as they are the key factor today in the radicalisation process. These conflicts have led to a phenomenon which has never been seen before in terms of its consequences and the number of combatants that will join organised structures. Whereas in Afghanistan and in Iraq there were at most between 2000 and 5000 foreigners who travelled to these areas to fight, what we have in Syria and in Iraq are roughly 15,000 or more foreign fighters, plus all the local combatants in the different groups. We see a mass phenomenon which didn't exist before. There are several reasons for this phenomenon, with an impact on young people living in France and not only those who have been tempted by jihad in Syria, Tunisia, Yemen, Iraq or elsewhere. Several elements explain the attraction of jihad in Syria.

First of all, remember that it is a combat that the jihadist movements put centre stage through its multi-faceted character. That is to say that if you go and fight in Syria it means you are going to fight the Alawites, a sect which is considered to be heretical in the eyes of Islam and which is in power. It also means that you are going to fight the Shiites, who are allies of the Alawites, and so the Iranians, the Hezbollah, the Shiite militia who are considered by radical Sunni Islam to be apostates or renegades. Shiites aren't even considered to be true Muslims since they rejected the arbitration of the period of the first Caliphs and

preferred to follow the Caliph Ali, and so are considered to have rejected the Sunna.

It means fighting the dictatorship of Bashar al-Assad's authoritarian regime. Westerners who, either because of their inaction or because of their action against Islamic State are considered today to be a burden and therefore are enemies. Even if the West were to provide much more support for the Syrian uprising they would still be considered as enemies because they could be accused of supporting the wrong part of the uprising. Any intervention on the part of the West is clearly seen as outside interference and therefore as an enemy.

And then there is always the ever-present spectre of Israel and so fighting in Syria means preparing the jihad of tomorrow which will be the jihad against Israel since we are right at the borders of this country. Thus, forcing Syria to join the Caliphate today means preparing the confrontation with Israel in order to free the Palestinian territories, which remains a leitmotif and a major dynamic.

The second element is the ease with which one can reach the theatres of war, which was unknown in the past. Although it was possible to get to Bosnia, Chechnya or Afghanistan it wasn't very easy and for many it was out of reach. It meant building networks, and the systems of transport weren't practical.

Today all you need to do is buy a plane ticket to Istanbul and you are almost in Syria, even if the Turkish authorities seem to want to control their borders more strictly. In other words, it is still easy to make one's way to Syria. Turkey is at the gateway to Europe and therefore so is Syria.

Through the social media, mobilisation has increased, and one talks of jihad 3.0. Thanks to this mobilisation the Syrian and Iraqi conflicts have been given global media coverage in a way that wasn't possible in the days of traditional media. The Afghan jihad and the Chechnyan jihad were not at all in this logic. Iraq was already part of the internet era but with Syria we have made a quantum leap thanks to the social media and this has produced a mass phenomenon.

And then we have something which tends to be considered less significant but which is in fact important. It is the production of a narrative which is very important for Syria: the prophetic narrative. Many young people go to Syria because they are convinced that Syria is a special place in the prophecy of the end of time in Islam. The construction of this prophecy of the end of time creates a strong and exalted sense of identity which echoes a certain number of other elements that we have seen in the history of Islam and which incites young people to leave for Syria, convinced that this is where the final combat against the enemies of Islam will be fought. The last fight before the end of time; the fight which

will deliver Jerusalem and see the coming of the Messiah who will fight the antichrist.

This prophetic narrative will persuade individuals that their salvation will be achieved if they die as martyrs en route for Syria, which is the ultimate place to fight the enemies of Islam.

This phenomenon is unequalled and had never before been seen in jihadist theatres of war. The recent statistics from March 2014 on the number of foreign fighters in Syria and Iraq show that it is a mass phenomenon well above 15,000 foreign fighters. The figures for countries of the Middle East are very high, especially when we take the ratio of foreign fighters to the size of the population into account. Tunisia is particularly affected by the phenomenon, with 3000 foreign fighters for a population of fewer than 15 million inhabitants. Saudi Arabia is also greatly affected, as are Jordan and Morocco. As for the West, France is almost the number one country for young jihadists leaving for Syria or Iraq, along with Great Britain and the Benelux countries. This international phenomenon stretches from North America to Europe, via the Middle East and goes as far as Asia and Central Asia, and is an unprecedented global phenomenon.

Syria and Iraq are very important as there is also an ideological fight between the jihadists themselves. Today jihadism is bipolar. Some individuals support Al Qaida, others support Islamic State. Two essential points have to be made here.

First, there is a leadership contest among those vying for influence, and among those vying for allegiance. The relationship between the chiefs and the charismatic leaders is truly conflictual.

Secondly, there is a phenomenon of emulation and competition. Interestingly, the areas where Al Qaida is the strongest, the Sahel, Algeria, Somalia, Syria, Yemen and Asia, are the areas where Islamic State is trying hardest to establish itself. Ultimately, one could ask oneself whether the presence of one of the two groups acts as a brake on the hegemony of the other.

This bipolarity is also something that many countries are examining in their search for elements which could be used to weaken the jihadist movement by stigmatising this bipolarity in such a way as to force the groups into an internal conflict which would weaken both of them instead of stimulating them and reinforcing them. This approach is often adopted by countries in the region, Saudi Arabia, for instance, or Jordan, but not so much by European countries which don't really understand this bipolarity and are geographically more remote from this region.

In simplistic terms, we could say that this bipolarity comes down to two spheres of influence.

Al Qaida

Today we have a sphere which we call Al Qaida, made up of a core and affiliated groups. First and foremost, this sphere has a transnational approach, in other words global jihad. The ideal is still one of Salafist jihad but, unlike Islamic State, Al Qaida doesn't seek to proclaim a Caliphate and wants to expand through the Emirates or through the influence of networks, of franchises which are called Al Qaida in the Islamic Maghreb (AQIM) or Al Qaida in the Arabian Peninsula (AQAP). This movement has a highly centralised hierarchy with a communications council. The council is a vector of communication on the internet. It has a strong presence in Yemen, North Africa, Syria, Somalia and the Sahel region and has created a branch on the Indian sub-continent.

Islamic State

There are major differences between Islamic State and Al Qaida. Firstly, unlike Al Qaida, Islamic State is territory-based. Al Qaida has always been a diffuse movement within the global jihad and has rarely been territorial or only for very brief periods. Today, contrary to Al Qaida, we know where the territory of Islamic State lies: Syria and Iraq, its main stronghold. Furthermore, it is a movement which seeks to expand to other regions, through the Caliphate, and the system functions on the basis of allegiances.

A number of declarations of allegiance have been made since the proclamation of the Caliphate, first of all in Algeria, Libya, the Pakistani-Afghan region, the Sinai, Yemen and Saudi Arabia. Today the organisation, which is highly decentralised through administrative divisions, covers a vast territory and is present in countries going from West Africa to Afghanistan. It is through these declarations of allegiance that Islamic State reinforces its influence. The most recent is Boko Haram, thus enabling Islamic State to extend its influence to the confines of Nigeria.

Al Qaida doesn't enjoy the same range of influence since Islamic State functions with groups which are truly territory-based and which are in the process of controlling territories, cities and populations and which is thus expanding its influence. For example, Islamic State in Syria and Iraq represents 10 or so governorates in Iraq and 7 governorates in Syria. This huge presence through the governorates is specific to this region. Then we have the expansion of Islamic State from the Sinai to Nigeria. Allegiances are proclaimed and today Islamic State can truthfully say that it is present in the Sinai, Libya, Algeria, in a very small group in Asia, and in Saudi Arabia, Nigeria and Lebanon.

The great strength of this organisation is that even if it doesn't enjoy a massive presence on these territories, it is present in the form of very small groups and is capable of creating a sentiment of fear and a force of attraction through its extremely well orchestrated media presence on the internet.

We thus have the impression that the organisation is present worldwide, with a global influence.

Today, for example, Islamic State claimed responsibility for two explosions in Saudi mosques in the Eastern Province, barely a few hours after the attack, and also claims the creation of a governorate in the central region of Saudi Arabia.

Does Islamic State govern or administer this region? No, but its presence thanks to internet and the fact that it can claim responsibility for an act as soon as it has occurred enables it to establish its presence on this territory. In a similar fashion, Islamic State has established itself in Libya. Islamic State does not control Tripoli, it practically controls part of the city of Benghazi and part of the city of Sirte and the outskirts of Nofaliya. In other words three small cities in Libya and yet all we hear about is Islamic State in Libya, even though it is only represented by approximately 1500 combatants. But Islamic State is capable of developing its communication so professionally that we get the impression that all we see in Libya is Islamic State, despite the fact that other groups are also present. In this way the policy adopted makes this organisation very attractive.

In what way is this organisation attractive?

First of all, it is an organisation which plays on the Caliphate effect, which has enabled it to attract a very young generation, and we are often struck by the youth of those who go to fight for Islamic State. Whereas the average age of combatants fighting for Al Qaida is 22 to 26 years of age, those fighting for Islamic State are 18 to 21 years old.

After the latest events in Saudi Arabia with the explosions in the mosques in the Eastern Province, the Saudi authorities published a list of wanted activists and arrested several hundred of them from among radical group militants.

What really struck me was the youth of those who were arrested: 16 to 20-year-olds. In other words what we have today is a generation of young people who join up at around 15 years of age, whereas in the Al Qaida period militants started out at the age of 22, on average. It is striking to observe leaders of networks with a dozen or so militants under their command who are barely 20 years old. What we see is the extreme youth of Islamic State militants, which can be explained in particular by the existence of the Caliphate. The Caliphate was suspended at the beginning of the 20th century and its reintroduction represents an ideal for Muslims and for some radical Muslims this ideal has become a reality.

When we speak of Islamic State we have the image of victory on the march. Islamic State has taken control of the region of Iraq, it is expanding in Syria, the Sinai, Libya, Yemen and Nigeria. Just how far can and will Islamic State expand?

This dynamic of victory on the march is principally due to this far-reaching and extensive expansion. It is not intensive, it is not like waves of militants or a landslide which sweeps away everything in its path. What we have are small groups which are important but which don't have the intensity to attract entire populations to follow this ideal. And in spite of recent defeats in Kobane, thanks to this dynamic of victory the reputation of indestructibility enjoyed by Islamic State has not been damaged, since they immediately launched successful offensives and captured Palmyra in Syria. Thanks to their successes in Libya they have continued to ride on the wave of victory.

They also have an excellent mastery of online communication, unknown in all other similar organisations. The different divisions of Al Qaida had just one committee responsible for the media, i.e. a structure in charge of disseminating their ideas and ideology on the internet. These groups usually have one committee, no more. Today Islamic State has a dozen or so media committees who are responsible for the dissemination of their ideas 24/24, and this is what has increased significantly Islamic State's capacity to disseminate and propagate its ideas on the internet. The communiqués follow a standard format which is reproduced through a dozen committees, all of which only publish official Islamic State information. It is thus thanks to militants who are highly skilled in the use of internet and the media that the capacity to communicate has increased dramatically.

The radicalisation process is manifold. There are preachers, there are recruiters who have been specially trained and there are hackers who contribute their know-how. The content of what is preached and the way it is communicated via the social networks is extremely important. The main strength of the internet is that everything is dematerialised. Whereas the physical distribution of leaflets in front of mosques continues to reach only a limited number of people, the internet has become a media jihad and can mobilise people worldwide via the social networks. It represents a strike force which is incomparably more powerful than what was done in the 2000s. Today the internet has made the former propaganda tools obsolete and is now the main tool.

It is also a tool which enables the bipolarity between Al Qaida and Islamic State to flourish. Every single pro-jihadist website defines itself in function of one of these two groups.

There is also another important phenomenon which has resulted from the internet: the migration of activities to the social networks. Al Qaida started at a time where one had to set up a website, a forum where an information committee provided and disseminated all the information. Today Islamic State represents a dozen media committees via YouTube, Twitter and Facebook.

All the social networks are used. The other groups also use these networks but Islamic State is the leader in the field. Messages can be sent out immediately and read simultaneously, and the increase in the dissemination of information means that many populations who were out of contact when only forums and websites existed can now easily be reached. Although the internet already existed in 2003, during the jihad in Iraq, if you wanted to be a self-proclaimed jihadist on the internet you had to have well-developed computer skills and actively search for information. Today all you need to do is to go on YouTube or Twitter to find ready packaged jihadist information. Even though these websites are targeted as part of a repressive policy to crack down on such activities and are regularly shut down, new accounts appear the very next day. Unless extremely tough restrictions are introduced to regulate the whole of the internet, we will never manage to bring this to an end as the jihadists and cyber users will always be one step ahead. And even though preventive measures are important, the jihadists are capable of adapting immediately.

We must also take on board the involvement of female jihadists in the communications and propaganda machine. In the 2000s this was marginal but it is gradually increasing and more and more female jihadists play a role in the propaganda war. We find them in front of their screens ready to transmit information, create websites, set up accounts. In particular they work behind the scenes in the support networks for prisoners, for example in Saudi Arabia, which use Twitter a lot. Despite the restrictions placed on women in the work place, many of them have shown a real enthusiasm in working behind the scenes of the social networks.

This strong presence of Islamic State on the web has naturally encouraged these groups to invent a new weapon which is far more strategic: the cyber-weapon. Terrorist attacks are no longer only committed using classical weapons; today, information and news services and sources, plus all the digital structures are attacked thanks to a newly acquired digital competence which has led to cyber-attacks such as the recent attack on TV5 Monde, for example. They have only just begun to develop their ability to carry out cyber-attacks and they are highly adaptable and reactive.

The internet can be used not only to disseminate material for the radicalisation process but also to provide help and support for the operational side of radicalisation. We can find tutorials on how to make explosives and weapons. Today these methods are within everybody's reach whereas in the 2000s they were more difficult to find and so only reached a limited number of people.

Politico-religious discourse

In order to identify this discourse, it should be pointed out that it takes different forms. What is the hard drive of a jihadist today?

The first thing is that violent action must be given priority and is necessary to challenge the political system in place, whether Muslim or not. It is what is known as the principle of transgression of obedience to the State. A jihadist is a revolutionary and wants to overthrow existing regimes through the use of violence.

The second is exclusivism and the rejection of everything which is not part of Islam. The jihadist combat must be fought against non-Muslims, apostates and Western values. Jihadists have the impression they are surrounded by enemies. For them, whatever is alien to Islam perverts the image of Islam and its purity.

The third is the defence of Muslim territories. In their eyes, Muslim territories are occupied today, with the exception of the Caliphate.

This occupation is due either to political regimes in the pay of the West or to ungodly or irreligious regimes, or to foreign powers. Islamic values must be defended through the use of arms, and it is here that we see what is considered to be defensive jihad, where it is a matter of defending territories, and offensive jihad, which is a question of extending the Caliphate to other regions and countries.

The fourth and last element is the rejection of traditional religious practice. Radical jihadists are against moderate Muslims and against the majority structuring form of Islam. Their attitude is one of exclusivism, and in their eyes they are the only true Muslims. All other Muslims have either strayed or are apostates who have forsaken Islam. There is no such thing as a moderate Muslim. Either they are apostates or they have strayed or they are infidels. A fight has to be fought against apostate regimes, as with the principle of Takfir.

Dissemination and impact of the discourse

The first level is made up of public space where the discourse can append itself. Then we have individuals who will play a role and enable the development of social links via tribes, clans, families and networks of friends. The third level is more internalised and is made up of traumatic psychological effects related to the family environment or to prison and which lead to the mutation and radicalisation of the person.

So we have three levels where the discourse can be transmitted and disseminated. It is no easy matter to identify these three levels, which means that when we have an overall picture of the radicalisation process it is difficult to intervene on just one or two vectors. The difficulty is to have a global discourse, to have a programme of actions at the different levels. Firstly because if we want to stop or bring a halt to radical discourse then we will first of all have had to examine thoroughly the interpretation radicals have of their religion, which we have already seen today.

It is also necessary to have a policy to monitor the activities of preachers and activists.

Then we have vectors about which I have serious reservations, in particular concerning the policing of the internet. This action may have certain virtues but will never be able to contain the dissemination of jihadist discourse in its entirety.

Furthermore, policing or monitoring political discourse is becoming more and more difficult. How can we deradicalise the context of the Middle-East through an impact on political discourse? The greatest difficulty lies here since people at a local level have no real influence; we are up against the power of the state which may possibly hold a different discourse in order to react to crises which are one of the sources of jihadism.

Monitoring or policing public space and networks is also extremely difficult. We cannot put a police officer behind every single person, we cannot police society at large, unless we set up an authoritarian state, which may encourage more radicalisation in reaction to this. If we take the case of Egypt, there is a risk of radicalisation of the upcoming generations as a result of the ban on the Muslim Brotherhood and the extremely repressive policy which has been put in place by the Egyptian authorities.

We still have an Al Qaida and an Islamic State stronghold, a bipolarity which plays such an influential role through the franchises and groups of administrative regions that Islamic State claims it is responsible for. And then we have another level which is more a question of operational cells and militants. Then we have the sympathisers who are not necessarily part of an organisation. It is at this level that we find the most militants in the West. They aren't yet really active but are self-radicalised individuals who could easily move from theory to practice within a radicalisation process and actually commit attacks.

Anti-radicality policies

When considering the various policies on the fight against radicality, different questions can be asked. We have already said that a security-based approach would not only bring positive results. We have tougher laws concerning the internet, an increase in the number of stops and searches and arrests, the dismantling of networks, the removal of preachers, etc. All these approaches may bring results but cannot stop the movement because they don't eradicate it.

There are also political approaches which are much riskier and which are controversial but which may lead to a certain number of avenues to be explored. First I think a distinction should be made between the different types of radicalisation, which are not the same when they are violent and when they are religious and non violent, as in the case of quietist Salafism, for example.

The distinction between violent and non-violent radicalisation is an important concept.

Is the giving up of recourse to violence a way to start a dialogue? Experiments have been carried out in the United Kingdom to deal with movements which, to begin with, were not Islamist movements, in particular in Northern Ireland with the IRA. This was also tried with far left movements.

Following the publication of a report on jihadist networks in France, we learned through the press of the Danish formula which is based on a far more comprehensive approach to radicalism.

Will an evolutive reading of events which occur in the Arab world help bring a halt to the process of violent radicalisation? Today, will promoting moderate Islamist forces help move to a dynamic of deradicalisation? In other words, should we rely on matrices such as the Muslim Brotherhood or others?

Would setting up certain channels of trust with States who have an influence over more or less moderate Islamist movements such as Qatar and Turkey today provide solutions, in particular with the conflict in Syria, and would it bear fruit?

How can we promote a counter-discourse on the internet? It is complex, but offers an avenue to be explored and if we want to promote a counter-discourse we have to work with religious authorities. Purely secular counter radicalisation is not enough to counter the discourse. We therefore need to work with authorities that are legitimate in the eyes of a certain number of Muslims, as is done in many Muslim countries.

How can we deconstruct the jihadist discourse? Can we do it with secular tools or should we do it using Islamic tools? Our Western societies have problems understanding the issues. We could find inspiration in what is done in Saudi Arabia, Jordan and Tunisia. This could help understand how to deradicalise certain jihadists.

By reinforcing the legitimacy of partnerships set up with Muslim interlocutors and by giving greater precedence to our institutional Muslim interlocutors, we should be able to stop the current dichotomy between Al Qaida and Islamic State and, above that, between Shiites and Sunnis, from being the central element which structures the hard drives and the software of societies in the Middle East. The Shiite-Sunni bipolarity has a very structuring function in the Middle East and if we take sides in this bipolarity or if we rely more on one with respect to the other, we will see the consequences on the Sunni radicals in the Gulf countries and if we rely too much on the Gulf countries we will have problems with Iran. We have to have a balanced policy but at the same time it must be intuitive so as to have levers for action which will deradicalise this region.

The Western countries and the United States have an influence and could build up a stock of trust. Even if it may seem pretentious today to say that France or the United States could build up a stock of trust, this must be created in the Arab world. But how is it to be created? Maybe the Arab uprisings have been insufficiently understood. This historic moment in the societies in the Arab world has not been taken seriously enough in the West. There are consequences. Does the reinforcement of a policy of trust in the Arab world necessitate the promotion of a more pragmatic vision which is adapted to the context of a crisis situation and which is less ideological? Does it mean fewer allies among authoritarian regimes? More support for regimes in transition and which are considered to be less stable?

It is true that at a given moment this might strengthen jihadism but would it not be better today to help a country like Libya to get out of the situation in which it finds itself by supporting the authorities which are being put in place? Rather than closing one's eyes and putting one's head in the sand by letting this country sink into a state of chaos, which risks provoking dramatic consequences for the region and for Tunisia in particular?

