



Human Rights Council (22nd session) / 07 March 2013

Statement delivered by Defence for Children International (DCI), co-sponsored by the World Organization against Torture (OMCT); International Catholic Child Bureau (ICCB/BICE); Casa Alianza; Franciscans International (FI); Child Helpline International; International Juvenile Justice Observatory (IJJO); International Council of Women (CIF/ICW); Terre des Hommes (TdH).

Thank you Mr/Madam Chairperson,

We would like to thank the Human Rights Council for the chance to make this statement, and we welcome the opportunity to discuss substantive issues relating to violation of child rights in juvenile justice systems around the world:

Children in detention are an exceptionally vulnerable group, too often denied their fundamental human rights, such as the basic right to health. Conditions in detention do not provide for, and often aggravate, the physical and mental health of children, which ultimately obstructs the objective of detention: reintegration and taking on a constructive role into society.

Beyond the catalogue of rights recognised in the UN Convention on the Rights of the Child (CRC), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) lay down detailed standards for access to medical facilities for children in detention. These Rules clearly state that the juvenile justice system should uphold the human rights and safety, promoting the physical and mental well-being of the child (article 1); and that, inter alia, juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity (article 31). Children deprived of their liberty should not lose their fundamental human rights, and treatment must take into account the child's age and development.

Furthermore, there is a persistent "pathologization/psychiatrization" of children in conflict with the law, who are often identified as the sole responsible for their acts and associated with cases of psychiatric disorders. Instead of promoting restorative justice as discussed during last years' annual meeting on the rights of the Child focused on Children and the administration of justice, the increasing punitive approach towards young offenders has justified many invasive medical procedures by public authorities and reinforced the idea that these offenders should be seen as pathological cases. Moreover, drugs are often used within detention centres as a form of control, affecting the child's mental and physical health in both the long- and short- term. According to reports from DCI Brazil, in 2008 there were about 16,000 children (95% of them males) being treated in public mental institutions in Brazil; many of these mental hospitals dealing with children in conflict with the law lack adequate psychiatrists, nurses, occupational therapists and pharmacists.

Another issue of particular concern is the status of girls in detention: girls in the juvenile justice systems are often overlooked because they represent only a small group, notwithstanding they require special attention, mainly in relation to prior abuse and special health needs.

It is therefore, that Defence for Children International – and co-sponsors to this statement – would like to stress the following:



- The critical need to recognise child detainees as human rights holders: it is not just a mere question of neglect or ill-treatment whilst in detention, but the general denial of human rights of this particular group of children. An international catalogue of human rights of detainees must be created in order to ensure that human rights are respected even when deprived of liberty.
- Detention of children must be a measure of last resort: emphasis must be placed on the implementation of alternative measures and priority given to the rehabilitation and reinsertion of young offenders.
- Mental health of child detainees must be given due priority as lasting damages are inflicted on this group of children. A critical evaluation of the problem is greatly necessary.

Defence for Children International – and co-sponsors to this statement - calls on the Human Rights Council to:

- Call on all States to introduce policies and programs based on restorative justice which promote alternative and preventative measures to detention, and improve the current conditions of detention.
- Encourage States to ratify the UN Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) - currently ratified by 72 States - which provides for a system of independent preventive visits to places of detention; audits and reviews are essential to deliver improvement to the juvenile justice system.
- Ultimately, we strongly invite the Human Rights Council to dedicate next year's full-day meeting on the rights of the child to the theme of "access to justice and remedies".

Thank you Mr/Madam Chairperson