

**Children's Human Rights Caucus**  
At the 60th Session of the UN Commission on Human  
Rights

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**Children's Rights at the  
2004 Commission on Human Rights**

NGO Group for the Convention on the Rights of the Child  
Subgroup on the Commission on Human Rights

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Many thanks to all members of the subgroup for their support and active participation in the work of the Children's Human Rights Caucus throughout the Commission.

**For all official documents in English, French and Spanish, see the webpage of the UN Commission on Human Rights <http://www.unhcr.ch/html/menu2/2/60chr/index.html>**

**See also information on the CRIN (Child Rights Information Network) website:**

Children's rights at the Commission on Human Rights page :

<http://www.crin.org/docs/resources/treaties/unchr.htm>

Subgroup page :

<http://www.crin.org/docs/resources/publications/NGOCRC/subgroup-CHR.htm>

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## **1. Introduction**

The Subgroup for the Commission on Human Rights brings together NGOs willing to promote the rights of the child at the United Nations Commission on Human Rights (CHR). It aims to ensure continuing attention to children's rights by this body and, where relevant, the inclusion of children's rights into its debates and resolutions.

Despite the "all-security-thinking" which has developed since September 11<sup>th</sup> and which has undermined the protection of human rights throughout the world, children's rights are still upheld on several agenda items during the CHR.

The Subgroup's preparatory work throughout the year has largely contributed to negotiations on the omnibus resolution on the Rights of the Child at an early stage of the Commission and has facilitated NGO work on other resolutions. It has also been the basis for constructive dialogues regarding children's rights between NGOs, children, UN key players and some State delegations in several side events.

This year again, along with its coverage of official negotiations, through its Children's Human Rights Caucus, the Subgroup also invited several personalities from different countries and organizations to discuss problems affecting the enjoyment of children's rights within their respective regions or mandates. Through its listserv and CRINMAILS, this information was shared with field NGOs and individuals outside Geneva. The Subgroup sees this part of its work as particularly important in order to keep a reality and field-based approach to its global advocacy work.

## **2. Commission on Human Rights 2004: Business as usual ?**

During its 60<sup>th</sup> session, the CHR failed once again to truly fulfill its mandate of major UN human rights body. Only few bold developments could be noted during the six weeks. This poor outcome is largely due to an obvious lack of interest by all States to discuss the human rights situation in countries where economic, political or strategic interests are at stake. Over the last few years, this situation led many NGOs and other observers to question the legitimacy of the CHR. One of the major concerns has been the fact that membership of the CHR is not bound to any criteria such as the respect and/or promotion (nationally and internationally) of basic human rights. Many NGOs thus argue in favor of a reform of the CHR, including new conditions for membership. The composition of this year's CHR makes it difficult to believe that the real intention of the present members was the promotion of human rights in all the regions of the world. It included Sudan, Nepal, the Russian Federation, China, Sri Lanka, Zimbabwe, the US and many others States which have been repeatedly blamed by NGOs for their serious human rights violations<sup>1</sup>. This allowed governments to cover each other up in order to avoid a debate or a resolution on their respective countries, rather than to uphold human rights standards and address difficult situations. Consequently, resolutions addressing the human rights situations in, for instance, Chechnya, Zimbabwe, China, Nepal or in the Guantanamo US base have not been adopted despite lobbying efforts by several NGOs. It is important to keep this general situation in mind when evaluating the Subgroup's/Caucus' work prior and during the 60<sup>th</sup> CHR, as well as when analyzing the relevance of the CHR for the promotion and protection of children's rights.

On a more positive note, country resolutions were adopted on Israel/Palestine, Cuba, Turkmenistan, Belarus, Northern Korea, Myanmar and Sudan. In some of these resolutions, children are explicitly mentioned (see annex on country resolutions). Furthermore, some important thematic resolutions with references to children were adopted. In addition to the omnibus resolution on the Rights of the Child and the resolution on Abduction of Children in Africa adopted under item 13, the CHR adopted the following resolutions: the resolution on human rights in the administration of justice, in particular juvenile justice; the resolution on Trafficking in women and girls and the resolution creating the

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<sup>1</sup> See membership of CHR 60<sup>th</sup> session on <http://www.unhchr.ch/html/menu2/2/chrmem.htm>

mandate of a Special Rapporteur on trafficking in persons, especially in women and children; the resolution on the Right to Education; the resolution on the Right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and many others that also affect children. All adopted resolutions are available on : <http://www.unchr.info/resolutions.htm>. (See also annex of the present report on thematic resolutions).

### **3. Resolution 2004/48 on the Rights of the Child <sup>2</sup>**

The resolution is based on the same structure as last year's and does not bring extensive changes. In general, the text is well balanced and includes many suggestions taken from other important international instruments such as GA resolutions, "A World Fit For Children", comments and recommendations from the Committee on the Rights of the Child, etc.