Is the policy concerning Syria to consider the Syrian regime as a partner in the region? Is it still viable to consider this regime as a possible solution in the fight against Islamic State? I have great reservations on this lever for action; the Syrian regime is responsible for the situation and today is in a process of decomposition.

So what I have wanted to do in my presentation is to give an overview of the discourse and the possible ways of deradicalising people.

Questions and answers

Mme Hourcade: *Listening to you we can see that our actions and professions are of little consequence, since the most efficient forms of action would seem to be on a different level and not on the level where we work. Having said this, we have heard about the deradicalisation programme set up by Dounia BOUZAR. Is the mere fact that it is secular mean that this institution, created by the State, is doomed to fail? If the fact that it is secular ruins all chances of its being recognised or being seen as legitimate, can we say that we are on the wrong track in France?*

M. Thomas: I don't have any statistics on the results announced by this Institute. I think there is room for more than one form of action. It isn't necessarily doomed to fail but it is insufficient. Methods can be complementary and one can have several forms of deradicalisation. We have something to contribute but this technique may soon run out of arguments when facing people who are very determined and who don't necessarily fit into a category or correspond to a

profile that this structure has defined in advance by focusing on a person's social or family background or environment, on their professional history, on their economic capital. All of this is important but so is the discourse. The different deradicalisation processes I have observed in other countries have shown that there was not just one form of action and that several methods have to be considered. It is difficult for a country like France to imagine deradicalisation in the way that some other countries do, where they work with the religious authorities.

Today all those who face this problem at local level must have a minimum of understanding of what is going on in the world. This is essential if you want to understand why a thoughtful young man decides to turn to this form of action. Maybe the conflict in Syria goes beyond the remit of professionals who are faced with radicalisation, but being aware that everything is linked, that there is a discourse which attracts these young people, that there are different groups, that the fact of going to fight with one particular group and not with another makes a difference, all of this may help be more efficient and get better results. Even at local level knowledge is necessary in order to understand why an individual has gone to Syria.

Not everyone has detailed knowledge of the question and there are even young people who join a group without knowing what they are fighting for. Even among Islamists, many don't know what Islamism and Islam involve, especially in the West. During the terrorist attacks in January, for example, the situation was totally confused in a way we hadn't seen before, in that we had three individuals who had prepared a coordinated attack, with one claiming that he was acting in the name of Islamic State while the other two claimed that they were fighting for Al Qaida in Yemen. Why was there this divide between the three of them? It was how they had been initiated into Islamism, who they frequented and what they read which led them to choose one group rather than another.

All this must be borne in mind because everything is linked. I'm not saying that a secular view of things isn't efficient but that we also need many contextual elements which are important.

Juvenile court judge: *I would like to pursue the question of the very limited local handling of the issues of minors who risk being radicalised. I was wondering what approach we should have in order to distinguish religious radicalisation from violent radicalisation. We receive referrals concerning children or adolescents who have been identified by the social services as showing signs of radicalisation but with the interpretation or fear of what this might lead to later on. For instance, I will be seeing a 17-year-old girl who has left school because she wears the full face veil and has therefore been expelled and whose*

attitude and discourse are those of religious radicalism. How can I see whether or not this radicalisation contains the germs of future violent action?

M. Thomas: In practice we are faced with specific cases and therefore must proceed on a case-by-case basis. Certain elements exist which will help us to understand which type of radicalisation it is. First of all there are external signs or a general attitude. So, dropping out of school, refusing to mix with others at school or elsewhere, systematically entering into a generational conflict with one's parents, castigating others, considering others as renegades or infidels, all of these are signs. Radicalisation is a break with society which is translated into actions, but they can be very varied as we have just seen. It could also include frequenting the mosque, fasting, respecting the five pillars of Islam. It is perfectly possible to be radical in terms of religious practice without necessarily turning to violence. Some Christians practise their religion in a way which is more radical than others, for example.

We can also focus on what young people read and who or what their references are. If someone says that what they read or understand comes from imams or preachers from major universities in Saudi Arabia, then we can consider that it is a case of quietist Salafism. It is a rigorous practice of religion but is not a commitment to militant jihadism. The majority of those involved in the institutions of Saudi religious establishment are highly critical of and also enemies of armed Islamic groups.

If we have a young girl who declares that in her opinion Shiites are renegades and are not Muslims, all Arab regimes are apostates and that we must support Islamic State, then we can worry that it is indeed a violent radicalisation.

Saying that she wishes to observe Ramadan and to wear the Islamic full face veil because she feels Muslim and that she wants to respect the rules and to pray is the radicalisation of religious practice but is not necessarily a violent radicalisation.

So we need to look at what they say, what their attitudes are, what they read and understand, what references they have. And so it is necessary to have basic but fairly detailed knowledge of the situation.

Mme Hourcade: *If for example, there is a breakdown in the relations between parents and a young person, which goes beyond a normal adolescent crisis, could this be a warning sign?*

M. Thomas: Yes and no. It could be a warning sign if the child turns to another source of authority, as soon as there is a break with the family environment. If this is the local mosque and the imam is someone who preaches a strict form of Islam but not jihad, then the young person won't be leaving for Syria.

If, on the contrary, the young person is looking for something and cannot find it in their close environment, among their friends, and if there has been a break with the family and if they have joined the mosque but it isn't what they are looking for, then there is the danger that the young person will look on the internet for other forms of discourse and will come across a human connector and will leave for Syria. Here we have a case of radicalisation. It is up to the intelligence services to inform you.

Mme Hourcade: *We will now take all the other questions and then M. THOMAS will answer.*

D. Pical, honorary judge: *I would like more information on a global level, that is to say on the development of Al Qaida, of Islamic State and what is going on in the attempt to take over Syria and Iraq. You said that the movement is extensive and not intensive. I don't know enough about how many jihadists there are and where they come from. There are of course those who come from Europe and North Africa. There are several thousand of them, as opposed to the millions of Muslims who live in Syria, Iraq, Jordan, etc. How come these States, which have armies, are incapable of stopping or arresting these jihadists? Why isn't there more resistance?*

In addition, concerning our country and the young people who become radicalised, you made particular mention of the development of social networks and we can imagine that in addition to the mosques and to friends, prison could also be a factor leading to radicalisation, in conjunction with the social networks. Is there no way that the French and European authorities could organise cyber-attacks on these networks?

Mme Saint Nazaire: *I was wondering how the Caliphate functions?*

Mme Lefevre, juvenile court judge in Paris: *We tend to put jihadism and sects in the same category. Do you think this is appropriate and can the methods used to try to get people, in our case young people, to leave sects be used for young people caught up in jihad?*

Assessor at the juvenile court in Paris: *I would like to know if you have any information on the civic education of imams in France.*

M. Thomas: We can say today that the phenomenon is on the increase and that this is constant. The different groups which claim to follow the jihadist matrices throughout the world represent tens of thousands of combatants. In Syria and Iraq the number of foreign fighters is estimated at between 15,000 and 20,000. The number of jihadist combatants is probably two to three times as many. In Syria and in Iraq there are probably between 50,000 and 100,000 combatants. In Yemen, an organisation such as AQAP represents roughly 2000 combatants, which is very low compared to the Yemeni population of 26 million inhabitants.

So how and why do these groups manage to function with fairly limited military means? Two important things need to be remembered. There are fewer and fewer States in the region and they are in the process of collapsing because they have been too authoritarian, not sufficiently legitimate or have not introduced enough reforms. They are being contested by a minority which has taken up arms and by a silent majority of the general populations which don't recognise themselves in these Arab regimes. There is a severe crisis in the governance of countries in the Arab world with corrupt and authoritarian leaders who have sown the seeds of the Arab uprisings. The Middle East is in the throes of a political crisis and is unstable. There is another factor, the Sunni-Shiite bipolarity which has created radicalism and will continue to do so with the conflicts we see today in Yemen, Syria and Iraq.

As for counter-radicalisation on the social networks, major operators such Facebook and YouTube have become aware of the problem, have closed down a large number of accounts and have introduced strict recommendations. However, many immediately open new accounts very easily. In order to avoid having one's account closed, individuals migrate to less popular websites and to much smaller social networks where the regulations and censorship are much reduced. It is a situation of constant adaptation.

As for the way the Caliphate functions, it is a territory-based structure and is highly decentralised. This is somewhat of a paradox, since Islamic State relies on many people who have simply changed allegiance. The city of Mossul has fallen; it represents 1,500,000 inhabitants, not all of whom are Islamic State militants. But the keys of the city have been given to people who know how to run a city and who have great animosity towards the Iraqi army and the Shiites. Similarly, the Raqqa region and the Eastern part of Syria have fallen into the hand of Islamic State as the result of the panic-induced compulsion (*fuite en avant*) and complete absence of any kind of management of the Bashar Al Assad regime.

And there is also the example of Sirte, Gaddafi's city in Libya, which today is in the hands of Islamic State because the inhabitants of Sirte don't want to be massacred and so just in order to survive have sworn allegiance to Islamic State. People living in these highly fragmented societies in the Middle East and who are left to their own devices have nothing left to lose. They rally around the strongest, who can provide security. With their ultra rigid and ultra violent politics Islamic State also offers a form of security to populations who are afraid of being killed. The level of violence in this region has reached levels never seen before and this is creating generations who will only have known a violent environment.

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It is hardly surprising that Islamic State is an ultra violent movement since it originated in Iraq, the site of pogroms and Sunni-Shiite massacres. This environment has structured and nourished Islamic State.

Although the Caliphate isn't really a true Caliphate, their ability to communicate is such that they give the impression of being good administrators even though they have given the keys of the cities to those who already had them, the only difference being that these people have changed allegiance. What will become of the populations who are exposed daily to the practices of Islamic State, if the cities are liberated? There will be problems, that's for sure.

As for sects, it is an avenue to be explored. We need to see how the sects function and see if this can be transposed to the phenomenon of radicalisation. There is indeed an exclusive and sectarian side which is similar to what we find with Salafists.

- *Why is France the country which provides the biggest number of jihadists?*

M. Thomas: We must look at this in demographic terms. Quantitatively speaking, France is number one, but if we look at it in terms of the ratio of the general population to the Muslim population we obtain a ratio which is no higher than in Belgium. I recommend the book by the journalist David THOMSON, *The French Jihadists*, in which he stands back from the phenomenon and tries to paint a portrait of typical jihadists who have gone to fight. His approach is not an ideological one.

Mme Hourcade: *We would like to thank you very much, M. Thomas, for your presentation.*

Action plans introduced by the Directorate of the Juvenile Protection Service (PJJ)

Catherine Sultan

In the face of the problems of radicalisation we have already participated in government action in terms of collaboration and the prevention of the risk of minors leaving for jihad. Since the terrorist attacks in January 2015 and the subsequent programme planned by the government, this collaboration has increased. The Juvenile Protection Service (PJJ) was invited to contribute and has developed a two-pronged action plan corresponding to two objectives.

Firstly, the PJJ participates in those government programmes where it was already active, that is to say an education department responsible for implementing court decisions. Its second objective is to consider how to prevent radicalisation and the influence or sway jihadists have over certain adolescents. How should we adapt our responses to situations which are difficult for professionals to deal with? This second aspect is essential as we are a government service which works with young people and in particular those who have multiple problems and are especially vulnerable.

Given these two objectives, we have set up a detailed training programme for the next three years so that all professionals working in the field of the judicial protection of juveniles can receive training concerning the issue of radicalisation at the National School for the Judicial Protection of Juveniles (*École Nationale de la Protection de la Jeunesse*). It was up and running very quickly, with trainers being the first to benefit, before being extended to others. It is a heavy commitment but is a response to the demand of professionals working in the field of the judicial protection of juveniles who are looking for support and answers to a certain number of questions. These courses are open to people working in accredited voluntary sector structures too.

In answer to the professionals' request for ongoing support after training, we have also set up a framework to clarify the rules and references when intervening within the context of the juvenile protection service. In particular, there is the question of the right of juveniles we are involved with to *laïcité* (secularism). What are the applicable rules, what are the references that professionals can rely on in situations which are very complex? We are talking in terms of education, everyday living, and things must be clarified and explicit. Although we have been working on these questions for a long time in our institution, this clarification is more recent. It is mainly a question of definitions which need to be examined and then shared.

Working groups within the PJJ have prepared guidelines for regulations on the functioning of all the services involved in the field of the judicial protection of juveniles and which cover all aspects of the rights and duties of professionals, and of adolescents when they are under the responsibility of the PJJ. These were adopted very recently and

provide a reference that each service can adapt to its own needs and specificities.

In addition to the training programmes, the action plan for the prevention of radicalisation also involves the introduction of an observatory of people whose role is to gather and also to provide information. It is made up of a network of liaison officer on matters of *laïcité* (secularism) and citizenship. This network is headed by a chief officer at the directorate of the PJJ, and a liaison officer for each interregional directorate and each territorial directorate.

The responsibilities of liaison officers for *laïcité* (secularism) and citizenship:

To have good detailed knowledge of the phenomenon through the gathering of information provided anonymously in order to dispose of elements to be analysed and then used to adapt proceedings for those under our care.

To participate in intergovernmental meetings and bodies working on these questions, in particular the units set up to collaborate with the *Préfet*, where the PJJ has already been working since they were set up at the beginning of 2014.

To work with and contribute to the prevention programmes in all the voluntary sector associations and places where these questions are discussed so that the PJJ has a place where it can really get to know the environment in which juveniles live their lives and so that it can rely on the resources there. There is a family dimension which is important but also the environment of the juvenile.

To enhance and diversify the working practices of the professionals. In other words, to go out and look for resources and to provide support for the teams. It is not the liaison officer who provides this support but he or she is the person who puts in place systems and resources from outside the PJJ to counsel and advise those of us who need it with respect to the problems we encounter.

For this we have been allocated a budget of 900,000 euros to finance outside interventions, be they consultations, expert advice, etc. Sometimes it is complicated to bring in people from the outside and we have to make a case for funding, whereas here the money has been earmarked and the liaison officers can use it to enable us to implement those measures that the courts ask the PJJ to implement.

To make this action plan work, additional members of staff have been recruited, in particular psychologists, a pluridisciplinary approach being essential if we want to improve the way we assess and understand the situation adolescents find themselves in and if we want to provide a sympathetic ear and help them in difficult and complicated situations. Full time positions have been created for 82 psychologists and whereas previously there was only one half-time

psychologist per residence, today it will be a full-time post. Other sensitive places will benefit from similar increases.

In conclusion, there is the clear desire that those who intervene in the judicial protection of juveniles should be capable of adapting to the diverse needs of the different territories and issues specific to them and that they should be better informed of the environment juveniles grow up in when they don't live with their families.

Questions and answers

Mme Hourcade: *Having listened to our speakers this morning, I was wondering whether it would be conceivable for the PJJ, when it is trying to adapt to a given situation and needs to understand the context in which radicalisation is taking place, to ask imams who do not advocate or promote the use of violence for advice. I feel that when it comes from Muslims it has maybe a greater impact than when it comes from defenders of laïcité (secularism).*

Mme Sultan: For me the liaison officers for laïcité are guardians of the ethics of the outside interventions and guarantee that they are consistent with our actions.

Mme Hourcade: *The question is whether or not we should have recourse to religion in order to try and counter these movements which claim that they are acting in the name of religion.*

Mme Sultan: I think this has already been the case in the different care hostels. Moreover, if a young person wishes to practise his or her religion, it is their right and we must enable them to do so. Furthermore, when we have recourse to outside interventions it is perfectly possible to invite someone from one or other religion, if this is appropriate. It can be extremely efficient as a pedagogical tool. But first of all I think we need to define our objectives. This question may well disturb and disrupt society, even more so when adolescents are involved, so what we must do is to be the guardians of ethics and of the right position. This is the role of the liaison officers for laïcité, i.e. a place to find support and a place to examine and think about the question. This is why it is necessary to rely on clearly identified outside interventions and which offer sufficient guarantees.

Mme Lefevre, juvenile court judge in Paris: *Why the term "liaison officers for laïcité", given that all social workers at the PJJ are non religious (laïc), and so is the institution?*

Mme Sultan: We are talking of liaison officers for laïcité and citizenship. The aim of these two terms is to make this position commonplace. The question that our institution has been asked is how we fit into the government action plan for the prevention of radicalisation. I am happy with this term, it is pretty clear and doesn't create too much of a stigma.

Mme Hourcade: *Although I am not part of the PJJ, I get the impression that this term refers to*

professionals who do not share these values, even though this is an obligation for all professionals.

Mme Sultan: That is not how I understand it. It is true that the PJJ is currently being audited by inspectors from the ministry on this issue and they want to see how we take on board these questions which disturb the whole of society and how we at the PJJ tackle this kind of problem. The issue is to know how an educational institution handles a question which is troubling French society. When we take into care young adolescents in a strict framework, at a time where they are going through their adolescent crisis, these questions arise daily and are all the more sensitive for that.

Mme Hourcade: *We can understand the difficulties, since what we heard this morning shows that it is a difficult task.*

Mme Atias, lawyer: *You mentioned meetings between the Préfet and the PJJ. What does this involve, exactly? I was also wondering about how the rights of the families and the children are taken into account. I think that families should be involved when their children have problems with the law.*

Mme Sultan: In 2014 two circulars set up units on the initiative of the *préfets* in which the prosecution service and other departments such as the PJJ are also involved. It is not therefore just a question of meetings between the *préfet* and the PJJ, but is a place to find information and provide answers to families who are facing up to difficult situations. The same circulars also raise the question of court orders not to leave the country. What can we do to anticipate such situations? The PJJ became involved back in 2014, today these units have been generalised. The PJJ respects the rules of confidentiality and court warrants, so it is the judges who receive the reports.

Mme Alain, juvenile court judge in Rouen: *We receive very few referrals for cases where such concerns are raised. But we have received referrals requesting educational assistance and I would like to talk about the rights of the families. The court intervenes in cases of parental neglect which compromise the development of the child. I can think of two cases where the parents had not failed in their duty as parents and had taken the initiative, as the child's legal guardian, to apply for an order not to leave the country. The juvenile had already been put under judicial protection and was the subject of an educational supervision procedure. The prosecution service asked me to replace the parents by making the juvenile a ward of court, without even having checked to see whether the parents had applied for an order not to leave the country. I am afraid of things getting out of hand and worry that things are being taken out of our jurisdiction, in particular with respect to the rights of the families who haven't failed in their duties but where a referral is nevertheless made to the juvenile court judge.*

Mme Sultan: In cases we know about, we have a lot of educational assistance measures with parents who have applied for support even though they had

done their very best towards their children. We also have parents who cannot cope with their adolescent children and who need the courts to intervene. Then there is the situation of very young children whose parents are considering leaving for Syria; this is another type of situation with its own complications. We also have situations where the juvenile is monitored as the result of a criminal offence for related facts.

- Can the liaison officer for laïcité be consulted on specific points as an outside advisor?

Mme Sultan: The PJJ must be a resource centre for these questions, but the liaison officers won't intervene directly when a juvenile is the subject of measures. However, they do have a role to play in terms of advice, support and when reorienting the juvenile and have a role to play with the relevant establishments. With this network we are in contact with all the institutions and services which deal with this issue.

Mme Hourcade: *Do you have any statistics for the situations that have been referred to you?*

Mme Sultan: We are currently developing a tool precisely for this. In March we had reached sixty or so situations which are extremely varied, and there are probably more. The taskforce which has been set up is a way of getting much more reliable information. We haven't yet recruited all the liaison officers for laïcité and so the tool isn't yet really effective.

Mme Lefevre: *Have you developed a methodology or criteria to identify young people who are in the process of radicalisation so as to be able to intervene as appropriate?*

Mme Sultan: We are at the stage where we are in contact with researchers, and we draw on the modules already in use in other bodies and associations. We haven't yet drawn up our methodology and are still at the stage of collecting information and know-how. We shouldn't make things appear normal but neither should we put the spotlight on them. We have to deal with complex situations. Juvenile justice has always involved extreme situations. We have no intention of changing our points of reference and the way we work. One has to know how to analyse a symptom in order to work on the causes. The causes are varied, they aren't unique, we won't have a pre-established list but no doubt warning signs which we will gradually integrate into our working practices.

Mme Hourcade: *It is true that it can't be easy for services to denounce situations they have intervened in. It's not really part of social workers' culture or habits.*

Mme Sultan: We are not asking social workers to do anything more than to refer a juvenile who is in danger to the juvenile court judge and to the prosecution service.

