

13th session of the Human Rights Council

ANNUAL FULL-DAY MEETING ON THE RIGHTS OF THE CHILD Wednesday 10th March 2010

RIGHTS OF THE CHILD: THE FIGHT AGAINST SEXUAL VIOLENCE AGAINST CHILDREN

MORNING PANEL: Manifestations of sexual violence against boys and girls

Joint statement on behalf of the World Organisation Against Torture (OMCT), Defence for Children International, International Catholic Child Bureau, Plan International (having ECOSOC status) and Child Rights Information Network (CRIN), the African Child Policy Forum and the NGO Group for the Convention on the Rights of the Child (not having ECOSOC status).

Thank you Mr. Chairman,

We would like to thank those involved in organising the annual full-day meeting on child rights, and express our thanks in particular for allowing NGOs to share their views both on the panels and in the plenary.

We thank all the panellists for their statements, and most notably Mr. Manfred Nowak for his contribution on sexual violence against children in institutions, including in detention facilities. Please allow us to now call your attention to this issue.

In police custody, detention centres and prisons, children may be sexually abused by adult detainees, peers, police and prison staff. According to some studies, children placed in detention with adults are 5 times more likely to be sexually assaulted than children housed in juvenile facilities¹. Overcrowding, inadequate staffing, lack of separation from adults and other appalling yet unfortunately common conditions of juvenile detention are the **factors** that increase the chances of juveniles being psychologically, physically and/or sexually abused while in detention.

We would also like to bring to the attention of the Human Rights Council that international jurisprudence clearly establishes that rape in detention constitutes **torture**². It therefore follows that sexual abuse of a child detainee by police or prison staff, or by another detainee (adult or child), constitutes torture or ill-treatment. In such situations, the authorities are responsible for having failed to take appropriate action.

However, echoing the concerns raised in the UN Study on Violence Against Children regarding **impunity** for such acts, we recall that perpetrators are rarely held accountable for their actions, and, if cases are reported, they often are not sufficiently and yet only superficially investigated; prosecutions are extremely infrequent³.

¹ Defence for Children International, "Kids Behind Bars", 2003.

² This outcome is built on the findings of the Special Rapporteur on Torture (summary record of the twenty-first meeting, United Nations document E/CN.4/1992/SR.21, para.35). Also refer to decisions from regional HR mechanisms like the Inter-American Commission on Human Rights in *Mejia v. Peru* and the European Court of Human Rights in *Aydin v. Turkey*.

³ UN Report on Violence against Children, p. 182.

Beyond those concerns, we would like to bring to your attention two further elements:

First, although there is very little available data and comprehensive reports or research on sexual violence committed against children deprived of their liberty⁴, we are concerned that **this practice is likely to be more widespread than what is commonly reported.**

Second, **sexual violence against child detainees has long-term societal effects.** From a strictly financial perspective, prevention measures, including alternatives to detention, are less expensive than the high costs incurred from treating injuries caused by sexual assault⁵ or from the difficulties juveniles face while trying to fully reintegrate into society and live a productive life after release.

Finally, we wish to present the following **recommendations** to Member States and observers of the HRC:

1. Collect and share disaggregated data and information concerning instances of all forms of sexual violence in all places where children are deprived of their liberty.
2. Implement the recommendations of the UN Study on Violence against Children relating to violence in “justice institutions”, and take special measures to ensure in particular:
 - that detention and institutionalisation is a last resort and that alternatives to detention are prioritised;
 - that quality staffing and training is provided in justice institutions;
 - that effective complaints and investigation mechanisms are available to children deprived of their liberty, and that enforcement measures and sanctions against perpetrators are undertaken; and
 - that effective and independent access and monitoring is present in places where children are detained.
3. Invite relevant UN agencies to carry out a study on the scope, causes and consequences of sexual abuse of detained children and develop recommendations to prevent and protect children against all forms of abuses.

Thank you, Mr. Chairman.

⁴ Except some rare and limited national surveys such as the following recently released in the United States: Special Report on Sexual Victimization in Juvenile Facilities Reported by Youth, 2008-09, US Department of Justice, Office of Justice Program, Bureau of Justice Statistics, January 2010, NCJ 228416.

⁵ Special Report on Sexual Victimization in Juvenile Facilities Reported by Youth, op. cit.