

**Item 3 - Interactive dialogue with the Special Representative of the Secretary General on Violence against Children**, March 7, 2012 (presentation of her annual report, A/HRC/16/54)

**NGO joint statement** on behalf of Defence for Children International (DCI)<sup>1</sup>; International Catholic Child Bureau (ICCB/BICE); World Organisation Against Torture (OMCT); Save the Children; Intervida; Worldvision; Child Helpline International; Women's World Summit Foundation (WWSF);

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Thank you Mr/Madam Chairperson,

We would like to thank Ms Marta Santos Pais for the presentation of her third report to the Human Rights Council. We welcome the issues she addresses and invite the Special Representative of the Secretary General (SRSG) to continue her task with diligence and dedication.

As NGOs working to eradicate violence against children, and in light of this year's meeting on 'children and the administration of justice', we welcome the strategic initiatives the SRSG promotes in support of violence prevention and elimination, and the **special emphasis on widening awareness and advocacy to prevent and address violence against children in care and justice related institutions**. In this regard, we agree with the findings and support the SRSG's priorities. We hope to collaborate with the SRSG in filling the gap between the principles established by the international community and the concrete reality children face when in conflict with the law.

We are very concerned by the excessive **use of deprivation of liberty of children as a preferred or only option, rather than a measure of last resort**.

The issue of **pre-trial detention** must be addressed: it often lasts months or years and in some cases never leads to conviction. Furthermore, this is when children most often become victims of **torture and cruel, inhuman and degrading treatment, including sexual violence, takes place - girls remain extremely vulnerable to sexual violence**; which violates their most fundamental human rights. In addition to neglect and abuse, **conditions** in detention can be appalling: children are often held with adults, in over crowded cells; and will have no access to educational or vocational initiatives. Inhuman sentencing including capital punishment, life imprisonment, and corporal punishment continues worldwide. In at least seven States, child offenders can lawfully be sentenced to death by lethal injection, hanging, shooting or stoning. In some States, children as young as 10 can be sentenced to life imprisonment. And at least 40 States, children can still be sentenced to whipping, flogging, caning and amputation.

The number of migrant, asylum seeking and refugee children being detained is on the increase in many countries around the world. Research has found cases of children being detained in closed refugee camps, alongside convicted criminals in jails, or in immigration detention centres. Children who are detained under migration control may benefit from fewer safeguards than those detained under ordinary criminal procedures. Furthermore, many of these children are unaccompanied, or separated from their caregivers; and thus more vulnerable to sexual abuse and violence.

We promote the Special Representative's call for the development of **Child Friendly Justice Systems** based on the full respect of children's rights, which in turn supports the prevention

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<sup>1</sup> Having ECOSOC consultative status

and eradication of violence within such systems. Building on international children's rights obligations, child-friendly justice introduces principles that empower children to enforce their rights and encourages governments, courts, and law enforcement officials to develop policies that address children's precarious situation in the justice system. Basic principles pertinent to children's rights, such as participation, best interest, respect, equal treatment, non discrimination (including upon gender) and rule of law are to be applied in dealing with all children who find themselves in the judicial system, throughout all legal proceedings, in such a way that violence against children in such settings will be less likely to occur; and will not go unaccounted for.

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Mr/Madam Chairperson,

**International standards** and national normative frameworks remain divided. Actions on the ground are desperately needed to end all forms of violence in the following areas:

- Children in pre-trial detention;
- Children sentenced to capital punishment, corporal punishment, punishment and life imprisonment;
- Children in situations of migration.

We believe in the implementation of Child Friendly Justice Systems, including restorative justice systems promoting a human rights based approach wherein children and adults alike are made aware of human rights and consistently apply them within juvenile justice system – in this case participation and inclusiveness would also be enhanced in such settings;

We would like to **encourage the Special Representative** to:

- Consistently address this issue of violence against children within the juvenile justice system with the national authorities of the countries she visits and within her reports;
- Consistently engage governments and national authorities in developing systems of protection that address the violations of rights of children on the move and in immigration detention;
- Develop the measures discussed at the Expert Consultation on 'prevention of' and 'responses to' violence against children within the juvenile justice system (January 2012), calling on the SRSG to generate a practical tool based on such measure and to which national governments may refer to in their implementation of a juvenile justice system free from violence;
- Dedicate a thematic research to restorative justice.

Finally, we call upon the **Human Rights Council** to:

- Consistently address this particular issue of violence against children in conflict with the law when it monitors the human rights situation of Member States in the UPR;
- Press for all governments to undertake concrete measures to ensure that the treatment of children in conflict with the law, particularly those deprived of their liberty, is in conformity with the applicable United Nations standards and norms, and that deprivation of liberty is in fact applied as a measure of last resort.
- Ensure that States of transit or destination do not criminalise children on the move because of their migration status and do not deprive them of their liberty. Children who are exploited or trafficked must be identified as victims and have access to child friendly systems, redress, protection and care services. States should ensure that a guardian is appointed for unaccompanied migrant children in conflict with the law; linguistic and cultural mediation and free legal counselling should be provided to all migrant children.

- Promote the implementation of a Child-Friendly Justice, and therefore include specific aware-raising and training to all actors involved in juvenile justice systems.
- Ensure that all children and adults have access to free of cost and child friendly reporting mechanisms such as child helplines, as is stated in Recommendation 8 of the UN Violence against Children Study.

Thank you Mr/Madam Chairperson.