M. Pical, honorary judge: *You have told us about staff numbers and training courses and I would like to know something about the content of these*

courses. You have spoken about laïcité and citizenship but how does this differ from what all social workers are supposed to do in their everyday work? Secondly, the PJJ deals with these questions, fine, but in the meantime a certain number of young people are in prison, they also have the right to practise their religion, and this is where the problem of the participation of an imam comes up again.

Mme Sultan: To answer the second question, it isn't a matter of choice but the right of juvenile detainees. They have the same rights as adult prisoners but with a bit more protection. Moving back to the first one, if we examine how everyone defines neutrality and laïcité we see just how complex these notions are. So it isn't a question of reinventing anything but rather a question of making things clear, clarifying things, and providing support for professions which are more exposed than others.

M. Zennou, Director General of the association SOS jeunesse (SOS Young People): *How do you intend to integrate private sector associations in the action plan you have described?*

Mme Sultan: The training courses are open to associations. From my point of view this sector, whose missions correspond to those laid down in the 1945 Order (*Ordonnance de 1945*), is concerned by the whole of the programme since you are responsible for juveniles who have been put in your care by juvenile court judges. So you are involved in the same way as the public sector.

Mme Grelot, social worker with the PJJ: *Someone spoke about things getting out of hand and that is what we are also afraid of. Not with respect to what the PJJ Directorate has set up but with respect to inter-ministerial representatives, that it to say that since the 2007 law on the prevention of delinquency there is the sharing of information and that worries us a great deal. Especially as we know that information may be transmitted which has nothing to do with violent radicalisation. In concrete terms, if a young person buys a prayer mat, does this mean that he should be reported? Isn't there a risk of stigmatisation for young people who at some point were more religiously observant but who are not caught up in the radicalisation process?*

Mme Sultan: I think that by clarifying things and accompanying those involved, we should be able to find the right answers based on real information. The aim is that no one should find themselves alone in the face of complex situations. Some professionals reject out of hand anything to do with religion and think that a juvenile has no religious rights in a residence or that there are forms of behaviour which raise suspicions of proselytism. These fears exist and the fact of sharing the same basic philosophy or ground rules is a good way to prevent things getting out of hand without falling into the trap of accepting things as normal or having a blinkered view of things.

New judicial challenges? A multidisciplinary analysis

Round table moderated by
Judge T. Baranger

Presentation by Thierry Baranger

This morning we focused mainly on a sociological and political approach to movements linked to radicalism. I would like to remind everybody that today's conference is not only about Islam but also about how adolescents structure their identities with respect to religion and *laïcité*. Fethy BENSLAMA will tell us what jihadism has to offer and what expectations it responds to, and Laurent BONELLI will present some considerations on radicalisation and how the institutions and authorities respond.

Many aspects of the radicalisation process remain obscure. During the second part of our conference we are going to ask researchers from different disciplines to examine the new challenges facing the juvenile justice system when dealing with the processes of radicalisation. The second round table will bring together practitioners, judges, social workers and clinical psychologists to discuss concrete action on the ground around this issue. As Catherine Sultan so rightly said, juvenile justice and the educational culture on which it is based offers a real know-how in this domain. Its experience in the framework of educational assistance, when faced with incestuous families, peer groups and sects, ought to be better harnessed. Its knowledge of the relationship an adolescent has to death and risk-taking is equally valid for young fundamentalists who go out to war zones.

The advantage of this preventive approach is that it avoids an exclusively repressive reading of the situation, which is extremely restrictive, especially when it feeds off the war against terrorism+type of discourse, as Laurent Bonelli pointed out in a recent article (*Les chemins de la radicalisation*, Le monde diplomatique, February 2015).

Marie-Pierre Hourcade mentioned a working group which has been set up in Paris, with researchers from different disciplines: psychologists, psychoanalysts, anthropologists, sociologists, political scientists and practitioners. The group, which was created on the initiative of Denis Salas, Laurent Bonelli and myself, took as its starting point the fact that Paris has national jurisdiction over the fight against terrorism and therefore over minors who might embark on this form of delinquency. True, it is a marginal phenomenon, but about 15 minors have been brought before the courts since 2014 for conspiracy to commit a terrorist act. It is in this context that we have invited practitioners (investigating judges, juvenile court judges, prosecutors and social workers) and researchers to exchange ideas around situations where the courts become involved (looking at various dossiers, observing what goes on during the

hearings) both in the criminal court and in cases of educational assistance. On the basis of our professional competencies, we will try to reconstitute the very varied profiles and the dynamics which lead some people into terrorism and compare them with other cases where people shift from words to actions, which juvenile justice is more familiar with.

Laurent Bonelli is a Professor of Political Science at the University of Paris X Nanterre, co-editor of the review *Culture et Conflits* and a specialist in questions of urban security and the fight against terrorism. He has also been very interested in juveniles and has analysed the trajectory of three populations of young delinquents who were all brought before a juvenile court in the Paris area. He wonders what has become of them. His starting point was to study cohorts of adolescents known to the court, which is a court for 15-year-olds, using the dossiers prepared in the context of educational assistance and also those prepared in the context of criminal proceedings, over different periods (1996/2001/2006). He also analysed the relationship between this delinquency and public policies in criminal justice that were put in place at these times.

In addition to the article I have already mentioned (*Les chemins de la radicalisation*, *The paths to radicalisation*), he has written several books, one of which, *Au nom du 11 septembre* (In the name of September 11), analyses anti-terrorist policies in Europe.

Fethi Benslama is a philosopher and a psychoanalyst. He is Professor of Psychopathology at the University of Paris VII Diderot. He worked first of all as a clinical psychologist for the child welfare services in Seine Saint-Denis and has thought a lot about questions linked to the culture and health of migrants. More recently he has considered the question of Islam, using psychoanalysis as a starting point, in particular in his book *La psychanalyse à l'épreuve de l'islam* (Psychoanalysis through the litmus test of Islam), and also in a pamphlet, *Déclaration d'insoumission à l'usage des musulmans et de ceux qui ne le sont pas* (Declaration of disobedience for the use of Muslims and of those who are not). Last but not least he has recently written a book, *La guerre des subjectivités en islam* (The war of subjectivities in Islam) in which he took stock of his work to see what psychoanalysis can contribute to the understanding of Islam.

Laurent Bonelli

Radicalisation is very much in the headlines today and everyone is talking about it. To quote someone working for French intelligence as an

illustration: There will soon be more people making a living from radicalisation than actual radicals+. Caricatural though this may seem, it is not totally false.

What I would like to do today is to share with you the thoughts and ideas of professionals working in child welfare, not so much because juveniles make up the majority of what we call radicals but because there is a legitimate concern for young people who will hit the headlines tomorrow after a terrorist attack. It will come as no surprise to you that the social worker and juvenile court judge who have already been involved in educational assistance proceedings concerning the individual will find themselves in a complex and awkward position. A legitimate question for these professionals is how to prevent young people from putting their words into action. This doesn't only concern terrorism but is a more general problem of delinquency, though of course, if it is a case of terrorism the consequences are far more tragic.

If we return to the recent terrorist attacks in France in January 2015 and if we look at the trajectories of the minors involved, then we do indeed see that they have a lot in common with the minors you have to deal with. If we look at their past and what they do with their lives there are great similarities with the populations you professionals work with. In a nutshell, the socio-judicial services are called in when the juvenile is still very young, he or she is taken into care and housed with a foster family or in a care hostel, they have an average or poor school record, they join gangs and get caught up in criminal activities, etc. So what we have are people who from a very young age have brushes with the law, are stopped or arrested by the police, have a criminal record and have served prison sentences. The Kouachi brothers were protected for a time as they had been taken into care and sent to a village in Corrèze, which saved them from the problems of adolescence while they were still young, but as soon as they arrived in Paris at the age of 18 they got caught up in a number of criminal networks.

We could add that if we look closely at all these individuals who have committed terrorist attacks on European soil, we see that they all follow a view of Islam which has been built around the image of fighter heroes, distant theatres of war, spectacular actions, that is to say a fairly simple ideology in which they can find their own concrete experiences, their incriminations, their exclusion, racism, the domination of their own people and that of other peoples such as the Palestinians, all of which is put together in a narrative about a civilisation where everything is the fault of the Jews and unbelievers. This simplistic vision offers two advantages: it explains a place in the world for those who believe it and is also a form of liberation since seeing the world in this way is a far nobler ideal than delinquency and marginality.

These characteristics which are common to these different individuals have already led to manic attempts to classify all of this. A certain number of experts talk of gangsterterrorism+. I do not work with young people but I can imagine that for a professional who does, seeing this type of thing must be extremely worrying as the trajectories we are talking about here are not those of just five individuals, but of thousands, nay tens of thousands of young people. The characteristics we have described could indeed apply to many young people. So the question is not why these five individuals turned to violent action but why more young people don't do the same and commit terrorist attacks.

I would like to come back to how the social sciences can enlighten us on a certain number of points. One of the factors which is often mentioned to explain why people turn to violent action is the question of ideology. It could be the driving force behind these actions. We hear of individuals who become radicalised alone, via the internet. To quote the Minister of the Interior: It is disconcertingly easy for any individual to acquire the minimum know-how necessary to commit a terrorist attack locally. The great change is in the way terrorist groups exploit the possibilities offered by the new information technologies to inculcate the virus of terrorism into many minds+. But in reality the link between actual violence and ideology is not so clear.

Ideology is our way of seeing the world; it is the glasses that we put on in order to read the social reality. For individuals, the world can be divided in different ways, such as between rich and poor, capital and labour, French people and foreigners, believers and unbelievers. Depending on how we divide up the world, different alliances are formed, different strategies are created based on different analyses. Underground groups, radical organisations have a clear discourse on how the world is divided. To quote the first issue of Dabiq, which is an English-language magazine of Islamic State: The world has been divided into two camps, the camp of Islam and faith, and the camp of disbelief and hypocrisy+.

The ideology which guides our way of seeing the world has an impact. But it is very complicated to establish a direct link between adopting an ideological world view and turning to violent action. Many workers may well be convinced that the world is divided between capital and labour but this doesn't mean that they are going to commit to a cause or carry out radical political actions. Generally speaking, armed groups complain about the passivity of the masses, yesterday workers, today Muslims. Omar Omsen is a recruiter and uses the internet to proselytise, in particular to get young people to join Al Nosra front in Syria.

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If we listen to his speeches we see that he pinpoints two worlds: the active minority, the froth on the surface, and then the others, the apathetic Muslim masses who suffer and put up with things.

So if ideology is not the driving force which makes people turn to violent action, are deradicalisation programmes based on a religious counter-discourse efficient?

If we look back at the 70s, with the desire to deradicalise leftwing proletarian activists through the use of an ideological discourse, it would mean sitting left-wing proletarian activists down with a cadre from the French communist party and getting the latter to explain what communism is. Needless to say, the results would not be what was hoped for in terms of deradicalisation.

If we want to understand the challenge of radicalisation, the central question is not so much *why* but *how*. What are the micro-processes and connections which lead individuals into doing things they would never have thought of doing at an earlier stage in their lives?

We have realised that an individual slides gradually and often imperceptibly into the commission of violent acts. It is therefore extremely complicated to obtain workable profiles as we are not dealing with a general population with a typical profile.

There is one point which is completely ignored in debates on radicalisation, and that is the crucial role of public services, in particular the police and the system of justice, in the gradual slide towards radicalisation. All the studies that have been made of radicalisation processes in other periods of history have shown that radicalisation is based on personal relations. A person doesn't become radicalised alone in front of the computer screen but is caught up in a dynamic of escalation.

If we look at the recent terrorist attacks in France, we can see that political violence doesn't just suddenly appear out of nowhere. If we want to understand the situation we have to look at history. History can be seen at two levels. First on the individual level, with a know-how which has been tried and tested in other contexts and includes knowing where to find weapons and how to use them. It is no coincidence that Nemouche and Coulibaly were individuals who had already committed armed robberies. The way the attacks were carried out is not dissimilar to the way minor hold-ups are carried out, i.e. incompetent reconnoitring and a badly prepared escape plan. This modus operandi is light years away from that of the Red Brigades, for example, who organised their actions down to the last detail with hideouts, alternative cars and alternative escape plans. Whereas what we have here are young people who use what they have learnt elsewhere for terrorist reasons.

Links with personal histories are very important, for example the fact that Coulibaly had seen his best friend shot and killed by the police before his very eyes in 2000 while they were in the process of stealing motor bikes is not anodyne.

There are also more general histories, in particular the Algerian civil war. There is a genealogy of violence in Europe which is broadly linked to the conflict which broke out in Algeria back in the 1990s.

This conflict is still present in people's memories and the brother of Mohamed Merah, for example, explains how the Algerian conflict affected generations of his family. It is also present via different generations of activists, through the transmission of know-how and legitimacy. We have heard of Djamel Beghal who was the mentor of the Kouachi brothers and of Coulibaly. Coulibaly was involved in the Armed Islamic Group (GIA) back in 1994. They are thought to have been involved in Belkacem's escape attempt, Belkacem being one of the explosives experts in the 1995 terrorist attacks.

What I am telling you about the Algerian example can be seen elsewhere. You have all heard of the French far left group, *Action Directe* (Direct Action) which was active in the late 70s. When Jean-Marc Rouillan became active in France in 1977, this was not where his violence began; his political activism had started years earlier, on the other side of the Pyrenees in the fight against the Franco regime, and as early as 1974 he was already a member of the *Movimiento Ibérico de Liberación* (MIL). So they are people who already have know-how and a legitimacy which they hand down.

The Algerian situation in the early 90s and the situation today are not the same. Activism was different then. When the GIA committed atrocities in France in 1995 it was to get France to remove its support for the Algerian regime. But in fact in 1995 the GIA thought it was going to be able to take over Algeria militarily. Today, there is no way the distant heirs of the GIA, AQIM, will be able to take over Algeria militarily, even if they are capable of successful incursions and actions at the extreme fringe of the Sahara and can cause great harm and damage. Activism is changing too, and the discourse no longer revolves around a desire for a military takeover in a given country.

This is translated into two phenomena: leaving for other theatres of conflict and propaganda through action. This theory was born at the end of the 19th century with the anarchists. It means that spectacular violent acts are necessary to incite the masses. But even the anarchists themselves would recognise that this theory isn't very convincing. Nevertheless, propaganda through action is the preferred mode of action for groups that have no social or territorial base.

INTERNATIONAL ASSOCIATION OF YOUTH AND FAMILY JUDGES AND MAGISTRATES

When Coulibaly left a posthumous video after committing the terrorist attacks, he exhorted Muslims to wake up.

In fact, these individuals who I have just described and who are committed radical activists are known to the intelligence services and are under surveillance. However, we could speak of the effects of the 2008 reform which in some ways weakened the ability of the intelligence services to get to know certain milieus. Nevertheless, neither the French anti-terrorist police nor the courts who deal with terrorism are completely without resources.

So why, given that all this exists, is there this enormous mobilisation around the question of radicalisation? Maybe it is because the question of political violence coincides with young people leaving for Syria and Iraq, although the two questions do not overlap completely.

Militant networks have been fighting for a long time in places outside of France such as Afghanistan, Chechnya, Bosnia, etc. And yet this conflict also attracts many individuals, especially young people and women, who are not part of this universe.

The intelligence services admit it: more than 50% of the individuals they identify were previously unknown to them. They are unknown and are the main target of the mobilisation around the question of radicalisation that we are talking about today. Underlying this interest in these particular individuals there is a legitimate fear, given that on their return from Syria some of them do indeed commit terrorist acts.

Having said this, even if these fears are legitimate, we should examine the issue by comparing what is going on today with the experience of people who have gone to fight abroad in the past. The conflicts in Syria and Iraq are not very different from other forms of commitment, of transnational activism. Examples would include the war in Spain, the experience of French volunteers with the Legion of French Volunteers Against Bolshevism who went to fight on the side of the Nazis, those who have gone to fight in Ukraine or the whole question of humanitarian work which isn't so far from what we see today.

I have made a comparison of all these elements. If we ask ourselves what makes individuals give up their current lives and put themselves in danger in a distant land, we see that there are many reasons. Solidarity is an important aspect. Today, in some circles it is considered totally legitimate to go and fight the regime of Bashar Al Assad, in addition to the desire to leave. For some people it is a humanitarian issue, i.e. to go and help people in conflict zones. And then there are existential aspects and the quest to find oneself.

If we examine the profile of people who leave, we observe great continuities such as former members of the military, sports people at risk and petty delinquents.

If we look at what is going on in the conflict zones themselves, we observe great similarities such as boredom or realisation of the horrors of war at the front. Islamic State has been obliged to create a police force to try to combat deserters.

When we look at the statistics of Europeans who have left for the front we can simplify and say that they are split into three thirds: one third are on the point of leaving, one third are actually out there and one third have come back. On their return the response of the institutions will be crucial in order to understand what will become of them.

In conclusion, I would like to make three points.

The first is the confusion between the question of political violence and the question of transnational activism. Confusing these two notions leads to a warmongering discourse, particularly in the domain of politics. It polarises people and divides the world into %hem+ and %us+. This discourse doesn't work when we are in a situation such as the one today, that is to say that we are not really convinced that the tanks of Islamic State are at the gates of France. Unlike the question of war, political violence is not a two-way relationship but a three-way relationship. We have the terrorist organisations, the public authorities and, in third position, the majority of the public who are there as spectators of the confrontation between the first two. The first two have a discourse to mobilise others. But in reality, the majority of individuals are not mobilised in this confrontation. It is this indifference which is absolutely crucial if we don't want these conflicts to increase and spread.

Note that if this type of conflict does mobilise a majority of people then the conflict lasts, as in Northern Ireland or Kurdistan, for example.

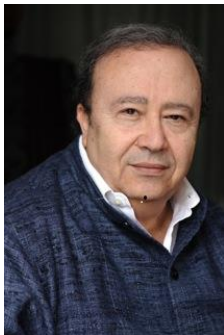
The problem we have today is that there is a high risk that the discourse calling on people to mobilise and to condemn will push those who were formerly neutral into the arms of those who are already mobilised, and in particular the arms of the radicals. This is exactly what happened in Northern Ireland, where the antiterrorist policies of the British authorities and especially Bloody Sunday precipitated 2000 young nationalist workers into the arms of the IRA commandos.

The second is more worrying. The cases of individuals who have become radicalised and are likely to leave for Syria represent just a minority of those that child welfare professionals deal with. With the mobilisation of politicians and the media around the question of radicalisation, the orders given to the child welfare services to take these questions on board may transform the mission of these professionals.

Looking after children who are in danger is the job of these professionals, whatever the danger. But if we develop this action on the prevention of radicalisation are we not to a large extent dooming ourselves to failure?

The third and final point is that by focusing as we are doing today on radicalisation we are moving inexorably towards the question of religiosity, that is to say that radicalisation and religiosity are becoming two sides of the same question. I could give the example of England and M. Ragazzi who worked in Birmingham. It was observed that all the policies aiming at the prevention of delinquency had been reoriented to policies for the fight against radicalisation. In concrete terms, this meant that sports activities and programmes aimed at underprivileged children were now reserved for young Muslims in the neighbourhood. The result was a kind of exclusion of those young people who had not converted to Islam, with the risk of fuelling anti-Muslim speech. In some cases, the policy of the public authorities ends up constructing communities and obliging individuals to see themselves first and foremost as Muslims if they wish to take part in these activities and programmes, while at the same time constructing the rejection of this same community on the part of those who are refused access to these activities. In this way we end up with an ideological vision of the world which is not so very different from the vision Dabiq has, i.e. that the world is divided into Muslims and the others.

Fethi Benslama



We need to begin by looking at the conceptual tools we use to consider this question of radicalisation. Since the month of January we have been invaded by a simplistic sociological discourse which transforms social conditions into factors of radicalisation. Fortunately this has been qualified and we have heard a number of reservations throughout the day. A factor means that there is a causal element which intervenes necessarily in a result. Where there is often confusion is between what are variables and what are factors.

We have a social variable, an individual variable, a political variable, an ideological variable in the phenomenon of radicalisation, but in no case can they be considered as factors. Neither the deprived neighbourhoods, nor an underprivileged

social background, nor Islam are factors, by which I mean determining factors. We find young people who have become radicalised who do not come from run down areas, who do not come from an underprivileged social background, whose family are not Muslims, but they have converted during the radicalisation process (40% of radicalised individuals). We could even say that in their case radicalisation occurs before conversion. It must be borne in mind that the phenomenon of radicalisation is over-determined. It is a matter of individual psychology and the social context. and that it can be found in different forms virtually everywhere in the world. The form we mainly see today, but which in fact has existed for a quarter century, is Islamic jihadism, with a number of variations for obvious geopolitical reasons, as we can see if we look at a map of the conflicts and wars in the Muslim world and in particular in the Middle East. The reason why there is such a degree of radicalisation is to be found in these regions where violence between groups, organisations and States is endemic.