The Subgroup produced a comprehensive Alternative Resolution at an early date and discussed it weeks before the beginning of the Commission with the Uruguayan delegate (leading the negotiations on the issue within GRULAC). Collaboration with the Uruguayan delegate was very fruitful and allowed to include some new proposals and suggestions into the draft resolution. The explanations of the Subgroup were welcomed as they helped to better understand special needs of children and to have strong arguments for defending some paragraphs during negotiations with other States. The other main sponsor of the text was the EU (under the Irish Presidency). The Subgroup Alternative Resolution was also shared with all members of the EU group.

Closed negotiations between the EU and GRULAC went on during the first weeks of the CHR. Their first draft was opened for general negotiations early (April 1<sup>st</sup>), which was a welcomed improvement. However, almost all States criticized the length of the text (especially Australia, Malaysia, Canada, New Zealand and Switzerland). They also regretted that there were only 5 new substantial provisions and disapproved of the fact that the draft was very much based on the wording of last GA resolution. Therefore, they found the resolution too repetitive and wished that next year's resolution focuses on new issues. Many delegations also said that they were tired of investing so much time and energy into negotiations on the Rights of the Child, as they also have to do so for the GA resolutions. The two co-sponsors guaranteed that they would keep these comments in mind for the 2005 resolution.

During the five intensive sessions of open negotiations, most present delegations tried to be flexible in order reach consensus. Many debates focused more on the wording than on the substance of the concerned paragraphs. The wording of many paragraphs was consequently weakened in comparison with the initial version proposed by the GRULAC and the EU. Nevertheless, there were also some substantial debates on specific issues. For instance, OP 36 (of the final draft), which "encourages States to develop national disaggregated statistics in the area of juvenile justice, including statistics on children in detention", was initially not accepted by India and Malaysia, which argued they did not understand the use of such data. Another example was UNHCR's proposal to integrate a new paragraph to address the issue of statelessness. Pakistan strongly disagreed with the reference to nationality and registration after birth and said this would cause legal problems in some countries. India, Malaysia and the Dominican Republic agreed with Pakistan, while the US and Australia wished to integrate UNHCR's proposal. The Coordination Board finally preferred not to keep it, as the opinions were irreconcilable. The Syrian delegation, backed by Egypt, tried to include a reference to the rights of children in regions under foreign occupation, which was rejected out of the fear to move attention from the rights of the child to political considerations.

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<sup>2</sup> To read resolution 2004/48 on the Rights of the Child, go to: [http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/fd17dc6d17bf01fbc1256e82002e7a3f/\\$FILE/G0413925.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/fd17dc6d17bf01fbc1256e82002e7a3f/$FILE/G0413925.pdf) or see document E/CN.4/2004/L.11/Add.5, p.17 of the present report.

However, as expected, most of the substantial debates were concentrated around US proposals of amending or canceling certain paragraphs. Above all, the US delegation was opposed to the reference to the CRC as the central norm for the protection of children's human rights (PP 1), the welcoming of the establishment of the ICC (OP 6) and the paragraph dealing with the death penalty for juvenile offenders (OP 35). The US did not receive satisfaction on these issues and therefore requested a registered vote on the whole resolution when it was presented to the plenary assembly. But the US was isolated and the omnibus resolution was adopted by 52 votes in favor, 1 against (US) and 0 abstentions<sup>3</sup>.

### **2004 Omnibus resolution on the Rights of the Child in comparison with 2003**

#### New Paragraphs:

- In the preamble, the CHR takes note of by the **CRC General Comments No. 3, 4 and 5** on "HIV/AIDS and the rights of the child" (CRC/GC/2003/3); "Adolescent health and development in the context of the Convention on the Rights of the Child" (CRC/GC/2003/4); and "General measures of implementation of the Convention on the Rights of the Child arts. 4, 42 and 44, para.6 (CRC/GC/2003/5)".
- OP 6 deals with the **fight against impunity** for perpetrators of crimes against children and recognizes in this regard the contribution of the establishment of the ICC.
- OP 9 (b) requests the Secretary-General "to take note of the [CRC] Committee's ongoing efforts to reform its working methods and to give further consideration to the proposals made thus far, including inter alia, the possibility of working in **two parallel chambers**"
- Concerning Education, OP 17 calls upon States to "develop national plans of action, or to strengthen existing ones" in this field (b). In its parts (c) and (d) it names policies that should be undertaken by governments in order to guarantee **education to pregnant adolescents and adolescent mothers**.
- OP 37 "encourages States, to develop national disaggregated statistics in the area of juvenile justice, including **statistics on children in detention**".
- OP 43 talks about **education as "an integral for the process of demobilization**, effective disarmament, rehabilitation, physical and psychological recovery and reintegration of children involved in armed conflicts".
- OP 47 talks about actions for the **social reintegration** of children in difficult situations.

