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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 Consortium for Street Children, 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.

[13 February 2012]

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

Status offences and juvenile justice: The criminalisation of street children**

The Consortium for Street Children (CSC) and its network members were delighted that the UN Human Rights Council (UNHRC) dedicated its annual discussion day on the rights of the child (9th March 2011, 16th session) to the protection and promotion of the rights of children working and/or living on the street. Street children have long been confined to the margins of international debates, after an initial interest in the issue during the 1980s, and early 1990s. The unanimous adoption of Resolution A/HRC/RES/16/12 (2011) marked a significant turning point, and led the UN Office of the High Commissioner for Human Rights (OHCHR) to undertake a study on challenges, lessons learned and best practices in a holistic, child rights and gender based approach to protecting and promoting the rights of children working and/or living on the street. The study was carried out in close collaboration with CSC, supported by UNICEF and sponsored by Aviva plc.¹ The study took place from August to December 2011, and will be presented to the UNHRC on 2nd March 2012 during its 19th session by the High Commissioner for Human Rights.

The study emphasises street children as rights holders, whose opinions and views should inform matters affecting them. However, street children remain some of the most marginalised and stigmatised children often criminalised for survival behaviours and subjected to rounds ups by police, frequently on the basis of outdated status offences. They therefore find themselves in direct daily conflict and contact with the law.

As part of the OHCHR study a Children's Voices paper was conducted to help inform the final report to the UNHRC. A total of 123 children in street situations -29 girls and 94 boys, aged between 5 and 18 – were consulted in Ecuador, India, Uganda, Ethiopia, Kenya and Morocco². During the participation the children often reflected on the violence that

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¹ Aviva plc. is the world's sixth largest insurance group and is the largest in the United Kingdom (www.aviva.com).

² The participation was facilitated by the following NGOs, all members of the Consortium for Street Children: Action for Children in Conflict (Kenya), CHETNA and Hope for Children (India), Juconi (Ecuador), Moroccan Children's Trust, and Retrak (Ethiopia and Uganda). The children were consulted on three overarching themes of relevance to the OHCHR study: the child as an individual;

permeates their lives, both in the home and on the streets: “I used to eat leftovers daily. Near the big shops we used to sleep on the veranda. Police used to come at night and beat us and throw us on their pickups”. The outcome of such extensive exposure to violence and impunity of those carrying out the violence is that the children’s ability to trust and form attachments may be severely damaged.

Violence against street children and their subsequent conflict and contact with the law, is well documented and recognised³. The UN Committee on the Rights of the Child held a day of discussion on the issue of state violence against children (2000) and highlighted violations of street children’s rights in the context of ‘law and order’: “Street children have been among the most vulnerable victims of the most extreme forms of violence, including extrajudicial or summary execution, in many countries. Such violence too often takes place at the hands of agents of the State, or at least with their encouragement or tolerance”⁴.

Similarly, the UN Secretary-General’s study on violence against children⁵ argued that:

Children living on the street everywhere report being demonised for activities which, even if they involve petty offences, in no way warrant the kind of cruel and gratuitous violence to which they are often subjected (...). The extent of serious human rights violations may be much greater than the few and unreliable available figures indicate. Many cases are not reported because of the lack of witnesses, or because victims or their relatives live on the fringes of society, and tend to remain anonymous (...). Even in societies where systems of justice are far more deeply embedded and socially accessible than in many other parts of the world, police violence against children (or inaction against perpetrators) is rarely investigated. The level of impunity such conduct enjoys is an important reason for its continuation. Without independent monitoring systems, children have no one to report police violence to, except other police, from whom they understandably fear reprisals. This, combined with the perception that children’s presence on the street equates with ‘juvenile delinquency’, places many children at risk of police violence.

The Consortium for Street Children therefore recommends that:

- The UN Human Rights Council commit to discussing the findings, recommendations and follow ups from the OHCHR study on the promotion and protection of the rights of children working and/or living on the street in detail during its 20th session.
- States implement the recommendations in the OHCHR study. In the particular context of juvenile justice States should:
 - Prohibit all forms of violence against street children and in this regard implement the recommendations of international mechanisms, including the Secretary-General’s Study on Violence Against Children, the Special

access to support; access to rights. To read the full paper please go to <http://www.ohchr.org/EN/Issues/Children/Study/Pages/ExpertConsultation.aspx>.

³ See for example State of the World’s Street Children: Violence (Consortium for Street Children: 2007), An Outside Chance: Street Children and Juvenile Justice (Consortium for Street Children: 2004), Juvenile Injustice (Human Rights Watch: 1997), Children of the Dust, (Human Rights Watch: 2006).

⁴ <http://www.unhchr.ch/html/menu2/6/crc/doc/days/violence.pdf> (p. 3).

⁵ Pinherio, P. (2007), UN Study on Violence Against Children, Chapter 7: Violence Against Children in the Community.

Representative on Violence Against Children, and the UN Committee on the Rights of the Child;

- Ensure full training on non-violent engagement and respect for the rights of street children to freedom from violence (including law enforcement officers; judges and all staff in the justice and penal systems);
 - Introduce and enforce sanctions against all perpetrators of violence against street children;
 - Ensure that child sensitive counselling, complaint and reporting mechanisms are easily accessible to street children;
 - Decriminalise status offences that street children utilize as survival tactics, such as begging, loitering, vagrancy, running away, and other acts, and ensure that street children are not forcibly rounded up or treated like criminals or delinquents for survival activities, but dealt with under child protection mechanisms;
 - Address stigmatisation and discrimination of street children, including through public sensitisation campaigns.
- States ensure the participation of street children in matters affecting them, working with, and supporting NGOs who have an established relationship of trust with the children.
 - States and the UN take into account the role of the private sector and corporate social responsibility strategies in supporting the implementation of the above recommendations, including sponsorship, capacity building and organisational skills.
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