There is one variable, however, that we rarely speak of and which the ambient sociology tends to suppress and that is the subjective variable. It is a given individual, regardless of the urban, social or religious category they belong to, who becomes radicalised, and not someone else. So the question we should ask ourselves and to which it is more difficult to find an answer using automatic factor-based reflexes is how someone can become part of a process which leads to becoming a terrorist, in other words a killer in the service of a cause which condones it.

There is another important variable, adolescence. According to the latest statistics, two thirds of the 3000 individuals who have been radicalised are between 15 and 25 years of age (24% are minors). This age bracket is characteristic of a drawn-out adolescence, particularly when the young people have problems, during the process of growing up and becoming an adult. Furthermore, there are some adults who continue to behave as adolescents for a good part of their lives, if not the whole of their lives. It is not for nothing that the psychopathology departments for adolescents are available for young people up to the age of 26, or even older. Prolonged adolescence is typical of modern society. Growing up isn't easy, even less so when the person is going through an identity crisis, which is not specific to the children of migrants.

The fact that jihadism attracts such young individuals, which wasn't the case for the initial generations of jihadists, isn't anodyne. These people have been targeted deliberately and it isn't impossible to imagine that in the future young children will be targeted. We might end up with child-terrorists in the same way that we have child-soldiers.

The promotion of jihadism has been increased using a mechanism which is comparable to the globalisation of the market, since jihadism is a market and like all markets it offers a variety of products which have become more attractive and easier to use. The British press has reported the case of terrorists who had been captured and who had ordered on the internet *%Islam for dummies+* and *%The Quran for dummies+*. In the last few years it is via the internet that Jihadist recruiters have approached young people (according to Ministry of the Interior figures, 90% of young people who have been radicalised were informed in this way), but it isn't just a technical question. The new communication technologies are used as part of a strategy to decentralise and privatise the radicalisation process, with the aim of developing what is called *%The leaderless jihad+*, which has been theorised by Abu Musab al-Suri, one of the strategists of jihadism in a book entitled *%A Call for Global Islamic Resistance+*, which was published on the internet in 2005 (1600 pages).

What is jihadism all about? Its aim is to produce warriors. From this point of view, the notion of *%radicalisation+* is a catch-all one which has been imposed worldwide ever since the 9/11 attacks in the United States. It deliberately casts a wide net, but to the detriment of any kind of differentiation between those who have become radicalised and continue to practise their religion without any kind of violence and those who will join up as warriors. While not all Salafists are jihadists . some of them are quietists who reject violence . all jihadists have at some point been Salafists. These categories are thus permeable and depend on each individual's personal trajectory, whence the difficulty in identifying those who are likely to turn to violent action, especially as the time it takes to train someone to become a warrior has speeded up considerably. In the 90s, several years of teaching and training were necessary, whereas today you can become a jihadist in six months.

If we forget that the aim of jihadism is to produce warriors then we won't understand what is going on today. It is a war situation with a number of different belligerents and many fronts and has been for many years. After Afghanistan, the Algerian civil war, Yemen and Somalia, jihadism has found new territories in Iraq, Syria and sub-Saharan Africa. France is at war in some of these territories, the most important one being Mali, where she has fought and destroyed jihadist groups. The terrorist attacks in January 2015 were carried out in retaliation. The publication of the cartoons of the Prophet in 2006 was just a pretext. What is the nature of what jihadism offers? It is based on the paradigm of an ideal, but in a particular form, that of a wounded ideal which must be restored. It targets young people who are going through a general identity crisis and attracts those, in the minority, who are in that moratorium zone on the path towards adulthood and are in

particular difficulty and distress because of huge gaps in terms of their self-identity. It offers a complete ideal which fills these gaps and enables them to restore the self or even to create a new self, in other words a substitution through a belief where there is no place for doubt. These young people were thus in a state of expectation, with no perceptible pathology, especially to the untrained eye. Some of them are in a state of asymptomatic turmoil and these are the most dangerous individuals. After they have committed a terrorist attack they are often described thus: *%he was a very nice young man+, %no problems+, %very helpful, he would carry the shopping for the old lady who lives on the fifth floor+, etc.* In other cases their turmoil had already led them into delinquency and drug dependency, which doesn't rule out a borderline or psychotic pathology. Jihadism thus transforms into a powerful armour the expectations of those with serious problems of identity. When what jihadism has to offer coincides with the expectations of the person, the gaps in their self-identity are no longer visible, they have been filled, a lead weight has been placed over them, the preceding psychological upheaval and disorder have been set in the stone of the ideals of extreme belief, which sedates all anxiety and provides a feeling of liberation and waves of omnipotence.

To understand all of this we mustn't forget that under normal circumstances the period of adolescence is full of ideals. It corresponds to a kind of physical and psychological moulting which, to borrow the concept of Didier Anzieu, requires the constitution of a new protective envelope in which beliefs and their corresponding ideality play a leading role. It is a defensive positioning, thanks to which the adolescent can mature sufficiently to become autonomous through the elaboration of subjective and social interdependencies. It is this defence which becomes excessive or extreme in the case of a serious crisis of identity, and leads the subject to imprison himself in a radical belief in order to bring an end to his distress. When the subject is disturbed and has lost all points of reference, turning to an absolute ideality provides him with a kind of *%psychological armour+* which protects him from anxiety and from what he sees as attacks coming from the outside world.

It is this portrait of gaps in one's identity and the way beliefs and ideals can fill them which we need in order to understand what jihadism has to offer. This is the conclusion I have come to through what I have observed during my clinical meetings with young radicalised individuals, some of whom have joined jihad, and also thanks to a lot of important research which has been done in France on the problems of adolescence. What jihadism has to offer has two sides or, to use a figurative image, it is structured like a moebius strip, where one moves from one side to the other without noticing. On one side the young person is

invited to identify his suffering as the Islamic ideal which has been wounded. I will return later to this traumatic historico-mythical construction. The result of this identification as the wounded ideal is to create confusion between the suffering of the individual and the suffering of the community and to create the oceanic feeling of immense and incalculable harm. In the discourse of young people who are preparing to turn to violent action or have already done so, you will observe that they systematically position themselves as victims or, to be more precise, as the curates of the dignity of a supreme cause which has been violated. They personify the wounded ideal. Whence the shift to the other side where they become avengers sent on a mission, heroic knights. This turn-around is fuelled by a chilling hatred which will seek satisfaction in the glorious outcome of combat and sacrifice.

Identifying with a wounded ideal as opposed to an ideal which has been restored through revenge offers subjects who generally have low self-esteem, who feel worthless, who feel they don't exist, a narcissistic promotion and exaltation which carry them so high that they leave the ordinary world and even go beyond the world. Another element to be taken into account is that some young people have such strong feelings of guilt and feel such reproaches that meeting someone who will guide them and impose external constraints releases them from the internal constraints they attempt to impose on themselves to control their impulses. Becoming a bearer of the restorative ideal allows delinquents to ennoble their antisocial or criminal impulses; better still, to become an outlaw in the name of the superior law of Islam and to claim for themselves the role of the protector of God. A father said to me one day: 'My son has become the father of God'. The reversal of the dominant-dominated relationship is another non negligible dimension of the ideal elevation of the subject. Certain young nobodies, or at least who live as if they were nobodies in their family or in their neighbourhood, become, thanks to the spectacular resource offered by the personified ideal, the voice of the moral authority of religion, kinds of self-designated imams who inspire fear, or even terror, particularly in the women of the family, their mother and their sisters. But the most radical position in the resource of the extreme ideal is a suicidal melancholy leading to self-sacrifice.

Where does this wounded ideal of Islam come from? The radicalisation we see today is a phenomenon that affects the whole of the Muslim world, from Morocco to Indonesia. No society is free of it. It is therefore a discord which permeates everywhere that Muslims live, including when they are in the minority in countries of recent immigration. When a phenomenon of this magnitude affects an entire

civilisation, it means that it has been shaken right to its anthropological foundations. The prescribed formula in this case is to speak of a move into the modern age, but this is a generalisation which rings hollow even though it isn't wrong. It needs to be refined and examined on different levels of human organisation, through the transformations and fractures that it has sustained.

I would like to rapidly draw the main elements of what I call the 'wound of the Islamic ideal' at the level of the political structure or, in other words, of what it is that establishes the subjects in their relationship with sovereignty and power. Why at this level? Because jihadism corresponds to a civil war between Muslims the object of whom is in fact the Muslim, namely the power to define who is Muslim and who isn't, in other words to speak 'in the Name of Islam'. It is in the name of this Name that war is being fought today. If there is a war it is because there are disagreements, divergences, confrontation. In the fourteen-century long history of Muslims, there have of course been disagreements about what it means 'to be a Muslim', about the sovereign, or what we call the caliph, but the magnitude, extent and violence of what has happened since the 1920s-1930s and which accelerated during the 70s, has never been seen before. What happened? It is the acceleration of the entry of the Muslim world into the age of the Enlightenment which began at the beginning of the 19th century with colonial conquests. The apotheosis of the adoption of certain cultural inventions and secular policies by part of the élite, in opposition to another part of the élite who maintained religious traditions, was the abolition of the Caliphate in 1924, the end of the last Islamic empire and the establishment of the secular Turkish State, replacing the Ottoman Empire which had reigned for 624 years.

These three events in one (abolition, collapse, substitution) had the effect of splitting up idealities for an entire civilisation. In the eyes of many Muslims it was a catastrophe which interrupted the tradition of sovereign succession in Islam, the Caliph being the symbolic curate of the Prophet, from the very beginning. Without the Islamic principle of sovereignty, the Muslim community no longer has a universal political subject. Islamic movements appeared during this period, in reaction to this trauma. Thus the Muslim Brotherhood was founded in 1928. The symbolic trauma was all the more cruel in that Muslims were no longer masters in their own countries, because of colonial occupations and the carving up of the territories of the empire into nations that were cobbled together and controlled by the Western powers. The goal of all the Islamic movements is to restore the Caliphate and re-establish the Islamic ideal which, in the words of the Muslim Brotherhood's slogan, is that 'Islam has an answer to everything'. This means the self-sufficiency of the Muslim religion to be able to

react to all the problems encountered by its subject, and in particular its relationship to the law, which implies restoring theological law,, which is called Sharia. Re-establishing the sovereignty of the Caliphate and Islamic law, this is what the combat of all the currents of political Islamism is all about. So they are movements to restore an Islamic order which was destroyed by the loss of the principle of sovereignty and the system of laws. This is the configuration of the wounded ideal.

This process began when, in spite of the violence of colonialism, Muslims became proponents of the Enlightenment, having understood that the Western Enlightenment brought with it inventions that were worth taking up, especially at the level of the political constitution of a modern state governed by the rule of law and citizenship. For them there was no contradiction between this and Islam as a faith, but they placed the principle of sovereignty on the side of the national State, which implied civil (secular) laws, even if they could well be inspired by Islam. However, this current was to encounter an ever more radical opposition through anti-Enlightenment theories, the same as those which underpin the Islamic movements, which want to restore the Caliphate and Sharia law, against the National State and its law. What we have had here, for at least two centuries, is one of the major turnarounds of modernity, the challenge and the stakes of conflicting foundations of human groups.

This conflict has been analysed by an important German sociologist, Fernand Tönnies, who has shown how the European world has shifted from a community-style organisation based on filiation at the centre of which we find custom and religion towards a social organisation based on exchange, contracts, functions handled by the State and normative rules of law. This shift of the community towards society is the basis of the subjective transition of modernity that we see in action in different regions of the planet, at different speeds, but which always triggers civil wars and also all kinds of terrorism. It is therefore hardly surprising that the Islamist movements want to destroy the national states. When the first democratic elections were held in Tunisia in 2012, where the Islamists won, the first declaration of the future Prime Minister was to proclaim the coming of the reign of the sixth Caliphate.

Such is the nature of the civil war in the Muslim world today, between those in favour of restoring the community of believers and its principle of the sovereignty of the Caliphate, and those who are for a society of contractors whose principle of sovereignty is the national State. The combat is not therefore between secularism (*laïcité*) and religion, many believers wanting to be citizens and not subjects of the community, but between two ways of aggregating human groups and two types of power which govern them. Of course, the

weight of religion in the social model is not the same as in the community model, but the first one doesn't necessarily remove all reference to religion, including in the State, as we can observe in many modern nations.

It was in the 70s that the civil war progressed and this for two reasons. First of all, because the governments of the national States which resulted from the fight against colonialism were incapable of meeting the aspirations of their populations. Much more, they did nothing about the soaring demography and thus increased the disruption of the anthropological structures of the world. In addition, with the approval of the United States, Saudi Arabia undertook to fund the Islamist movements in the hope of controlling them and protecting the monarchies. Oil played a huge role. According to C. Wesley, former CIA chief, Saudi Arabia provided 90 billion dollars over a period of 40 years to finance these movements.

In this open air laboratory the figure of the %Supermuslim+, as I have called him, appeared out of the anti-Enlightenment movement. It corresponds to an ideology of redemption based on the postulate that if Muslims have been vanquished, it is because they have betrayed their religion, their tradition. The restoration of the wounded ideal involves what I call an %over-identification+, which is a process of escalation with respect to identification. It is no longer enough to be an ordinary Muslim; today one has to be seen, to be heard, to show visible signs, to increase one's devotional practices, whence the full face veils and beards, the trappings which were supposedly those from the time of the Prophet, prayers in the streets, which didn't exist before, and, above all, the obligation to take the law into one's own hands, in all meanings of the expression, to atone for and apply theological law. This inflation comes from the violent demands of the superego which require ever more sacrifice, ever more purification as in an auto-immune mode. This figure of the Supermuslim isn't pure rhetoric, it explains an observable reality; this is what makes it possible to produce jihadists, who are prepared to sacrifice themselves, to become martyrs, in other words to become immortal, this is what gives rise to a political view based not on the preservation of life but on the spending of life, which we could call *thanatopolitics*.

M. Baranger: Thank you. We have spoken about a multidisciplinary approach to the question and we have here two very different views and ways of considering this phenomenon of radicalisation. The comments made by M. BENSLAMA on the Caliphate remind us of the work of Pierre Legendre on the construction of the State in the West. I was struck by the recruiting methods and in particular the fact that children may well be targeted by the jihadists.

Questions and answers

Mme Andrea, investigating judge in Lyon:

Following on from what you have told us about what jihadism has to offer, how do you explain that it resonates with non-Muslim Western adolescents? How do they identify with this wounded ideal which basically has nothing to do with their own culture? Is there a special propaganda aimed at non-Muslims?

M. Benslama: The gaps in one's identity are not specific to the children of migrants, in general, and of Muslim families in particular. The ideals of extreme beliefs appear as solutions for those who are going through an identity crisis. Who else offers such ideals other than sects and an extreme form of Islamism? The latter offers even more, since it offers young people the possibility of going to war, of becoming a hero and not just to be under the control of a guru.

M. Baranger: *Is what jihadism is offering the offer of the day, so to speak, similar to the Red Brigades in the past?*

M. Benslama: Yes. It relies on a very potent historical background which remains in the consciousness of those who promote Islamism. Although these historic events occurred more than a century ago, subjective reality doesn't function at the same pace as external social reality. So another very important factor has to be considered. It is necessary to look at the family history of an adolescent who becomes a missionary. It is not enough to examine what happens to the adolescent, it is also necessary to examine the family history.

Etienne Le Roy, anthropologist: *I was particularly interested by the references to the Caliphate and the reference to Tönnies who analysed the shift from society to the community. Far too often we stop at society and assume that it is an irreversible and definitive shift. But our societies are in the process of transforming themselves and what we thought was a definitive change of civilisation is, on the contrary, changing in our own societies. In the face of the complexity of the world, and increasing globalisation, our societies are living through other revolutions of which we speak less, and in particular, the revolution of the commons, that is to say a new way of constructing symbolic communities.*

Within Western societies we are capable of developing symbolic communities, which could stand in opposition to the desirable community of the Caliphate, constructions which would be far easier to construct than what the jihadists promote. We need to open our collective eyes to these new realities and maybe this will enable our societies to find answers which would be far more useful in terms of constructing the future and offering an opening to truly enriching lives rather than just mobilising the state institutions, which as we know are somewhat ineffectual.

M. Benslama: I agree with you completely. What made me aware of this is the revolution in Tunisia, one of the countries in the Muslim world which, like Turkey, shifted from community to society. During my research I met Fernand Tönnies and he gave a very vivid account of what was happening before our very eyes, in the transition in Tunisia. Other thinkers, following on from Tönnies, have added nuances to this transition in Tunisia. Within societies there are also micro-communities which develop. The social world in which we live has become tougher and tougher, with cities and urban conurbations of up to 20 million inhabitants, so people are necessarily driven to recreate links of affiliation. It is maybe in this sense that many people are seeking a formula which, while not rejecting society, includes kinds of enclaves of communities. I think we should try not to castigate communitarianism. There are ways of creating commonality which would not be a return to communitarianism but which would create spaces where life would be more liveable for subjects in the modern world which is becoming more and more brutal and unbearable.

M. Le Roy: *But they must be open enclaves which communicate and which do not act against the State, and which play the game not of opposition but of complementarity. It is this new type of paradigm that we must develop.*

Testimonies and avenues to be explored

Moderated by Judge Elsa Ben Said

Introduction by Mme Ben Said

In this session we will hear a number of testimonies and proposals for avenues of research and reflection. Mme Laxalte is a social worker at the *Unité éducative de milieu ouvert* (UEMO, Open educational support unit) in Créteil, Val de Marne. We also have contributions from a liaison officer for *laïcité* and from Mme Paucher who is a juvenile court judge in Bobigny.

The aim of this session is to examine and discuss the issues based on the experience of the different professionals. The idea is to be able to express the doubts and hesitations we have in the areas of educational assistance and criminal matters.

Madame Laxalte

I would like to talk about a rehabilitation order which was handed down to a 17-year-old adolescent. He had been brought before the court on charges of justification of an act of terrorism, public provocation to commit an act of terrorism and public insults on grounds of race and religion using public means of communication.

At a period in his life when he was constantly on the social media and instant news channels, this minor read a hashtag on Twitter, #Palestinian, not. He replied using the hashtag #Jewish, not. He spent the next few days adding to the exchanges, insulting Jewish people, inserting a photo of a Jewish school and a rocket launcher, proffering insults and making provocative remarks, boasting that he knew how to make a bomb. It was his first brush with the criminal law. During interviews with him he made it clear that he wanted to make an impression, by talking of a war on the web. He wanted to up the ante in this battle of words on the internet, his goal being to win.

It is very rare to see this kind of case in our service and during the interviews we worked as a team to try to find the best solution for this minor in the context of the youth protection measure. This young man had expressed the desire to meet Jewish people as part of this measure and we suggested a trip to the Museum of Art and History of Judaism in Paris, rue du Temple. He is an adolescent who has a certain general culture, who read a lot and was very interested in historical events and in conflicts where he always took the side of the oppressed. At this time he was mainly interested in the Israeli-Palestinian conflict but it wasn't all he mentioned. He cooperated fully with us, as did his parents, with whom we were able to work on the question.

This young man also had many questions around the issue of freedom of expression and had a great feeling of injustice, since he had been brought before the courts but his detractors

hadn't. He also had many questions about the media and the way deprived neighbourhoods and Muslim populations were stigmatised. His family history was marked by the conflicts in Algeria as his family was of Algerian origin and he had a lot of questions about the way his family history was handed down, about the appropriation of his family's past and about his place in society.

The parents, also Muslims, were deeply affected by these proceedings and started to have doubts as to what they had handed down to their children. How could a naturalised French citizen of Muslim faith live his citizenship in France? This type of question was discussed during the interviews.

As for the practical aspects of the measure, we contacted the museum. Their website is very well done and we found a lot of things which helped us to prepare the visit, in particular through the information intended mainly for teachers and organised around educational projects. There was a project on stereotypes and prejudice; I gave the young man some excerpts and we worked together on the theme.

The museum guide was very interested in the project and made every effort to tailor the visit and adapt it to the young man. The guide asked me a number of personal questions and I asked the parents and the young man before answering whether they authorised me to divulge certain information, in particular on what had happened and on the young man's religion. This helped the guide to plan the visit. We were asked to make a financial contribution of 40 euros, and the young man paid something towards it. The visit focused on points of reference so as to understand Jewish civilisation, and on the social construction of Jewish people and on what led to the exclusion of these populations. The young man directed the discussion towards the issue of the Wailing Wall and the Israeli-Palestinian conflict. Later on he mentioned the benevolent attitude of the guide.

