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RIGHTS OF THE CHILD

**Written statement* submitted by Defence for Children International,
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 February 2006]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Children in Detention

Defence for Children International welcomes the attention given by the Committee on the Rights of the Child, in its Concluding Observations, to the need for more attention by States parties for juvenile justice and the implementation of the relevant provisions of the Convention on the Rights of the Child, in particular articles 37 and 40, as well as other related international instruments.

If there is one major issue on which consensus has been reached during the past fifty years of standard-setting by the United Nations in the field of crime prevention and criminal justice, it is surely that children do not belong in prison. The consequent standard – that “the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time” – is recognized in article 37 of the Convention on the Rights of the Child and other international instruments, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the “Beijing Rules”), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the United Nations Guidelines for the Prevention of Juvenile Delinquency.

However, different studies have shown that, in most countries, the detention or imprisonment of a child continue to be anything but “a measure of last resort and for the shortest appropriate period of time”, in total contradiction with UN standards.

Background

Detention should be considered as an option only for the very small number of children who have committed violent and serious offences. Nonetheless, it is estimated that over one million girls and boys are behind bars world wide, too often in horrific, degrading, overcrowded and violent conditions.

The majority of children currently behind bars do not belong there. Many have committed only petty, or minor and non-violent offences and are still awaiting trial. They have not actually been convicted of an offence but have simply been apprehended or are on pre-trial remand. Many have committed no crime at all such as street children, political prisoners, refugee and asylum seekers, children with mental disabilities and others detained without judicial process.

The majority of children in detention will not even receive a custodial sentence when they finally appear in court. As regards those juveniles who are sentenced to deprivation of liberty, the high cost, overall ineffectiveness and counter-productive consequences of custodial sentences are now well documented. Nevertheless, repressive policies and actions have been promoted and implemented by the governments of many countries.

Putting children behind bars and separating them from their families and communities seriously damages their physical, mental and social development. Many do not receive adequate food, health care or education. Children are exposed to physical, psychological and sexual abuse. Regular monitoring visits to detention facilities might reduce abusive and exploitative situations in institutions where children are detained. Detention leads to lifelong stigmatization which hampers reintegration of children into communities. Even so,

the issue of children in prison and detention is not a priority area on international and national agendas.

Recommendations

Defence for Children International requests the UN Commission on Human Rights to call on:

1. States to pay more attention to juvenile justice.
2. States need to take all necessary measures to ensure the full and effective implementation of its domestic laws and to harmonize its legislation fully with the provisions and principles of the Convention with regard to existing minimum ages of criminal responsibility and children in conflict with the law.
3. States to adopt measures to ensure that the treatment of children in conflict with the law, particularly children deprived of their liberty, is in conformity with the Convention on the Rights of the Child and other relevant international instruments.
4. States to adopt and implement national action plans that are aimed at reducing the number of children deprived of their liberty. To this end, national action plans should focus on legal safeguards to ensure that the arrest, detention or imprisonment of a child is in conformity with the law, and is used only as a measure of last resort and for the shortest appropriate period of time. Furthermore, the plans should concentrate on measures to promote the:
 - a. Collection and analysis of national data on children in conflict with the law, particularly those deprived of their liberty;
 - b. Prevention of juvenile delinquency;
 - c. Use of diversion;
 - d. Use of alternatives to detention, and restorative justice;
 - e. Improvement of the conditions for children deprived of their liberty.

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