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PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

Written statement* submitted by the World Alliance of Young Men's Christian Associations (YMCA), a non-governmental organisation 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.

[16 February 2009]

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

Young Offenders and the Failure of Juvenile Justice Systems

1. The World Alliance of YMCAs, a federation of 124 affiliated national YMCAs with a combined constituency of 45 million members expresses concern about the treatment of young offenders and the administration of juvenile justice, based on testimonies and reports received from its members from Sierra Leone, Togo, South Africa, England and Wales, Ireland and Honduras. Together, the YMCAs in these countries are undertaking co-ordinated work on juvenile justice through a campaign that was launched in 2005.

2. In the course of their work of the past four years, participants of the campaign have reached two major conclusions:

- Despite the existence of a comprehensive set of international juvenile justice standards that promote rehabilitation over punishment, States across the world have retained an overwhelmingly punitive response to young offending.
- Every State which has appeared before the Committee on the Rights of the Child has violated juvenile justice standards from a failure to uphold procedural guarantees, such as rights to a fair trial, to a failure to protect young people from maltreatment, abuse and murder.

3. Specific international standards in relation to juvenile justice have been developed in addition to those contained in the Convention on the Rights of the Child that emphasise, among others, diversion to ensure that detention is chosen only as a last resort and only in extreme cases; reintegration that guarantees the best chances for social inclusion; and human rights training of police, social workers, the judiciary and others involved in the administration of juvenile justice. In addition, General Comment No. 10 emphasises “dignity” as a leading principle in a comprehensive policy for juvenile justice which calls for the treatment of young offenders “in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for human rights and fundamental freedom of others and which takes into account the child’s age and desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society.”

4. However, despite the existence of these standards, the experience of young people faced with the reality of juvenile justice systems in their countries tells a different story.

- In Sierra Leone and Togo young detainees awaiting trial share the same cells as convicted adult prisoners. The majority are held for several months before their cases are brought to court and those who are convicted have often carried out more time in detention than the final sentence requires.
- In Togo, the conditions for young detainees are deplorable. The prisons and juvenile detention centre are overcrowded, unsanitary and inhumane. There is an extreme lack of food, hygiene and access to healthcare. Access to medical care depends on the good will of prison staff and there is no provision during night-time hours. There is a severe lack of medication. One young ex-detainee supported by the YMCA reported that over his six-

month period of detention four prisoners in his cell died from heat exhaustion and tuberculosis.

- In the Republic of Ireland the Government has made a commitment to building a new facility in Dublin to house juvenile male offenders, including those who are currently held in adult prisons in contravention with international standards. However, the long delays in this process are causing many experts and activists to be sceptical of the Government's commitment to ever removing juvenile male offenders from prisons.
- For those cases where it is considered necessary to incarcerate a young person, the primary motivation should be their rehabilitation. Access to education and skills training has proven to be essential for the effective rehabilitation and reintegration of children and young people back into society. Despite this need being recognised in relevant juvenile justice legislation in South Africa, notably in the recently adopted Child Rights Bill, resources have not matched policy that would put in place measures to enable rehabilitation and reintegration.
- There is no State policy for the reintegration of young detainees in Togo. The majority have no access to education, training or recreation while in detention, let alone post release. It has been reported by visiting psychologists that large numbers of detainees are suffering with depression as a result of the conditions.
- In South Africa, police brutality is still used as a form of punishment and a devastating failure to offer training to law enforcement agents puts children and young people at continued risk of maltreatment, from the officials themselves and when detained in unsafe conditions. Recently, a 15 year old boy was imprisoned without trial for what the judge referred to as an 'archetypal petty theft' and was subsequently raped and subjected to violent treatment by older in-mates. The impact of this case is still being investigated as well as the causes behind such neglect of appropriate procedures. According to the Child Justice Bill (2008) the young person should have gone through an assessment and then channelled to a diversionary and restorative justice programme. The Bill confirms that imprisonment should be the last resort. It is widely felt that a lack of knowledge and understanding from juvenile justice officials led to the young person's incarceration and subsequent abuse.
- In Sierra Leone, training is urgently needed for representatives on child panels, police and prison officers, the judiciary and other authorities involved in the administration of justice for children and young people. In addition, community/public sensitisation is needed about the Child Rights Act and its specific provisions relating to duties and responsibilities of parents, public officials and community leaders

5. Increasing numbers of children and young people are being brought into the criminal justice system in many parts of the world, not due to an increase in the level of crime committed by young people but because of a purely punitive approach. This approach fails to recognise the developmental needs of children and young people and leads to further criminalisation of young people who could have been successfully diverted from the system. The additional burden this imposes means that those who should be dealt with by the juvenile justice system cannot be afforded the proper attention so desperately required for their effective rehabilitation.

6. In England & Wales in the last year alone, almost 3,000 under 18s were put in prison considerably more than any other country in Western Europe.¹ And, the number of children and young people detained has tripled in 15 years.² This overuse of detention is even more troubling because crime committed by young people is not increasing in the UK. Rather, previous minor offences, which would have been commuted with community sentences, volunteering, or cautions, are forcing more young people to be formally admitted into the criminal justice system at a much earlier age.³

7. The World Alliance of YMCAs calls on the Human Rights Council to:

- Call on UN member states to incorporate in their national legislation international juvenile justice standards as well as the relevant provisions of the Convention on the Rights of the Child.
- Urge states to include in their budget allocations the resources required to enable the genuine reintegration of young offenders through education, vocational training and training for life skills.
- Urge states to close the gap between policy and implementation through human rights education and training of police and prison officers, the judiciary and all those involved in the administration of juvenile justice.
- Urge states to address the stigmatisation and over-criminalisation of young people by sensitising the media and the general public. State measures for controlling crime and delinquency among children and young people should not be based on suspicion and stereotyping but should include a genuine concern for the social inclusion of young people and respect for their dignity and human rights.
- Call on states to emphasise the principle of restorative justice that gives importance to the role and commitment of communities and families in juvenile justice systems.

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¹ <http://www.timesonline.co.uk/tol/news/uk/crime/article4093218.ece>

² <http://www.prisonreformtrust.org.uk/standard.asp?id=1454>

³ <http://www.guardian.co.uk/commentisfree/2008/aug/26/youthjustice.ukcrime>