Whereas juvenile rehabilitation measures usually include collective actions, in the case of this young man we decided to limit them to individual measures to enable him to ask the questions he wanted to ask.

In conclusion, rehabilitation measures are useful both as a medium and a support to open up and deconstruct the representation which have a negative connotation, but I don't have time here today to develop this further. The rehabilitation measure is not sufficient on its own but offers a time and a place for exchange and dialogue. It is a complement and has to be implemented alongside other measures.

In the case I have just mentioned, we had an element of rehabilitation and also an investigative

element. The measure was implemented, the young man's state of health permitting; he was vulnerable and had bouts of anxiety during which it was impossible to elaborate a project.

A Liaison officer

I would like to return to the question of liaison officers for *laïcité* (secularism). Given the context, there came a moment when we asked ourselves what had gone wrong. Some individuals had slipped through the net. We wanted to refocus on who comes into our care, on educational assistance and, in particular, on the issue of living together in harmony. We have to be capable of making a professional judgement and the fact that a young person buys a prayer mat, for example, doesn't necessarily mean that he is going to turn to radicalisation and violence. There is a lot of confusion and we must be careful not to jump to hasty conclusions about what we understand and what we think might happen.

It is interesting to note that the PJJ has decided to devote resources to rethinking the work of the different kinds of social workers in this particular context. The minors we work with today are not very different to those we worked with a few years ago. They express themselves differently but the educational side of our activity is the same, as it is a question of accompanying an adolescent who is finding his feet and building his future. Today, what with the social networks, the geopolitical crises, the economic crises and the globalisation of problems, there is a loss of information, a loss of points of reference, against the backdrop of a social crisis. All these elements get confused and this is what leads to the context we have today. Considerable funding has been provided and as a liaison officer for *laïcité* I tell myself that we have what we need to support these people and help them rebuild their lives more easily. The idea is to set up more and more innovative projects and to reinvent the way we work with these young people.

As part of the action plan to prevent radicalisation, the PJJ intervenes on two levels.

The first is the cooperation of the Ministry of Justice at inter-ministerial level. It was organised through the creation of *departmental units*. The way these units functioned raised much concern to begin with: were names being circulated, was there any confidentiality and were the rights of the families being respected? Having worked with these units I can assure you that the answer is yes. The aim of these units is to coordinate the various services at local, departmental level and to see what actions and resources can be brought into play to help the parents. The idea is to provide more counselling and support for families who are at a loss as to what to do about children who are prepared to leave for jihad or are in the process of becoming radicalised. The role of the PJJ in these units is to offer their experience in how to handle complex situations. Juvenile

delinquency is a case in point. We need to be able to work within these units in order to harmonise and provide a support for their work.

The second is at institutional level when the services take charge of certain juveniles. The liaison officer for *laïcité* isn't actually designated as being a specialist in the matter. His or her work is situated at national level since there are 70 of us nationwide and our job is to try to mesh together the different local services in order to complement the actions of the social workers. We can however provide specific support. The idea is to support projects and thus justify them so as to obtain funding. The aim is to provide help for families and for adolescents who are in distress and in danger.

What happened in January hasn't revolutionised social work, but it obliges us to examine our approach, innovate and focus more on aspects that we considered less important in the past. The question of the rules of *laïcité* (secularism) in a hostel or other form of accommodation is extremely important, since young people who are under a court order must have somewhere to live which they find bearable. Social workers who now have to take this on board may well find it rather disturbing, never having had to consider it before because it went without saying that secularism was the rule. The question of *laïcité* comes up in hostels and the appropriate facilities must be provided so that a minor who wishes to pray must be able to do so, since he has the right to practise his religion. So what we have to do is to devise ground rules which are clear for everybody, with a degree of flexibility.

Mme Paucher

I have been a juvenile court judge at the courts in Bobigny since September 2014. I have studied the question of the influence of sects over people and the title of my research paper was *Le juge des enfants face aux sectes* (Juvenile court judges and sects). There is a whole debate as to whether radicalisation is a question of sects, but they have enough in common to suggest that similarities exist and that they could be considered together.

I am the liaison officer for the juvenile court in Bobigny within the prefectural unit responsible for the fight against radicalisation. The idea has been put forward to focus on court intervention and in particular educational assistance measures. This is the result of a number of observations. The first is that it isn't easy for a court judge to fit into this prefectural unit. Under no circumstances are lists of names to be given, but it does provide the opportunity to give precise answers about what we do to precise questions. At the last meeting, for example, people from the Prefecture were able to ask how to refer someone to a juvenile court judge. This might seem pretty basic but it isn't obvious for everybody.

It is true that there is this question of radicalisation and a legitimate desire on the part of

professionals to invest their time but we also know that there are young people who do leave for conflict zones. One of the conclusions we came to in conjunction with our colleagues from the juvenile court in Bobigny is that not only are we faced with sectarianism in Islam but also in other religions. In a certain number of cases we come across possible incidences of sectarianism in evangelical churches and in certain voodoo cults.

We also observed that we rarely received applications for educational assistance on the part of the prosecution service or of parents where young people are at risk of radicalisation. In discussions with colleagues on the subject we realised that these questions do come up and applications are made, but are not necessarily formulated in such terms. In other words, both the question of radicalisation and the question of sectarianism in other religions are included in an application for educational assistance.

We have more cases where it is the parents whose practices might be a cause for concern and where it is the children who need protecting. We must return to the essence of our profession: a juvenile court judge is first and foremost concerned with danger. So the question is not so much whether or not we have before us a form of violent radicalisation as whether this form of isolation, of social alienation is potentially sufficiently dangerous for us to take action in the name of educational assistance.

To illustrate this, I received an application concerning a family where an adolescent girl was in serious conflict with her mother, who had converted and was very devout. The young girl couldn't stand her mother's radicalisation. There were three other children in the family and I became involved for two little girls. I handed down an educational assistance order in open custody and the objectives of the measure were to guarantee that the girls joined in a minimum number of activities for children of their age, without running any risk in their school education and their social construction. At the beginning, the mother tore up all the drawings the girls brought back from school, as they included representations of human beings, which the mother claimed was forbidden in Islam. Gradually, the mother accepted this, as reported by the open educational support unit (UEMO), and so the educational assistance order was lifted as the children were no longer in danger.

It is very helpful to define the notions of danger properly and to train judges in matters of sectarianism and radicalisation, whether in Islam or in other religions. We continuously have recourse to sociology, to anthropology and to all the humanities.

The idea would be to list all available resources and thus to be able to know who to call on for advice when confronted by a problem of religious radicalisation or sectarianism.

In conclusion, I have the feeling that we sometimes forget the personal history of the individual we are dealing with. The only dossier I know of in Bobigny where we had very good reason to think that it was a young adult who had left for a conflict zone was a young man whose past was punctuated by violence and which was a failure of the child protection agencies. The first bulwark is to concentrate on child protection, right from early childhood.

“Is there an outbreak of youth radicalism in Europe?”-- reflections on the situation of young people

Miguel Benasayag



Paris, October 22nd and 23rd 2015

Colloquium of the European section of the
International Association of Youth and Family
Judges and Magistrates

An interview by **Daniel Pical** and **Hervé Hamon**,
honorary magistrates, members of the directorial
committee of the French Association of Youth and
Family Judges and Magistrates

*D.P. – Could you tell us about your research
themes, in relation with the questions of
fundamentalism and radicalisation of youth in
Europe?*

M.B. . The common ground between the two is
the fact that I have worked for 30 years as a child
psychiatrist, and I've worked a lot on the new
sufferings of the youth . caused by social
evolution etc. . in suburban areas, here and in
Buenos Aires. So I'm very interested in these
questions.

I would say that, regarding the first axis you
pointed out which is that phenomenon of over-
religiousness and the question of the youth, one
could say that we live in a society which is
undergoing a terrible upheaval. In a very short
time, we went from a society which structured all
of its practices around the promise of a very bright
future to a society which believes the future to be
a threat. That is a major anthropologic,
sociological, psychological element: we're in a
society who is afraid. Firstly, people don't act in
the same way when they trust in the future . as

hard as the present may be . and when they're in
a society who fears the future. In that society, the
youth . who by essence represents the future .
seems suspicious.

In my experience, what changed in that relation to
the youth stems from a kind of failure on the
adults' part, and on the institutions' part: our
society, on a family level, on an institutional level,
couldn't answer to the crisis by forming structures,
ties which would have kept on protecting the
youth even though the adults were disoriented.
From that point of view, there are two significant
phenomena.

First of all, there is a very fast, very insidious
deconstruction of the childhood category (a
category which had been created by the western
world, by modernity etc.). That category used to
say that the children, between their birth and a
certain age, lived in a sort of protective airlock in
which they could test their power, and in which
some values, some culture would be transmitted
to them. They would experience some conflicts,
which are necessary to their development, but
protected. This category is dissolving. There isn't,
even in the eyes of our contemporaries, this %ah,
it's a child+. It's a child but from which social class,
from which religion, from which suburb... Instead
of this category, other labels than that of
childhood appear in the perception of the child.

Secondly, given the technological revolution that
we're living, the adults' functions of transmission
are broken. We have replaced all of these
functions of transmission with an information inlet.
If a child wants to ask his grandparents
something, then the grandparents will always
know less than the internet, so there is a breakup,
a defiance, a degradation of the function of
adulthood. There are many elderly but very few
elders.

The functions of transmission are broken which
creates a disorientation. The vertical, generational
transmission is replaced with a diffuse, horizontal
transmission. When a child wanted to ask his
grandparents something, maybe the grandparents
knew and maybe they didn't, they spoke a bit from
experience, a bit from invention, but there was a
thick, complex situation in which what was
transmitted wasn't just information. To a certain
extent, information was secondary with respect to
the situation itself, in which there was a
transmission, a handover of trust. When he only
believe in horizontal transmission, the child is
wasting his time with his grandparents because
they know a lot less than the internet.

So there is a loss of authority for two reasons: firstly this menacing future is undermining authority because it's a failure that is turning the future into a threat: ~~%old~~ people failed us; and secondly this technological development is breaking the complex, profound functions of transmission in favour of pure information.

H.H. – To a certain extent, it's even the children who are teaching the parents: adults try to keep up as best they can as parent figures.

M.B. . Absolutely. I have published a book in Italy with another Italian psychoanalyst, about understanding why there were many elderly but no elders. The elder isn't just someone who is growing old: the elderly are simply people who are losing their powers whereas the elder is the one who acquire new powers with age. Powers which are not the same as the youth's. In our society, the elders' powers are disappearing but . perverse effect . so are the youth's, because we don't let the elderly be elders, but we also don't let the youths be young. A youth is someone who explores, who takes risks, but who is protected. Yet, nowadays we say to the youths ~~%don't~~ take risks, forget your elective affinities, learn something useful, don't waste your time.+ But a youth never wastes his time. A youth explores, a youth takes his time. And the neoliberalism terrorizes the youth by preventing them to take the time to be young.

Consequently, our society turns into a very hard, very unidimensionall . as Marcus would say . in which there is no elders but no youths either. Even the ~~%youth~~ culture+glorification is a fake one. A youth isn't that fearful, calculating being who would have a curriculum rather than a life, who chooses disciplined survival rather than life with its risks. A society which doesn't allow its youth to take risks is a society which puts its youth at risk.

H.H. – Regarding the protective airlock you mentioned... All of the juvenile justice system is conceived as a support for these risks, of these explorations, and it's clear how the juvenile justice is attacked by neoliberalism. The left wing and the right wing hold practically the same discourse on the question of the youth: that these delinquents are threatening.

M.B. . Left wing and right wing have fallen into this black hole of utilitarianism, in which one doesn't see the singularity of the youth. We want zero risk . with everything that can imply for a youth . even if it's less outspoken on the left wing.

As a clinician, I often see young people who aren't youths anymore. Young people who're already doing calculations, as if they were looking at their lives through a curriculum. We tell them ~~%being~~ young means you have the possibility to look for the reason you were born for. Where do your desires lead? You'll be happy or not following your path; it's *your* path.+ Our society is demolishing this: it's the education of skills against the

education of transmission. ~~%Learn~~ some marketable skills, and forget anything useless.+ So this destructures the youth. The youth can't find their own adventures within themselves because ~~%within~~ themselves+doesn't exist: they have to be built like skill Legos, in order to be able to introduce themselves to their prospective boss, saying: ~~%exploit~~ me as long as you wish, and then you can throw me away like a used kleenex.+ So the young can't find in themselves the adventures they need.

H.H. Even in group delinquency, we have the feeling it's the same utilitarian reasoning: there is no teaching...

M.B. . Of course, there's a terrible change in the structures of delinquency. It's caused by all of the parallel economy of drugs, in which even the internal hierarchy which used to require the transmission of certain values etc. has disappeared.

To develop on this point, when the youth doesn't find the possibility to deploy his own personal adventure, his desires because we tell him ~~%don't~~ have a life, have a curriculum+, what happens is many young people are broken, and follow that little path thinking they will stay out of trouble that way. In fact they fall into economism. But there is another, large group who won't accept to sacrifice their adventure, their power, but who won't find it in themselves. They'll find it in very strong, barbaric, messianic promises. The more the neoliberal society will demolish interiority, the more fanaticism can gain ground.

In suburban areas, there are prayer halls where they tell young people to learn to drive taxis, so there are many young islamism supporters who drive taxis, I've met a few that way. These youths tell me ~~%it's~~ not possible that everything be possible. It's not possible that there be no order. It's not possible that everything be merchandise.+ When you hear this, the first reaction is ~~%of~~ course, there are principles, there are values, everything isn't some kind of overgrown free will, there are boundaries.+ You think that they're in an effort to structure something. Except this effort drifts, because the relationship these youths have with religion isn't the classical, filtrated relationship, that is contextualised by families.

D.P. – We feel that it's often 2nd or 3^d generation youths, whose parents are possibly religious but not extremist, who radicalise only now... How do you explain that drift?

M.B. . The over-religiousness of these youths vigorously criticizes their parents religiousness. They think of their parents as hybrids, traitors, like they sold out. So there won't be any kind of continuity with mediated religion, with religion as a cultural fact.

To them, religion is a revealed truth, and revealed to each of them. It's not mediated: the messianic promise cares about *you*, as an individual. This is where lies a terrible paradox: the fanatic religious discourse completely reproduces neoliberal individualism. It's not aimed at a community, it's aimed at *you*, *%ou*, youth, heavens open to you. This crappy world needs to be destroyed.+ It speaks to the youths in the same way a headhunter would: it's for *you*.

Instead of weaving a complex, contradictory interiority, this religiousness is completely simplistic, but it's a lifesaver for those youths who understand that society treats them as bad merchandises. For them, suddenly, there is a pathway from the trashcan in which the neoliberal society put them directly to paradise. Without mediation, without studying Arabic, without reading the Coran, without any mediation from structures, families...

I don't want to psychologise social facts, but I'll just draw a parallel: in psychiatry we say that delirium is a bad response to chaos. When a patient is delirious, it's because there is a chaos and his brain develops delirious explanations. In the current fanaticism, there is something of that delirium: obviously young people revolt against this chaos, this dissolution of ties, of structures, this *%everything is possible+*, etc. But the answer is delirious and dangerous. There is in these youths an effort to understand, to act, to say *%o+* to the defeated youth, to the ones who accept not to live their lives, to betray all of their desires. And indeed, they slip, they drift, they destroy themselves.

It's very important to understand this difference with social, cultural religion. I don't think religion is the opium of the people. I think religion is a very paradoxical cultural fact, sometimes it's very conservative and sometimes it builds social ties. Here, we're not in religion, we're in the artificial replacement of an illusionary product which, faced with every product of the consumer society says *%o* have an even better product.+ The consumer society tells the youth *%consume, be powerful*, there are no boundaries.+ the youth who doesn't accept that falls into another kind of merchandise, a super-merchandise who says *%with me, you will have the power.+* The war is between those who say *%i'll have the power by being a cynical nihilist with loads of money+* and those who say *%o*, i'll have the power by standing alongside my truth+

H.H. – what you're describing is the symmetric rise of neoliberalism and political radicalism.

M.B. . Indeed. Neoliberalism says: *%here is no family, no father no mother no living things, only merchandise. No value, no ecosystem, no transmission, nothing.+* So we demolish everything, it's a mechanical reaction: faced with this nihilistic *%everything is possible+*, there is a blind support to a corpus which appears to be very structured, and to which we have to obey

which means there are principles. It's almost a caricature: in the western neoliberal world, everything is bottom-up and constructible; in the fanatical world, everything is top-down and hierarchic. These two worlds work really well together.

In my work, what we look for in our suburban social laboratories is how we can achieve some kind of social peace. I couldn't have the dialogue I have with young muslims, with theologians like Tarek Ramadan, etc. if I didn't understand this parallelism between the neoliberalism who destroys every structure, and this fanatical promise of structure.

The Lepeniste, Sarkoziste idea of communitarism may only exist in the head of white French people. Actually, the young fanatic is called to, and engaged in an absolutely neoliberal way, as an individual. He doesn't feel like he belongs in a community: on the contrary, he acts in a serialised, fanaticised way, each of them in a direct relation with the truth.

D.P. – How do you explain that this fanaticism is getting younger and younger?

M.B. . I believe it's caused by the destructuring of children. The more the children are unstructured, the more they are able to commit any kind of action. Empirically, life gives everyone some kind of principle of reality. Except for the totally delirious, when growing up, there is an experience of the boundaries of our power. This is why the childhood category creates an airlock, so that this little immortal, omnipotent god can experiment with conflict. And we used to give him boundaries, we protected him, we got mad but we were there. Specialised judges used to say *%yes*, he committed a misdemeanour, but he's a child.+ So I think juvenile justice is a major example of the concern an adult should have for a child.

Since this airlock, these boundaries are attacked, just like the juvenile justice system is, these unstructured children look for confrontation. In the lives of men, there are two possibilities: either want a conflictual life . a life structured by conflict . either you look for confrontation. And indeed, these unstructured youths who are living a life of total omnipotence, without any landmark in their families or society to give them boundaries, are the perfect victims to turn into assassins.

D.P. – What is the influence of social networks? Everyone has a smartphone and an internet access when they're 10, 12 years old and we know there is a whole propaganda through these networks.

M.B. . That is also the question of information without transmission. We receive information, but the subtle links of transmission . the ties of social structures and families . which enable one to metabolise this information aren't there. So indeed, the child receives this information with a

certain inability to differentiate imagination from reality.

D.P. – Often, the families tell us “we’ve seen him change, but he’s a nice child otherwise. We thought he was playing games or that he went on the internet for school...” And in fact there was a whole drift which the parents themselves didn’t see coming.

M.B. . They didn’t see it coming because they can’t see. Unfortunately, our society infantilises people a lot. I have seen many parents who told me that they argued with their child for the rights to play video games... The parents’ desires are the same as the children’s. There isn’t even some kind of maturation which would differentiate their interests and desires. So I think they haven’t seen because they also lack the categories to see, to understand, to be on the lookout: on the lookout from what elsewhere?

Regarding the problems of omnipotence, in Columbia the young killers are very young: 9 years old sometimes, 10, 11... So empirically, gang leaders have realised that very young unstructured children are very useful. There is nothing more neoliberal than a Latin American slum, because it’s absolutely contaminated with all the merchandising of life. Everything is unstructured, everyone for themselves... Without any psychiatric information, they have realised that very small children didn’t have any boundaries. A 25 year old killer has thoughts: “K. I’ve made some money, but they’ll catch me...” In the child, there is no such consideration: the child doesn’t see the danger and he goes, he kills, and he may even do more cruel things, because of this lack of experimentation with boundaries.

D.P. – However, in the case of fundamentalism in Europe, there is no notion of wealth: it’s not to earn more...

M.B. . It’s to earn everything. For the young Columbian killers, the idea is to earn the ideal. In economism, the ideal is to have a house with a pool, maids, cars... For the western, marginalised youth, all of a sudden he will win the war against chaos. You have to get behind the eyes of this youth: they see decadence everywhere, everything is disrespect to them. And suddenly, they become the incarnation of order, of law. This is the big difference with Columbian kids: the Columbian kid isn’t the incarnation of law and order, but he becomes the incarnation of positive social identification, of success.

For the youth who’s fallen into neoliberalism, who’ll be an executive for Total, the world is a game. Everything is playful, without any landmarks, any boundaries of reality. To the executive who has to hide that they polluted for example, everything is a game, nothing is true: there is a kind of nihilism in which nothing limits

the practices, with the absolute excuse: “I don’t do it someone else will.”

On the other side, there is this symmetrical mirror: the young loser who says “I’ll put some order in all this”, but in the same absolutely crazy and limitless way.