<sup>3</sup> The official explanation of the US vote is available on: <http://www.humanrights->

Positive developments:

The Commission encourages States to “allocate **financial resources** for the development of children in a holistic manner” (OP 13) and that it recognizes the **WHO’s definition of health** in OP 15. Finally, OP 41 (c) of last year’s resolution, which highlighted the possibility of voluntary **recruitment of under 18**, has been cancelled in this year’s resolution.

Negative developments:

- The GRULAC proposal to welcome the **Convention on the Rights of Migrant Workers and Members of their Families** has been canceled.
- The initial reference to **health of children and environment** has also been deleted despite efforts of the Subgroup.
- In spite of the recognized importance of the outcome of the **UN Study on Violence Against children** and notwithstanding lobbying by some Subgroup members, OP 20 fails to request the Secretary-General to present its final in-depth study to the GA.
- The issue of **children with disabilities**, as well as the issue of **indigenous children** have not received enough attention despite welcomed and detailed proposals in the NGO alternative resolution.

The work of the Subgroup was perceived as very useful at the initial drafting stage and was to some extent used as a guiding tool by the main sponsors of the resolution. However, despite the fact that they were admitted to open negotiations during the Commission, individual NGOs were not as involved in lobbying as in previous years at the final stage. Indeed, child rights NGOs are increasingly solicited and have to focus more on other thematic resolutions. Finally, it must be underlined that some countries - especially Switzerland, New Zealand Canada and Norway and occasionally others – brought many constructive inputs and tried to keep a strong resolution. Switzerland also expressed its willingness to further contribute to elaborating a new approach for next year’s CHR resolution on the rights of the child, together with other States, International Organizations and NGOs. One idea was to keep the current format of the omnibus resolution for the GA and to concentrate on specific/new topics (chapters) for the CHR resolution.

#### 4. Resolution 2004/47 on the Abduction of Children in Africa<sup>4</sup>

The CHR at its 60th session adopted a resolution on the Abduction of Children in Africa (2004/47). This was the second year such a resolution was adopted, and prior to that a resolution condemning abductions in northern Uganda had been adopted annually since 1998.

The resolution was elaborated and sponsored by the Democratic Republic of Congo, on behalf of the African Group. Certain African governments demonstrated a willingness to engage with NGOs such as the Friends World Committee for Consultation (Quakers), Human Rights Watch and World Vision

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[usa.net/statements/0419child.htm](http://usa.net/statements/0419child.htm))

<sup>4</sup> To read resolution 2004/47 on the Abduction of Children in Africa, go to: [http://www.unhcr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/fd17dc6d17bf01fbc1256e82002e7a3f/\\$FILE/G0413925.pdf](http://www.unhcr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/fd17dc6d17bf01fbc1256e82002e7a3f/$FILE/G0413925.pdf) or see document E/CN.4/2004/L.11/Add.5, p.13 of the present report.

which had demonstrated interest and expertise in this field, to discuss this issue both prior to and during the CHR. The resulting resolution is stronger than its predecessor. The resolution is more explicit than before about causes of abduction. OP 1 of the final text condemns “the practice of abduction of children for various purposes, for example as soldiers or workers, for purposes of sexual exploitation and/or pedophilia, and for the purposes of trade in human organs”.

Also the resolution includes several requests, inter alia:

- i) that the OHCHR organize sub-regional consultations on this issue,
- ii) that States submit observations and international organizations submit reports on this issue to the OHCHR,
- iii) that the High Commissioner submit a report on this issue to the 61st session of the CHR

## **5. Child rights mainstreaming**

Focus on children’s rights and mainstreaming of children’s rights are often perceived as being in opposition with each other, as one rendering the other void, and therefore superfluous. However, the NGO child rights community – and, before it, the women’s rights movement – are arguing that if a group displays some distinct characteristics, vulnerabilities and a deficit of power, both specific norms and mainstream attention to this group are necessary in order to ensure full human rights protection within the overall society.

Over the years, the integration of children’s rights has been higher in country-specific resolutions of the CHR, where particular human rights situations have been documented as to encompass and be specifically detrimental to children (eg. Palestine). Yet, in thematic resolutions, including children is often still perceived as rather superfluous, and there is a general need to better document child-specific impact/dimensions of general human rights issues. For instance, NGOs could contribute to isolate information on and analysis of the impact of violations to children’s economic, social and cultural rights - for example, by showing the impact of missed opportunities or deprivations on child development, which has a life-lasting impact, while for an adult certain violations may have a more temporary effect.

While the attitude of governments might correspond to a need for less complicated negotiations rather than to a grounded position, the current level of child rights mainstreaming at the CHR also shows that children’s rights have not yet achieved an equal standard within the human rights arena. The Subgroup thus supports UNICEF’s statement<sup>5</sup> that “every and each” resolution of the CHR should include children.