D.P. – A certain kind of order then, not the liberal order.

M.B. . A certain, absolutely authoritarian, absolutely metaphysical and transcendental order. And over all, delirious. This is why I drew the parallel with delirium. To the first one, the world is his game, but to the other not at all: “there are rules, I know them. And my father and my grandfather who are religious, they don’t know the rules, they have compromised themselves with chaos so I am the sole holder of this truth.”

D.P. – Of a purity

M.B. . A purity, yes. It’s always the same, when purity appears, life is in danger.

H.H. – So there is a kind of vicious cycle: limitless, unstructured children are attacked because of neoliberalism, and then the juvenile justice system is thought to be completely powerless and lenient because we can’t sort out the future the youth. So justice is completely disqualified every time.

M.B. . It’s the same for any institution. The idea of justice itself is overridden: the permanent discourse in which the society and its youth are immersed is “you have the means, there is no justice for you.” It’s a discourse of permanent transgression: the soft, acceptable version is “the world is my game, I’m playing, nothing is serious”, but there is something in that destructuring which calls this mechanical reflex towards a delirious structuring. Beyond any support to a delirious idea of progress, I think it’s progress to say “there is a protection of children”. There is a nihilism nowadays who says “since there is no progress and history has no direction, everything is equivalent.” That’s not true! It’s not a linear progress like we used to believe, but women’s rights is progress, children’s rights and the creation of the childhood category are progress.

In order to maintain that, I think we need to work beyond that reflexion you’re doing: it’s not enough to be an analyst, and educator or a judge, we also need to reproduce this childhood category. We need to reproduce this hierarchy, reestablish the object we are working for.

D.P. – How would you answer to those who say “Sure he hasn’t reached the legal age of majority, but he commits barbaric acts, acts like an adult would so we have to treat him as such”?

M.B. . Since he commits barbaric acts, society’s gaze . who lost its perception of childhood . sees more the barbarian than the youth. To a certain extent, he’s even more dangerous because he’s young. We’re losing that “ah, but he’s young...”

Yesterday, when France intervened in Syria by bombarding some camps, a dozen child soldiers were killed. I thought %hat's sad, they're children+, but that consideration is disappearing. What does it mean then? They're children so we should let them kill people? The problem is, without some work upstream, we won't be able to reconstruct what childhood means. If we . the western world . cannot redefine this magnificent childhood category now, then later will be too late. In order to deal with the problems of childhood and adolescence, we have to take them globally.

I'm convinced that if the western world accepts that its young be dislocated by useful skills, then we're building the grounds on which the other young soldier will become a fanatic. It's not a question of western guilt, but to understand that the phenomenon has two legs: The more we demolish the childhood category by accepting that our children become nothing more than a future consumer and producer, the more we encourage the fact that these people fanaticise children, replying to western barbarity with another kind of barbarity.

D.P. – Faced with this rather bleak reality, can we hope if not solutions at least leads to address this problem?

M.B. . Redefining the childhood category with its protection and its possibilities of action means being able to act on the child, with the child, to avoid drifts. This also means redefining the elder category. We have to be able . despite the stupid times of our society, despite its urgencies and rotten ideals . to say %hese events, I'm not looking at them, they're looking at me; they're my concern.+ It means we can't keep doing our job without creating some think tanks, some lobbies. We have to think, to produce concepts... We have to be responsible elders, veterans of our society.

D.P. – There was a famous African proverb: "when an elder dies, a whole library is burning." It's also our wisdom, our knowledge that we need to reestablish.

M.B. . We need to be able to work as responsible adults in order to protect the youth of the neoliberal madness which is preventing them to live their youth, and to say to them %ake your time, you can't lose your time, don't be afraid.+ In order to protect the youth, we have to settle down a little as veterans. It's important that we try to understand the complexity and that we don't follow it like a leaf in a hurricane. Simply put, it means creating groups of reflection and intervention. Veterans need to participate in the social life, we need to stop choosing our politicians in supermarkets, stop playing with little electronic gizmos as if we were kids, and give ourselves some structure in order to give what we have to the youth. As a child psychiatrist, as a judge, as a teacher, we need to think about what is attacking the youth, and create concepts and practices to defend them. For a teacher, it's pretty clear: a teacher who accepts to teach through the education of skills is a teacher who isn't protecting the children. So how can he do it? He's not all-knowing: he needs to accept that he has the responsibility, in these historic times, to think for himself and through a group. If we are able to think for ourselves, if we are able to be adults, maybe then we will have a useful line of resistance.

H.H. – To quote your own words, resistance is creativity.

The video of the interview was filmed by Raphaël Sarfati

Transcript and translation into English by Gabriel Rocheman

Radicalisation and Family Courts— England & Wales

Avril Calder



Introduction

At the end of May I took part in a roundtable discussion at a two day conference organised by the European Commission in Brussels. The title of the conference was---"Counter-terrorism and de-radicalisation: How to answer training needs of justice practitioners."

As a speaker at the workshop entitled 'Training of non-criminal law judges', I based my contribution on the article below.

I begin with a quote from Holman J, a Judge in the Family Division of the High Court of England and Wales.

"Radicalising is a vague and non-specific word which different people may use to mean different things. There is quite a lot of material in this case¹ to the effect that the elder of these children are committed Muslims who like to attend and do attend at a mosque and wish to display religious observance. This nation and our culture are tolerant of religious diversity, and there can be no objection whatsoever to any child being exposed, often quite intensively, to the religious practices and observance of the child's parent or parents. In so far as what is meant in this case by 'radicalising' means no more than that a set of Muslim beliefs and practices is being strongly instilled in these children that cannot be regarded as in any way objectionable or inappropriate.

"On the other hand, if by 'radicalising' is meant [.....] 'negatively influencing [a child] with negative fundamentalist thought which is associated with terrorism' then clearly that is a

very different matter altogether. If any child is being indoctrinated or infected with thoughts involving the possibility of 'terrorism' or indeed hatred for their native country, which is England, or another religion, which is Christianity, which is the religion of their grandparents and now, again, their mother, then that is potentially very abusive indeed and of the utmost gravity".


Safeguarding children from radicalisation is a recent and growing concern of the Family Courts. In England and Wales there have been approximately 40 cases with their frequency increasing from 2014 onwards. So much so that in October 2015, Sir James Munby, President of the Family Division of the High Court, issued guidance to Judges in which, *inter alia*, all such cases were to be heard by the High Court. This has meant that a small number of highly experienced Judges have gained further experience in this relatively new area.

In the European Union, we have, of course, the Charter of Fundamental Rights², (Arts 6, 8, 9 and 10) with implications for the Right to a fair trial; Right to respect for private and family life; Freedom of thought, conscience and religion and Freedom of expression as well as other international instruments. And each country has its own laws governing the intervention by the state in family life and the orders that courts can make to protect vulnerable children. And, of course, the principle that the best interests of each child are paramount drives court decisions, as well as the proportionality test that any decision of the court must be proportional to the risks that each child faces.

Is radicalisation different?

So should children who are vulnerable to radicalisation be treated any differently from those who are vulnerable, for example, to sexual abuse or exposure to extreme right wing ideology. The latter is treated as radicalisation by Prevent³?

² The Charter of Fundamental Rights of the EU brings together in a single document the fundamental rights protected in the EU. The Charter contains rights and freedoms under six titles: Dignity, Freedoms, Equality, Solidarity, Citizens' Rights, and Justice. Proclaimed in 2000, the Charter has become legally binding on the EU with the entry into force of the Treaty of Lisbon, in December 2009. The Charter is consistent with

the [European Convention on Human Rights](#).  adopted in the framework of the Council of Europe: when the Charter contains rights that stem from this Convention, their meaning and scope are the same.

³ UK Government statement; It aims to stop people becoming terrorists or supporting terrorism. The Prevent strategy: responds to the ideological challenge we face from terrorism and aspects of extremism, and the threat we face from those who promote these views. 8 May 2015q

¹ M (Children) [2014] EWHC 667 (Fam)
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What distinguishes radicalisation from other forms of child abuse? Sometimes child sexual abuse, particularly of girls, is used as a comparator for radicalisation because shared features such as grooming, either by a family member or a stranger, are common to both.

Sexual abuse causes long-lasting suffering, emotional and psychological harm and may, on occasion, result in loss of life. But children who are groomed to travel to Syria are in extreme and imminent danger when they get there- either with or without their families.

I understand that the three teenage girls- all high achievers academically and from caring homes-- who left London for Syria in February 2015, have not been heard from for some time and are presumed to be dead.

Three teenage boys who travelled from Brighton in 2014 have been confirmed to be dead. One of those boys and a fourth who is still in Syria⁴, wrote the following when seeking funding to put on a play that they had written:

'It is a time when we are uncertain of the future, when some feel different, isolated and lonely. Teenagers are often confused and feel like outcasts.'

It expresses clearly the mind set of many teenagers.

Training needs

The remit for this talk is to outline training that may help judges across the EU in deciding cases that come before them. Just as judges are well-trained in the features and indicators of child sexual abuse, training in features of child and family radicalisation is highly desirable.

Perhaps then it is as well to look at **types of cases** which are:

1. Older children who it is thought may have become radicalised and who may be contemplating going to Syria to join IS or commit a terrorist act in their home country.
2. Parents who may have attempted or be contemplating taking their children to Syria to join IS.
3. The exposure of younger children to extremist ideologies by parents and older siblings.

I begin with **Intercultural competence**

What does UNESCO say?

"it is a new kind of literacy, on a par with the importance of reading and writing skills or numeracy⁵."

The **first suggestion for training** for judges is to better understand the home and community lives of the children and families involved.

Of course, the agencies bringing child protection cases will provide evidence on which their case is brought, but a wider understanding of the backgrounds and thinking of the young people and their families and their communities can only be helpful.

Adolescence is a tricky time when the adolescent brain is developing rapidly and--from an adult perspective--behaviour can appear impulsive and illogical and easily influenced by others. **So what can be inserted into the training of judges over and above their current understanding?**

Is the way some girls idolise IS jihadis so very different from the way other girls idolise Boy Bands and the way boys are drawn to IS so very different from being drawn into a local street-gang? I have been told that the pathways may be similar. The need to belong to a group, the need to fight perceived injustice, a sense of alienation . these are all common themes amongst teenagers.

But what are the social or psychological pressures that push a young person from mere fantasy to action which puts themselves or others in serious danger? How do you distinguish between a young person exploring their faith and one who has crossed the line to hold violent ideologies? Are there useful indicators that can show that a young person is at risk of radicalisation? What signs should a court be looking for?

Some relevant signs may come from the sort of evidence that might be used in criminal proceedings. This sort of evidence will involve the police and counter-terrorism and maybe other agencies. It may be very sensitive to ongoing criminal police investigations or security considerations. Much of this sort of information will **not** be needed in great detail for a family court to reach decisions in child protection cases.

But the material that **is** relevant may be extensive and it may well be helpful for the court to have much of it distilled by a qualified professional who understands the needs of the court. One can imagine hours of computer footage of which only parts are relevant to the court. The police have forensic experts who are able to explain to the court the origins of computer files found and to whom these can be attributed. Given the potentially sensitive nature of the evidence, it is likely that it will be more appropriate for the police to provide this expertise than an independent professional.

In some or perhaps many countries there are agencies involved in the prevention of radicalisation (and possibly de-radicalisation) in schools and communities. How do they link in to child protection? Are there safe places for children to talk without being judged?

⁴ February 2016

⁵ Intercultural Competences: Conceptual and Operational Framework, UNESCO 2013

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Are benches fully informed about the involvement of such agencies and the work they do? How do they link to each other and the police and counter terrorism agencies that I have already mentioned? What do they share with each other? How do they relay their involvement to child protection agencies and what information can they and do they pass on?

So my **second suggestion for training** is for clear guidance about all the agencies involved and their roles and inter-relationships and what **evidence** is needed and what is not needed from these agencies. As the guidance given by Munby P⁶ pointed out, great care is needed in protecting all records of evidence that may put lives at risk.

The **third suggestion relates to the media**, which extends beyond the printed word and broadcasting to social media. I do not know the situations *vis a vis* the courts and the media in all 28 countries of the EU. But I do know that where there is access to information about these cases, there is an appetite for reporting them.

In addition, the principle of open justice in civil courts expects the identities of parties to be available. Restricting information, unless a child is involved, goes against this principle. Anonymity is a matter for the court to decide, even when parties agree they want it. If anonymity is allowed when, if ever, should it cease?

So, although judges are already alert and well practised in what may and may not should or should not be put in the public domain, it may well be worth further training because of the risks for children and families exposed/linked to radicalisation and the damage disclosure might cause.

In addition, reporting might be counter productive to the aims of the court.

In a successful *ex parte* application in London for wardship, reporting restrictions were put in place for a family and their children who had travelled to Turkey. Wardship transfers parental responsibility to the High Court and the order applies even when children are outside the jurisdiction of the court. In putting reporting restrictions in place, the court argued that if the general public had been alerted to what was going on in London, the family might not have returned to England. In fact, when the family were informed of the case, they did return.

Would they have returned if details of their travel and supposed plans had been published? How can we tell? But the family did return, the wardship orders were eventually discharged and the children returned to their parents who agreed to being electronic tagged so that their

whereabouts were always known to the authorities.

Some reporting may harm a child immediately and may also, for years to come, continue to dog the child. A family, which may have had no idea about a child's involvement with radicalisation influences, perceived or actual, will find it shocking and profoundly disturbing to find the press camped on their doorstep and images of their children in the newspapers and on television.

On the other hand, a judicial decision to allow publication of the name of a school where four girls whose passports were removed to prevent them from travelling to Turkey, was assessed as being in the public interest. It was held that the information being available to the public outweighed the risk of identification of the children. It would most certainly have alerted other parents of children at the school as to the possible dangers for their children.

So there are many questions. It is a fine line to tread to decide when it is or is not in the best interests of a child that the media is privy to information about him or her and the family. The timing of such decisions is pertinent too.

I turn now to **proportionality**. This is a principle firmly embedded in the interpretation of family law in keeping with the European Convention on Human Rights. Removing a child from its family is a draconian measure. Ways to protect a child without such a measure are of the essence in family court decisions. Although children are removed from the family home when necessary and when their safety demands it, consideration of whether a lower level of intervention may serve the same end of protecting a child is an essential step in a court's adjudication.

If I may just give an example from a case adjudicated by Munby P⁷ in which the President, at an interim stage, considered that risk to the children arose primarily from the risk of flight and that the risk of radicalisation was of ~~an~~ marginal impact^q He decided that an electronic tagging order on the parents, who had to consent to the order, was enough to prevent the family leaving the country and enable the children, who had previously been removed from the family under an Emergency Protection Order, to be returned to the family.⁸

So my fourth suggestion is **refreshed training on proportionality in the context of radicalisation** and the paths of the **least possible intervention** consistent with child safety and protection.

⁶ RADICALISATION CASES IN THE FAMILY COURTS
Guidance issued by Sir James Munby President of the Family Division, High Court, London, UK, 8 October 2015
<https://www.judiciary.gov.uk/wp-content/uploads/2015/10/pfd-guidance-radicalisation-cases.pdf>
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⁷ Re X (Children); Re Y (Children) [2015] EWHC 2265 (Fam)

⁸ Final decision of re X and Re Y

Experts

While a well grounded understanding of child development assists all judges and indeed all agencies in assessing a child at risk of radicalisation or who has been radicalised a question does arise about the types of **experts** who may be called upon to give evidence in child and family cases involving radicalisation.

Who are they? Who are the experts who combine knowledge of child development, psychological and emotional harm that a child might endure and exposure to the environments of radicalisation whatever and wherever they may be---the internet, the playground, the home?

There are child psychologists, social workers and school teachers on the one hand and radicalisation experts, many of whom will be involved in criminal aspects of radicalisation, on the other, but few or none versed in both. Will the increase in cases coming before the family courts lead to the development of training of experts who have both skills in their locker? It is, for this conference⁹, a point for authorities to address. Perhaps they are already doing so.

European e-Justice Portal

Finally, just as those working in this field learn to share information so that courts can reach decisions without causing damage to children and their families or ongoing criminal and national security investigations, can judges across our 28 countries share their decisions in these cases?

All the decisions made by the judges of the Family Division of the High Court in England and Wales are available online. It's likely that cases from other countries are too. Can they be combined to the benefit of everyone?

May I leave you with a final quote from Hayden J¹⁰ which deals with vulnerability and changing times.

*'The family court system, particularly the Family Division, is, and always has been, in my opinion, in the vanguard of change in life and society. Where there are changes in technology, or cultural change, so often they resonate first within the family. Here, the type of harm I have been asked to evaluate is a different **facet of vulnerability** for children than that which the courts have had to deal with in the past.'*

Thank you.

Avril Calder*

May 20th 2016, Brussels

⁹ Conference on Counter-terrorism and de-radicalisation- how to answer training needs of professionals._ 19-20/05/2016, Brussels

¹⁰ London Borough of Tower Hamlets v M & Others [2015] EWHC 869 (Fam) Para 57

Access to justice for children: Rights, Remedies and Representation--CRIN Global Report

Veronica Yates



When we think of children and justice, the first image that comes to mind is usually one of children breaking the law. Rarely do we consider children and their right to use the legal system to protect their human rights or to seek redress when their rights have been violated.

Access to justice is about challenging the perception of children as just victims or somehow less worthy of justice than adults. It is about recognising that children, like adults, have human rights and that when these rights are infringed they should be able to trust and use the legal system to get justice.

In a recent report, Rights, Remedies and Representation: A global report on access to justice for children¹, we have analysed the ways that the countries of the world have grappled with access to justice for children. The report is based on 197 country reports which were produced with the help of hundreds of lawyers and NGOs from around the world.

Specifically, we have looked at the status of the UN Convention on the Rights of the Child in national law; how the law treats children involved in legal proceedings; the legal means available to challenge violations of children's rights; and the practical considerations when challenging violations using the legal system.

In our global report, we have documented the good, the bad, the effective, the ineffective, the radical and the revolutionary ways that children can access justice around the world. The report also ranks the countries of the world on how they provide access to justice for children and provides a 'utopian report' showing how their legal systems have realised this right.

Ranking the world

The ranking of States in this report was reached by scoring each country against international standards for access to justice for children.² These standards come from treaties that States have voluntarily ratified, resolutions they have negotiated at the UN and guidelines developed by the UN's specialised agencies. This is not a ranking of how well countries protect children's rights but of how well States enable children to access justice and enforce their rights. Nonetheless, it is hard to ignore the fact that the countries with the most deplorable human rights records do not score well on access to justice.

The top of the list is dominated by Western Europe, while the countries that score worst are those governed by authoritarian regimes or where the legal system is so underdeveloped as to be an ineffective means of protecting children's rights. But what the ranking also shows, is that no country on earth perfectly protects children's access to justice, there is room for improvement even among the highest scoring States and all countries could learn a great deal from each other.

Our findings are split into four sections: the legal status of the CRC, meaning whether the CRC is incorporated into national law, takes precedence over it, and can be enforced in domestic courts; the legal status of the child, meaning how the law treats children involved in legal proceedings; remedies, referring to the legal means to obtain redress for violations using courts and other complaints mechanisms; and the practical considerations when challenging violations using the national legal system.

The legal status of the Convention on the Rights of the Child

The Convention on the Rights of the Child (CRC) is the foundation stone of children's rights in international law, setting out the full range of children's rights, from the prohibition of torture to guaranteeing access to education. Every State - with the exception of the United States - has ratified the Convention, yet this almost universal commitment has not filtered through to many national legal systems. To date, 94 countries have fully incorporated the Convention into national law while a further 29 have incorporated but with reservations that limit its application. Just under half of all countries allow the Convention to be directly enforced in courts, enabling children to challenge laws or practices that violate their rights under the CRC.

¹ Rights, Remedies and Representation: a global report on access to justice can be downloaded from the CRIN website: https://www.crin.org/sites/default/files/crin_a2j_global_report_final_1.pdf

² For full details, see CRIN, Access to Justice for Children: Model Report.

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The countries of the Commonwealth have been reluctant to adopt this practice, limiting the CRC to a tool used to interpret national legislation and denying children its full protection.

Recognising that legal standards are of little value if they are not enforced, courts around the world have grappled with how to use the CRC in their judgments. This project found evidence of the Convention being cited in 60 per cent of countries³ including examples from all regions and legal traditions, though in only 20 countries was the use of the CRC frequent and consistent enough to amount to an established jurisprudence.

The legal status of the child

A lack of independence and legal status is likely to amount to a serious barrier to children accessing justice. In many ways, the way that a State formulates its rules on how children can make complaints is emblematic of the way it views their rights: children can be empowered or thrown into the shadow of their parents.

While States almost universally recognise the right of children to bring a case in their own name - a basic standard that recognises that children are legal persons with their own interests - the ability of children to engage with the legal system is severely hampered around the world. Blanket provisions requiring all people under a certain age to approach the courts through a litigation guardian or similar person are common, while more nuanced rules that take into account the capacity of any particular child approaching the courts are much rarer.

Legal systems promoting the involvement of parents in protecting their children's rights will often make sense - most parents have their children's best interests at heart - but restrictive parental consent rules are common and can stymie children's access to the courts. Throughout the Middle East and North Africa this has become a serious problem, where parental legal authority is commonly strictly vested in fathers or grandfathers adding a further discriminatory limit on children's access to courts and other complaints procedures. Across South East Asia, several countries have also developed rules preventing children from bringing complaints against their parents, a practice that risks promoting impunity for abuses of children within the family. A small group of 14 States from a range of legal traditions has paved the way in combating these kinds of barriers, requiring that a child's representative, whoever that may be, act in the best interests of the child.⁴

Protection of the right of a child to be heard in legal proceedings is also an integral part of ensuring access to justice for children - a court can only protect a child's interests if it is able to find out what they are - yet a fifth of the world's children do not have the right to be heard in legal proceedings that concern them. A little over a quarter of countries guarantee this right to children in all legal settings, 84 countries enshrine the standard in more limited circumstances while 58 countries do not recognise children's right to be heard in their legislation.

Remedies

For rights to have meaning, effective remedies must be available to address violations⁵ and to ensure that children can access remedies, they must have access to all courts and complaints mechanisms to enforce their rights. With this in mind, remedies are at the core of the country reports produced during this project.⁶

It would be impossible to cover the full range of ways that legal systems have sought to protect the rights of children in such a short space - the country reports set out this information in much fuller detail - but this report highlights some of the innovative and detrimental ways that national legal systems have addressed these problems. Part III of this report analyses the innovative means that legal systems and traditions have developed to deal with rights abuses, from the practice of constitutional and administrative litigation that often dominates the protection of human rights to quasi-judicial Ombudspersons and private prosecutions where the state has shown an unwillingness to prosecute a criminal rights abuse.

This project particularly examines the development of collective litigation and public interest litigation across the world as an effective way of challenging widespread violations of children's rights. Despite the opportunity these measures present, they have yet to become standard practice across the world. While the power to combine similar cases has been uncontroversially adopted in 148 countries, less than half of States allow collective litigation in some settings and around 15 per cent allow collective action across the board. These measures represent an underdeveloped tool with the potential to greatly increase the protection of children's rights.

Child focused non-governmental organisations will often be well placed to challenge widespread violations of children's rights or simply to support an individual child seeking redress. Yet procedures that enable organisations to do so are far from universal: around a half of States allow

³ See CRIN's CRC in Court Database to search for cases by jurisdiction. Available at: www.crin.org/en/library/legal-database.

⁴ Bahamas, Bahrain, Bolivia, Costa Rica, Djibouti, Ecuador, Iceland, Iraq, Israel, Kuwait, Romania, Spain, Tanzania, Venezuela.

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⁵ Committee on the Rights of the Child, General Comment No. 5 on general measures of implementation, para. 24.

⁶ All country reports are available at www.crin.org/home/law/access.

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NGOs to bring cases in their own name, while a slightly larger majority of 54 per cent permit NGOs the more limited power to intervene in cases that have already been filed. The project also traced the rise in government control over which NGOs are able to take these actions, mechanisms that risk barring access to justice along political lines.

Practicalities

Many of the most serious barriers to children accessing justice lie in the practicalities. The financial burden of seeking legal advice, intimidating courtrooms and labyrinthine legal procedures can be difficult to overcome for many adults, but they can render access to justice for children a fiction.

Despite the central role of legal assistance and legal aid in realising access to justice, fully functioning state-funded legal aid systems are completely absent from 42 countries worldwide meaning that 220 million children worldwide have no access to free legal aid in any type of case. Of the remaining countries, legal aid is usually available in very limited circumstances, while in only 28 is legal aid available in all types of case.⁷ This research also saw a trend emerging of pro-bono - that is free and voluntary legal services - filling the gap provided in state legal services. Researchers found evidence of pro-bono practice in 60 per cent of countries, in some of which it was the only free legal assistance available.

Even when children's cases do reach the courts, procedural obstacles often prevent children from meaningfully participating in judicial proceedings and proving their case. Almost a quarter of States fail to meet the most basic requirement of allowing all children to give evidence, either by imposing a strict minimum age for appearing as a witness or attaching seriously limited weight to the testimony of children. Numerous legal systems also bar children from giving evidence by requiring children to gain the consent of their parents to appear before the court or requiring a personality check⁸ before giving evidence in a sexual abuse case.⁸ Yet despite these regressive rules, a small group of countries have begun to reject rigid age limits, introducing standards that recognise that capacity varies from child to child and some children will be able and willing to give evidence at a younger age than others.

Recognising the risks in publishing information about children involved in the justice system, including revictimising children seeking redress and stigmatising those accused of criminal offences, almost three quarters of countries have adopted some kind of legislation to protect the privacy of children. These protections vary widely in quality, from strict private hearings that might prevent the kind of scrutiny that guarantees a fair trial to those effectively preventing the publication of identifying information of children involved in proceedings.

States are increasingly responding to the risk that strict limitation periods - time limits on how soon a case must be brought after the offence, harm or injury occurred - may prevent children from accessing justice. The risk of preventing children from seeking redress when they come to terms with abuses that they have faced has been long established in sexual abuse cases but the same principle can apply to other rights abuses that children face. Around the world, 84 countries allow these time limits to be relaxed in certain circumstances, often until a child reaches adulthood and is in a position to approach the courts. Nonetheless, despite this progress very strict time limits will often apply in rights cases and remain a significant barrier to children accessing justice.

An ongoing project

In some ways this report paints a grim picture of children's access to justice around the world, but there is also hope. Many legal systems are poorly adapted to protecting children's rights, but there are countless inventive and ingenious mechanisms across all legal traditions that empower children and combat pervasive or systemic abuses of their rights. This report is an introduction to the extensive research that has made up this project to date, we intend to use this research with partners as a tool to press for reform to improve access to justice for children around the world.

**Veronica Yates, Director, Child Rights
International Network
July 2016**

⁷ By this it is meant that legal aid is available in criminal, civil, administrative, family court and other judicial settings, though it is not to say that there are no limits on its provision.

⁸ Sao Tome and Principe, Code of Criminal Procedure, Article 114.2.

Juvenile Justice in England and Wales**Frances Crook**

The number of children in penal institutions in England and Wales has dropped by two thirds in the last few years and it is not entirely clear why this has happened. For decades the UK has been the Western European centre of incarceration and children have been subjected to imprisonment on a scale not seen in our neighbouring countries.

There are three jurisdictions in the UK: Northern Ireland, Scotland, and England and Wales; each with their own judicial and sentencing frameworks. All three have used prison for adults and children with enthusiasm and have seen deteriorating conditions and high levels of reoffending. The adult prison populations have grown steadily, doubling in the last couple of decades. Whilst not quite on the American model of mass incarceration, imprisonment rates for adults and children are high and there is no political intent to stem the flow.

It is therefore surprising that the number of children in custody has fallen. It does not appear to have been triggered by a reduced enthusiasm for imprisoning children on the part of magistrates and judges. Youth courts in England and Wales are peopled by lay magistrates with very little training and no requirement to have any expertise in child welfare. They have extensive powers to punish and to imprison children from 10 to 17 years old but little expertise or links with welfare agencies. Neither does the fall in child custody appear to be connected to any policy or legislative changes at a high level of government or supervisory authorities.

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The only convincing explanation for the two thirds reduction in penal custody for children is a change in policing. In the 1990s the then Labour government imposed arrest targets on police and in order to achieve the target the police set about arresting children on an industrial scale. Children were seen as low hanging fruit in the phrase that was commonly used at the time to explain that they are easier to catch and process than professional burglars or older more serious criminals. In 2010 there were a quarter of a million child arrests. This pushed children into the criminal justice system early and often. Repeatedly being arrested meant that they were alienated and criminalised for behaviour that would have been seen as normal teenage misbehaviour previously.

The age of criminal responsibility is 10 in England and Wales, with the result that very young children can be arrested, brought into police stations, prosecuted and taken through the courts. Some children as young as 10 have been incarcerated, although now because of the reduction in the use of custody it is rare for children as young as 12 years old to be held in custody.

The Howard League for Penal Reform started working with the police in England and Wales five years ago to reduce child arrests. In 2014 the number of child arrests had been reduced to 112,000 and the flow of children going through the courts had reduced to a trickle.

The charity is independent of government and is funded primarily by donations from trusts and individuals. Founded in 1866, it is celebrating its 150 anniversary this year. The organisation has an income of about £1m and 21 staff. Its mission is to work for less crime, safer communities and fewer people in prison. It achieves this by conducting research, running demonstration projects, campaigns and legal intervention on behalf of children and young people in custody. Hence the charity identified that by exerting pressure on the police to improve responses to children and to avoid arrests we could stem the flow into the criminal justice system.

Being arrested, finger-printed, searched and held in a police cell is a traumatic experience for an adult but is even worse for a child. In addition, the administrative burden on the police is significant, and arrests, particularly of children who have to be afforded additional protection in the busy police station, uses significant resources in terms of money and manpower.

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How was this massive change achieved in practice? Being a charity independently funded and not tied to the apron strings of government means that the Howard League could campaign nationally and vigorously. The methods and success of the campaign provide a template for achieving change:

- We started with conversations with chief constables. There are 43 chiefs of police in England and Wales and they have considerable autonomy.
- We spent time in police stations talking to custody sergeants and frontline officers to understand the challenges they face on the streets and in police stations
- We gathered statistics using Freedom of Information
- We published statistics and briefings and over the years the police have improved their monitoring so that the figures we elicited for 2014 were robust
- We did hundreds of radio interviews on local stations talking about how police should not waste their time with naughty children and that parents should be allowed to take responsibility
- We secured national and local newspaper coverage
- We kept chiefs of police informed, getting them to compete with neighbouring forces on how successful they were at reducing child arrests
- We linked with College of Policing and national policing organisations
- We organised an advice session for MPs in Parliament to tell them about their local police forces and how success at not doing something was a success
- We organised three national conferences with government ministers, police chiefs and academics
- We acted as a resource for sharing ideas and good practice
We hosted meetings for senior police to discuss the issue and explore solutions
We just kept up the pressure

As gate-keepers to the criminal justice system, the success of the police in reducing child arrests has led to a huge reduction in the number of first time entrants. Fewer children getting formal sanctions, fewer being prosecuted for repeated but minor infractions that are now being dealt with by parents or schools, and fewer going to court has led to the number of children in custody plummeting. This is a good news story, a rare thing in the UK.

There remain many problems in the youth courts that are overly punitive, run by people who are barely trained with very little knowledge or expertise in child development or the law. 90% of youth court magistrates are white and whilst the police have started to address their discriminatory practices and are reducing the disproportionality of enforcement of black and minority young people, magistrates have refused to address the issue. The result is that arrests of children from black and minority backgrounds have decreased but the proportion of black and minority children in custody has increased to almost half of the young people remanded and sentenced to incarceration. The disparity raises serious questions for prosecutors and courts.

Regular, and accurate, statistics are published by the Ministry of Justice on its website. They show that in January 2016 there were 921 children in custody in England and Wales. 630 boys aged 15 to 17 were held in prisons, 187 boys and girls aged 12 to 17 were held in secure training centres currently run by the security firm G4S and 104 of the most vulnerable children were detained in small secure children's homes run by local authorities. The total number of girls in custody was 40 and there were 31 children in custody who were under 15 years old.

A BBC Panorama investigative programme recently placed a reporter undercover and filmed inside the G4S run secure training centre in Kent. The film revealed systematic violence inflicted by staff on frightened children and the falsification of records to hide the true extent of staff use of violence to punish and control children. It created a furore and for a short time children were not sent to the institution, but slowly they are being sent back again. The police arrested a handful of staff but there is no proper investigation of the fraud allegations or of G4S taking place. However, G4S has recently announced that it will withdraw from running children's homes including secure accommodation, no doubt as a response to the public outcry following the revelations of child abuse.

The cost of incarcerating children is astonishing. A prison place for a child costs around £50,000 a year, yet they are held in disgusting conditions with very little outside exercise and only a few hours education each week. Because they get so little to do, children's behaviour is very poor with assaults a daily occurrence. Staff are given only a few weeks training and so respond to challenging children with excessive punishments and the use of physical restraint and solitary confinement is high. Two thirds of the children released from prisons are known to reoffend.

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The small secure units run by local authorities have the best track record in caring for children and provide a safe environment that is child focussed. They are, crucially, very expensive indeed, costing around £150,000 a year. The high cost reflects the high staff ratio and provision of decent education and other facilities. I visited a unit recently that held 12 children and had 75 staff including qualified teachers, social workers and psychologists. If any nation state is to incarcerate children, it has to spend the money to make sure they are safe and provided with the environment to flourish. It is expensive, and so it should be. The Howard League has argued that no child should be held in a prison, that the secure training centres run for profit are immoral and abusive, and that should children require custody only small local units that are properly staffed and resourced are appropriate. In England and Wales the Howard League has suggested that we might tolerate about 200 children in custody, so there will be more effort to reduce the number to this acceptable rate.

Too often criminal justice agencies across the world are used to respond to social or health needs of vulnerable groups of citizens, or to criminalise immigrant or minority populations. This is true in the UK where black and minority children are disproportionately the focus of attention by authorities that are overwhelmingly white. In the UK there have been huge strides taken to address racial disproportionality but there are still challenges for the courts to catch up by being more self-scrutinising and monitoring their practices. Poor children, often the victims of abusive or neglectful parents, come to the attention of the criminal justice authorities and instead of diverting them to social welfare the children are too often punished. The police have been called to account for failing to respond to children being exploited and abused and are responding with a programme of improvement aimed at child safeguarding in place of criminalisation. The challenge now is for the courts to come into the twenty first century.

Frances Crook

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Less crime, safer communities, fewer people in prison

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On November 4 2015, surrogacy for foreign nationals in India was banned pursuant to a mandate issued by the Ministry of Home Affairs. Like a commodity, it has been taken off the shelf for foreigners in a knee jerk reaction. This is oblivious to the fact that on September 30, 2015, a draft Bill entitled ~~%~~The Assisted Reproductive Technology (Regulation) Bill, 2014+ (ART Bill) had been circulated in the public domain (for the general public / stakeholders) by the Ministry of Health and Family Welfare inviting suggestions/ comments within 45 days i.e. until November 15. To date (February 2016) the same has not been finalized and the Bill has not been tabled in Parliament.

This Bill contemplates that surrogacy shall be available to all married infertile couples thereby, debarring single persons from surrogacy. However, it proposes to disallow surrogacy for foreigners but it makes it permissible for Overseas Citizens of India (OCIs), People of Indian Origin (PIOs), Non-Resident Indian (NRIs) and foreigners married to Indian citizens for two years on the production of a medical visa for surrogacy in India.

The Bill further proposes foreign nationality for such surrogate children of the above foreign commissioning parents with limited entitlement of Overseas Citizen of India (OCI) status under the Citizenship Act, 1955 and disentitles Indian citizenship to such surrogate children. Strange but true.

The executive has abrogated a right of surrogacy whilst the Parliament has yet to legislate on the subject and public opinion has been sought on the ART Bill, 2014. Thus, seeking public suggestions is an exercise in futility.

The firm executive policy mandate seems to have aborted the right at inception. Surrogacy law is in a limbo and executive fiat rule the roost. This is not democracy.

The Indian Council of Medical Research (ICMR) working under the auspices of the Ministry of Health and Family Welfare finalised the National Guidelines for Accreditation, Supervision and Regulation of ART Clinics in India in 2005 after extensive public debate all over the country from all stake holders. Under these 2005 guidelines, there was no legal bar to the use of Artificial Reproductive Technology (ART) by a single, an unmarried foreign woman or foreign couple and the child born would have legal rights derived from the woman or man concerned.

These guidelines are the only complete set of applicable provisions prevalent as of now, subject to modifications. Thereafter, the draft Assisted Reproductive Technology (Regulation) Bill, 2008 (ART Bill 2008), the draft Assisted Reproductive Technology (Regulation) Bill, 2010 (ART Bill 2010) and the draft ART Bill 2013, stated to be revised based on the recommendations of the Ministry of Law and Justice, have consistently proposed that ART in India would be available to all persons including single persons and foreign couples. The ART Bill, 2014, has however curtailed this right and the executive instructions of 2015 have clipped this right for foreigners in totality. Legislation is yet to follow.

Anomalous and inconsistent as it may seem, in the matter of Inter-Country adoptions, the Ministry of Women and Child Development has a diametrically opposite policy. It statutorily propagates inter-country adoptions from India for foreigners. The Juvenile Justice (Care and Protection of Children) Act, 2014 (JJ Act) allows a Court to give a child in adoption to foreign parents irrespective of the marital status of a person. It was notified and implemented from January 15th 2016 after being passed by Parliament and approved by the President.

The JJ Act also authorises State Governments to recognise one or more of its institutions or voluntary organisations as specialised adoption agencies for the placement of orphan, abandoned or surrendered children for adoption in accordance with the guidelines notified by the Central Adoption Resource Agency (CARA). The latest guidelines governing Adoption of Children notified on July 17, 2015, have streamlined Inter-Country Adoption procedures, thereby permitting single parent adoptions with the exception of barring single male persons from adopting a girl child. The Missionaries of Charity with more than 15 recognised adoption homes in India have reportedly stopped adoption agency operations because of being in conflict with single parent adoption norms. This has reportedly been termed

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in the media as not to be wanting to, come under a uniform secular agenda. Parenthood for foreigners by adoptions and surrogacy have thus different inconsistent barometers and a conflict of parental rights. This is even though Parliament approves of adoption of children by foreigners, but sadly, surrogacy does not find favour in executive hands.

Surprising as it may seem, even though the ART Bill, 2014 allows surrogacy for NRIs, OCIs, PIOs and foreigners married to Indian citizens, the November 4 letter directs that no visas should be issued to foreign nationals for surrogacy in India and no permission should be granted by the Foreigners Regional Registration Office (FRRO) to children born through surrogacy to foreign nationals including OCI cardholders. Visas, if any, granted to foreign nationals and permission, by FRRO to OCI for commissioning surrogacy in India have been cancelled from November 4 onwards. These instructions have been widely circulated for strict implementation to all surrogacy/ ART clinics and all concerned bodies.

Commercial surrogacy in vogue for foreigners for the past over ten years has been shut down overnight even though the ART Bill, 2014 is open for public comment till November 15.

Tripartite constitutional fundamental rights of stakeholders stand violated in the process. Commissioning foreign parents as persons enjoy the protection of the equality of law and the Right to life under Articles 14 and 21 of the Constitution which cannot be taken away except according to the procedures established by law. A right to reproductive autonomy and parenthood, as a part of a right to life of a foreign person, cannot be circumvented by an executive order, especially when Parliament by law already permits parenthood by inter-country adoptions from India by foreigners. Moreover, the executive fiat of November 4, in advance aborts rights under the ART Bill, 2014 which propose surrogacy for OCIs, PIOs, NRIs and foreigners married to Indian nationals. Even medical professionals can no longer practice surrogacy for foreign parents, thereby imposing an unreasonable justification. Surrogate mothers too may claim deprivation of a right of livelihood. All these diverse rights have been curtailed in an undemocratic fashion.

The possible Government logic banning foreign surrogacy to prevent its misuse, seems counterproductive. Rich Indian commissioning parents can still exploit vulnerable surrogate mothers through water tight contracts.

Barometers of domestic altruistic surrogacy will be an opportunity for corruption and exploitation, sweeping the business of surrogacy into unethical hands in an underground abusive trade. The ends will defeat the means. Commercial surrogacy may still flourish with abandon. Sweeping it under the carpet will not help. Ignoring its prevalence cannot extinguish it at a stroke.

India, having kindled the fire of surrogacy, now cannot sit back and turn a blind eye. Surrogacy is not a commodity which can simply be taken off the shelf arbitrarily. Considering that the commissioning mothers may be Indian nationals whose lives and safety may be at grave risk, there is a dire need for enactment of a wholesome law enveloping all current societal practices associated with surrogacy.

If by an existing law made by Parliament, children from India are permitted to be adopted by foreigners irrespective of being a couple or being single, subject to checks, clearances, permissions and screening by a court, a similar logic must prevail for surrogacy as well.

The proper approach would be to regulate the practice by a clear codified law in tandem with what has become a societal practice. Persons, citizens or foreigners will not matter. The appropriate and desirable method would be to create a mechanism to judge the suitability of proposed surrogate parents rather than to debar all single or foreign persons. An existing strict and rigorous mechanism in existence for inter country adoptions administered by Central Adoption Resource Agency (CARA), which is now proposed to be a statutory body, is the ideal example to cite in support. We cannot shut our thinking simply because of the problems. Solutions must be found and a law governing surrogacy for which we have been waiting for the past ten years must give birth to a statute. An executive decision cannot arbitrarily stamp out a determination process of the rights of parties. It is undemocratic.

Anil Malhotra* is a practising Chandigarh-based lawyer and is the principal author of **SURROGACY IN INDIA: A LAW IN THE MAKING-REVISITED** (2015).

To listen to his speech on surrogacy please click the link below.

<https://www.youtube.com/watch?v=82P6rV-JBT0>

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New Books

Family forms and parenthood. Theory and Practice of Article 8 ECHR in Europe

edited by Andrea Büchler and Helen Keller

Review by Judge Katarzyna Adamczyk*



Katarzyna Adamczyk*

The book under review is the 40th volume of the *European Family Law Series* published by the Organising Committee of the Commission on European Family Law and dedicated to the harmonisation and unification of family succession law in Europe. Like other studies within the series, this volume concentrates on examining the effect of international law on the national legal systems in Europe.

The authors are academics at the University of Zurich. Professor Dr Andrea Büchler is the Chair for Private and Comparative Law, and Professor Dr Helen Keller is the Chair for Public Law, International and European Law but also - since 2011 - a practising judge at the European Court of Human Rights (ECtHR). Both scholars have noticed the growing significance of Article 8¹ of the European Convention on Human Rights in the jurisprudence of the European Court of Human Rights and decided to conduct extensive research into how rulings of the Court based on Article 8 influence national legal systems.

Academics from eleven member states of the Council of Europe were invited to participate in the authors' project. They were asked to prepare, using standardised guidelines, reports on how the Court's case law is received and implemented on the national level by both judiciary and legislative branches. The analyses were limited to two major issues within the scope of the right to family and private life, i.e. parenthood (in particular: the formation and challenge of parent-child



relationships, adoption, access to reproductive medicine and the right to know one's own descent) and forms of family life (including two topics: the protection of partnerships as forms of family life and the principles applicable to various family constellations). While choosing the countries, the authors intended to ascertain the representation of various types of legal, geographical and cultural traditions of old and new member states of the Council of Europe. However, they admit that the final selection was also determined by the availability of suitable researchers willing to undertake the study. *Family forms and parenthood* is the final result of this project.

The book is divided into three parts. The introductory Part One contains Helen Keller's comprehensive considerations on the place of Article 8 in the system of the Convention. Using the examples from ECtHR's case law, the author explains the concept of a margin of appreciation and how its width depends on the existence of European consensus within various areas of family law, the doctrine of procedural understanding and the correlation between Article 8 and discrimination issues. Chapter Two of the introduction by Andrea Büchler presents the Court's jurisprudence on the right to family life and private law concerning parenthood and forms of family life. The author concentrates on more recent judgements but also observes how the standards of protection have evolved in tandem with the changes in traditional family life and with the introduction of new family forms.

¹ <http://echr-online.info/article-8-echr/>

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Part Two includes the national academics' reports. Each report begins with a brief description of the position of the European Convention on Human Rights in the national law orders and of the effects of the Court's jurisprudence on national legislations and legal practice. Every chapter also provides a wide range of information on national family law that regulates parenthood and forms of family life and explains whether and how it was influenced by the Court's case law.

In Part Three, which is the last part of the book, titled *Conclusions*, the authors attempt to analyse the national reports and to address the questions whether the concept of Article 8 has taken root on European level and whether the Court's case law has shaped national family law systems pertaining to protecting right to family and private life. They try to draw tentative conclusions on the role of the Convention in setting minimal standards. Then they endeavour to determine general trends according to geographical, historical and religious aspects and they trace several tendencies into convergence in family laws that can be attributed to the reception of the Court's jurisprudence.

The book is aimed at both academic and professional readers. As a practising family law judge, I found it a very valuable publication. It is as useful as interesting. It offers a comprehensive overview of the actual Court's judgements based on Article 8 within the scope of the project together with an exhaustive explanation on how this jurisprudence functions in the Convention's system. Therefore, it helps to comprehend general concepts, trends and tendencies and leads to a deeper understanding of the Convention as a living instrument. This is not to be underestimated, especially for a professional who applies the Convention within the legal system that provides for direct effect of international agreements and gives the Convention priority over national laws (as the Polish legal system does).

The reading of national reports not only satisfies one's professional curiosity about how others cope with similar questions, but also offers further knowledge on the mechanisms that govern the implementation of Strasbourg rulings and may lead towards harmonisation of Member States' legal systems.

Although the authors of the publication emphasise that the project was not meant to be a comparative study, the clear and organised structure of particular national reports allows the reader to trace similarities and differences in the national family law instruments regulating issues of parenthood and family forms, as well as to compare how those instruments were shaped by the Court's *acquis* on Article 8.

However, it should be noted, that most researchers who took part in the authors' project focused their analyses of the reception of Strasbourg case law on the question of how it is reflected in national legislations and judgments of the highest national courts and tribunals. Little attention was paid to the methods of implementation available to national judges in domestic courts of lower instances. Still, national judges, especially in the countries with monistic legal systems, are to a considerable extent responsible for creating so-called *de facto erga omnes* effect of the Court's case law and the reviewed book may serve them as a significant support in understanding correctly the legal context of judgments rendered *vis-à-vis* other states.

As to the choice of countries represented in the study, while admitting that the criterion of availability of suitable researchers willing to cooperate in the project is understandable, I would interestedly read a report on Russia, Ukraine or Turkey – countries with significantly different legal culture, which appear before the Strasbourg Court most frequently.

Nonetheless, the reviewed book is undoubtedly a valuable source of knowledge on family forms and parenthood according to Article 8 of the Convention. Not only does it offer theoretical background, but it may be also recommended to practising lawyers.

Judge Katarzyna Adamczyk*, 3rd Division of Family Law and Juveniles of the District Court in Racibórz

Family forms and parenthood. Theory and Practice of Article 8 ECHR in Europe, edited by Andrea Büchler and Helen Keller, Intersentia, Cambridge-Antwerp-Portland, 2016 . The Book Review.

The radical potential within - Coaching Behind Bars Clare McGregor



Clare McGregor

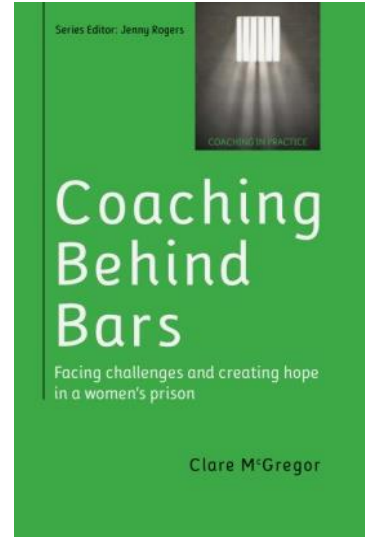
People near rock bottom often lack belief in their power to change anything, yet there's more potential in any prison than in an Oxbridge college. If you think you've no options and no hope in life then doing nothing, or as little as possible, makes perfect sense.

After 20 years addressing crime, mental-health and poverty at street and strategy level, I finally realised the true potential for sustainable change lies in helping people believe in themselves and find their own answers. This realisation was strengthened by my work as a consultant on counter terrorism with communities and police.

People power

Coaches believe people are best placed to change their own lives as they know them better than anyone else. This is what led us to create the charity Coaching Inside and Out (CIAO). We started in 2010 in HMP Styal near Manchester airport in England, where six women killed themselves in one year. We have now helped over 600 men, women and children both in prison and in the community.

Coaches question, rather than tell. We're not mentors. Clients realise they're the ones in control and that they have the answers, not us. We use techniques employed by business leaders to help clients increase their self-awareness and effectiveness. As one said: *'Prison makes you think a lot, but I didn't know how to think before – I wouldn't have got anywhere without the life coaching... I didn't understand myself.'*



This is your life - in six hours or less

Life coaching is truly radical in that it gets to the root of who you really are and helps you grow from there. Skilled coaches work for up to 6 hours one-to-one to explore 3 vital questions:

- Who are you?
- What do you want to change?
- How are you holding yourself back?

Coaching allows someone to step back, consider their whole life. Clients get to the heart of their problems, beliefs and hopes to change what they want, for all our sakes. Coaching helps people understand, restore and strengthen relationships; as well as walk away from damaging ones.

It takes guts to break old patterns of behaviour and overturn negative assumptions. It's no soft option, but the fact that we challenge people for their own benefit, not the benefit of the system, makes a vital difference and we often hear: *'I've never told anyone this'*. Even more vitally one client said: *'If I'd had coaching earlier I think it would have stopped me coming to prison. I think it would have saved my life - it has saved my life.'*

Coaching

inside & out

The view from the bench

We work as equals without dwelling on the past. We don't ask about crimes, just as we don't ask about corporate clients' misdemeanours. This really matters, as all our clients have been judged by someone put in a position of authority to do just that. Judging people further, as we so often do, holds us all back and stops us reaching our potential. This is why one of our coaches, who sits on the bench, said:

"I am learning about life in prison... and that all people are capable of change... It has had a huge impact on me personally. I have only seen the criminal justice system at work previously from the sentencing side as a magistrate and inevitably one becomes a little cynical, seeing only the failures of the system, rather than any successes. This view meant that – at first – I could see little hope of real change in my client (or possibly any client) and therefore felt 'stuck'... I realise now that I was coming from an 'I'm OK / You're not OK' position and judging my client, rather than from a position of unconditional positive regard."



It could be you

Any one of us could so easily be in prison ourselves if circumstances were different. We've given our brains, our background and our personality. As our very first male client in the community said: *'People do things because of the hand they were dealt: who they're around, who they mix with and how they were brought up. Now I'm putting my cards back in the pack and giving them a good shuffle.'*

Clients whose guilt and life history made them feel worthless and who'd never dared hope for anything better have taken responsibility, come off drugs, got fit, got jobs, started their own businesses and looked for ways to give and help, as well as reducing the harm they do to themselves and others.

'Mummy's done something wrong'

The cycle of crime and deprivation means coaching can affect future generations too. Many clients are mothers and their children rarely stay in their home area, let alone in their own home, even when they remain with family members.

Many prisons are hard to reach and even good family relationships can become fraught. It's hard to look after a home or family from inside, but our clients do their best.

Most poignantly, women in Styal's mother and baby unit occasionally lived there as babies themselves.

Hope for the future – a matter of life and death

Mary gave birth whilst a prisoner and her four week old son had already been taken from her when we met, as others were concerned for his welfare. This was a baby she'd longed to have for many years. She'd thought she couldn't have children and was sent to prison one week after suddenly discovering she was six months pregnant.

Mary shared her fears and strong negative feelings about her child's social worker whilst waiting to hear of a court session about her baby. We never normally coach about court, as we don't work with clients as offenders, however, this was about her son, not her.

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So we worked some magic by swapping chairs to gain different viewpoints. This literal shift in perspective showed Mary that the social worker also had her son's best interests at heart and her anger vanished.

As we reflected on her newfound position, Mary still added: "If he's adopted I'll give up hope." and something made me ask: "Do you mean you would kill yourself?" and she said "Yes." Even though her suicide was a future possibility, not a current one, we went to report that risk before saying goodbye. When I left I had no idea what would happen to Mary or her baby, but knew we'd done all we possibly could for them both.

A week later the computer showed she was alive and with her son again, but not if she had been allowed to keep him forever. The next time I saw her was the day before her release. I was overjoyed to hear coaching had helped her show her true character and positive outlook. When those deciding her son's future took everything into account they had indeed agreed to give her custody of her baby.

We couldn't ask for anything more.

Clare McGregor

Author of *Coaching Behind Bars: Facing challenges and creating hope in a women's prison* (Open University Press, 2015).

To find out more please visit coachinginsideandout.org.uk or email clare@coachinginsideandout.org.uk

Treasurer's column

Anne-Catherine Hatt

Subscriptions 2016

I will soon, once again, send out e-mail requests for subscriptions to individual members (GBP 30; Euros 35; CHF 50 for the year 2016 as agreed at the General Assembly in Tunis in April 2010) and to National Associations.

May I take this opportunity to remind you of the ways in which you may pay:

1. by going to the website of the IAYFJM. click on membership then subscribe to pay online, using PayPal. This is both the simplest and cheapest way to pay; any currency is acceptable. PayPal will do the conversion to GBP;
2. directly to the following bank accounts:
GBP: to Barclays Bank, Sortcode 204673, SWIFTBIC BRCGB22, IBAN GB15 BARC 2046 7313 8397 45, Account Nr. 13839745

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If you need further guidance, please do not hesitate to email me.

It is, of course, always possible to pay in cash if you should meet any member of the Executive Committee.

Without your subscription it would not be possible to produce this publication.

Thank you very much in advance!

Anne-Catherine Hatt

Contact Corner

Avril Calder

We receive many interesting e-mails with links to sites that you may like to visit and so we are including them in the Chronicle for you to follow through as you choose. Please feel free to let us have similar links for future editions.

From	Topic	Link
Child Rights Connect	A global child rights network connecting the daily lives of children to the UN. Mobilizing civil society, call for collaboration: 2017 CRC Pre-Sessions mobilisation Last days of Human Rights Council 32nd session . Adoption of resolutions CIDE and IDE, International Alternative Care Conference: Geneva 3-5 October 2016 16th Day of the African Child . Conflict and crisis in Africa: Protecting all Children's Rights	Find it here
CRIN	Website	Find it here
The Child Rights Information Network	Email	info@crin.org
	February 2016 Rights, Remedies and Representation: A global report on access to justice for children https://www.crin.org/en/library/publications/rights-remedies-and-representation-global-report-access-justice-children https://www.crin.org/en/home/what-we-do/crinmail/week-childrens-rights-crinmail-1463	Find it here
Defence for Children International	Website DCI @ HRC 31: Recap - Practical Guide: monitoring child detention facilities Project Twelve ends, handbook released	Find it here
European Schoolnet	Transforming education in Europe Skype e.milovidov Contact elizabeth.milovidov@eun.org Current courses: http://www.europeanschoolnetacademy.eu/courses	Find it here
IAYFJM	Website	Find it here
IDE	Website	Find it here
International Institute for the Rights of the Child	International Alternative Care Conference #altcaregeneva2016 "Building on the Momentum" from 3 to 5 October 2016 in Geneva. Call for applications for the 2017-2018 cycle of the Master of Advanced Studies in Children's Rights: http://www.childsrights.org/en/news/formations-en-suisse/1206-mas-in-children-s-rights	
IJJO	Contact	Find it here
International Juvenile Justice Observatory	Website Newsletter Protection of children affected by conflict: http://www.oijj.org/en/news/juvenile-justice-in-the-world/day-of-the-african-child-declaration-by-bice-on-the-protection-of The European Commission publishes further steps to support Member States in preventing and countering radicalisation http://www.oijj.org/en/news/juvenile-justice-in-the-world/the-european-commission-publishes-further-steps-to-support-member	Find it here Find it here Find it here
OHCHR	Website	Find it here
Office of the High Commissioner for Human Rights		
PRI	PRI is an international non-governmental organisation working on penal and criminal justice reform worldwide. PRI has regional programmes in the Middle East and North Africa, Central and Eastern Europe, Central Asia and the South Caucasus. To receive the Penal Reform International (PRI) monthly newsletter , please sign up at find it here	Find it here
Penal Reform International		Find it here
Ratify OP3 CRC	Campaign for the ratification of the OP3:	Find it here
TdH	Website	Find it here
Fondation Terre des Hommes	Newsletter	Find it here
UNICEF	Website	Find it here
Washington College of Law,- Academy on Human Rights and Humanitarian Law	http://www.wcl.american.edu/	

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The immediate Past President, Hon. Judge Joseph Moyersoen, is an ex-officio member and acts in an advisory capacity.

Chronicle Chronique Crónica

The Chronicle is the voice of the Association. It is published bi-annually in the three official languages of the Association- English, French and Spanish. The aim of the Editorial Board has been to develop the Chronicle into a forum of debate amongst those concerned with child and family issues, in the area of civil law concerning children and families, throughout the world

The Chronicle is a great source of learning, informing us of how others deal with problems which are similar to our own, and is invaluable for the dissemination of information received from contributions world wide.

With the support of all members of the Association, a network of contributors from around the world who provide us with articles on a regular basis is being built up. Members are aware of research being undertaken in their own country into issues concerning children and families. Some are involved in the preparation of new legislation while others have contacts with colleagues in Universities who are willing to contribute articles.

A resource of articles has been built up for publication in forthcoming issues. Articles are not published in chronological order or in order of receipt. Priority tends to be given to articles arising from major IAYFJM conferences or seminars; an effort is made to present articles which give insights into how systems in various countries throughout

Editorial Board

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Dra Gabriela Ureta

Voice of the Association

the world deal with child and family issues; some issues of the Chronicle focus on particular themes so that articles dealing with that theme get priority; finally, articles which are longer than the recommended length and/or require extensive editing may be left to one side until an appropriate slot is found for them

Contributions from all readers are welcome. Articles for publication must be submitted in English, French or Spanish. The Editorial Board undertakes to have articles translated into all three languages- it would obviously be a great help if contributors could supply translations. Articles should, preferably, be 2000 - 3000 words in length. Items of Interest including news items, should be up to 800 words in length. Comments on those articles already published are also welcome. Articles and comments should be sent directly to the Editor-in-Chief. However, if this is not convenient, articles may be sent to any member of the editorial board at the e-mail addresses listed below.

Articles for the Chronicle should be sent directly to:

Avril Calder, Editor-in-Chief,

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Masters Degrees in Children's Rights

University of Leiden, Netherlands

Master of Laws: Advanced Studies in International Children's Rights

Leiden Law School offers a unique educational master's programme entitled *Master of Laws: Advanced Studies in International Children's Rights*. Students from all over the world engage in an innovative and very topical advanced master's programme, which is both theoretical and practice-oriented and offers the opportunity to deepen and widen knowledge of international children's rights. The programme is one full academic year starting each September and comprises courses, seminars and excursions to key institutions and children's rights organisations in the Netherlands, Geneva and elsewhere. Courses include themes like child protection, children and the justice system, migration, economic, social and cultural rights, international family law and children's rights & digital technologies. The programme also pays particular attention to the interaction between children's rights and other international and regional legal systems as well as to the enforcement and monitoring of children's rights.

Applications for the academic year 2017-2018, commencing in September 2017, are now welcome. Please visit: <http://en.mastersinleiden.nl/programmes/international-childrens-rights/en/how-to-apply>. For questions or more information you can contact us via: childrensrights@law.leidenuniv.nl.

University of Geneva, Switzerland

We are very pleased to announce the **Call for applications** for the 2017-2018 cycle of the ***Master of Advanced Studies in Children's Rights (MCR)***, an **interdisciplinary part-time** postgraduate programme in children's rights.

Schedule and venues:

- Module 1: **Children's rights studies**, 6-10 February 2017, Valais Campus
- Module 2: **Interdisciplinary childhood studies**, 15-19 May 2017, Valais Campus
- Module 3: **Children's rights and International law**, 18-22 September 2017, University of Geneva
- Module 4: **Child labour and education**, 27 November-1 December 2017, Valais Campus
- Module 5: **Children's rights and health**, 12-16 March 2018, Valais Campus
- Module 6: **Children's rights and criminal justice**, 4-8 June 2018, University of Geneva
- Module 7: **Children's rights and migration**, 26-30 November 2018, Valais Campus

The MCR combines residential teaching and distance learning. It privileges both an international and an interdisciplinary approach to the study of children's rights.

The learning objectives of the MCR are:

- v To acquire extended and specialised knowledge in children's rights in their theoretical and practical dimensions;
- v To deepen understandings of the role of international instruments on children's rights in the implementation and monitoring processes;
- v To develop critical thinking on the implementation of the Convention on the Rights of the Child.

For additional information please visit our websites: [UNIGE-MCR](#) or [CIDE-MCR](#)

Application form can be filled directly online: [Apply](#)

Deadline for application: 1 November 2016

Please, don't hesitate to contact us if you need any further information (mcr-secretariat@unige.ch)

Centre interfacultaire en droits de l'enfant (CIDE)

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