### **Country Resolutions**

As in 2003, the Subgroup prepared and sent out a paper comparing CHR country resolutions with Concluding Observations of the Committee on the Rights of the Child (CRC) to all permanent missions in Geneva prior to the CHR, in order to sensitize them to the importance of children’s rights mainstreaming and encourage them to make a direct use of CRC observations when drafting and sponsoring country resolutions.

Many NGOs, among them members of the Subgroup, took the floor under item 13 to express concern about the situation of children in specific countries. Children in the Palestine Occupied Territories received high attention, but also the situation of children in Afghanistan and Sudan, the DRC, Myanmar, Brazil, the Philippines, Pakistan and others were mentioned. Other NGOs had a thematic rather than geographical approach to their statements. Torture, cruel and other inhuman or degrading treatment, the situation of street-children, the impact of HIV/AIDS on children, trafficking in children, sexual exploitation of children and child labor were among the main concerns. But also economic,

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<sup>5</sup> See reporting on item 13 at the plenary assembly (7.4.2004)



social and cultural rights issues, such as education, adequate housing and poverty-related problems were frequently addressed under item 13.

However, as mentioned above, the 60<sup>th</sup> CHR failed to address serious human rights situations in a many countries. People hoping for a condemnation of States such as Russia (Chechnya), Iran, China, the USA (Guantanamo), Nepal or Zimbabwe were once again disappointed. This also prevented the Commission from addressing the situation of children in these regions. Nonetheless, some countries could not avoid their human rights violations to be condemned in one or more resolutions. Some of these few country resolutions (on Cuba 2004/11, Turkmenistan 2004/12, Belarus 2004/14, Northern Korea 2004/13, Myanmar 2004/61, Sudan 2004/128, and the occupied Arab territories, including Palestine 2004/10) did contain references to children.<sup>6</sup>

The phenomenon of child soldiers has been considered in the resolutions on Myanmar and on Sudan. The Commission welcomed “the establishment by the Government of Myanmar of a Committee for Preventing Recruitment of Child Soldiers”<sup>7</sup>, but also strongly urged the Government of Myanmar “to put an immediate end to the recruitment and use of child soldiers and to extend full cooperation to relevant international organizations in order to ensure the demobilization of child soldiers, their return home and their rehabilitation in accordance with Security Council resolution 1460 (2003) of 30 January 2003”<sup>8</sup> (similar wording as in last year’s resolution). The CHR also expressed its deep concern over “the abduction of children for use as child soldiers”<sup>9</sup> in Sudan.

The resolutions on the Democratic People’s Republic of Korea and on Myanmar referred to the worst forms of child labor, urging the two countries to join “the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor”<sup>10</sup>.

Using the same language as in last year’s resolution, the CHR also recalled its concern over “the prevalence of infant malnutrition which, despite recent progress, still affects a significant percentage of children and their physical and mental development”<sup>11</sup> in the Democratic People’s Republic of Korea. Further, the resolution addressed the phenomenon of infanticide in prisons and labor camps in Northern Korea<sup>12</sup>.

Finally, the CHR highlighted “the widespread recourse to rape and other forms of sexual violence, including against children” in Sudan<sup>13</sup>, and - concerning the Occupied Arab Territories, including Palestine – it strongly condemned killings of children resulting in both offensives of the Israeli army and suicide terrorist attacks into Israel.<sup>14</sup>

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<sup>6</sup> To see countries resolution go to:

- for the occupied Arab territories, including Palestine, Cuba, Turkmenistan, Belarus, Democratic People’s Republic of Korea:

[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/5513303e154cf5ecc1256e7e002a6658/\\$FILE/G0413702.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/5513303e154cf5ecc1256e7e002a6658/$FILE/G0413702.pdf)

- for Myanmar:

[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/11baed6c86b754f0c1256e830057508e/\\$FILE/G0413962.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/11baed6c86b754f0c1256e830057508e/$FILE/G0413962.pdf)

- for Sudan:

[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/7f329dbe6cafeb98c1256e8b0031293c/\\$FILE/G0414005.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/7f329dbe6cafeb98c1256e8b0031293c/$FILE/G0414005.pdf)

<sup>7</sup> 2004/61 § 1 (i).

<sup>8</sup> 2004/61 § 4 (h).

<sup>9</sup> 2004/128 § 3 (e).

<sup>10</sup> 2004/13 § 2 (c); E/CN.4/2004/61 § 3 (f).

<sup>11</sup> 2004/13 Preamble.

<sup>12</sup> 2004/13 § 1 (b).

<sup>13</sup> 2004/128 § 2.

<sup>14</sup> 2004/10.

## Thematic Resolutions

In addition to the omnibus resolution on the Rights of the Child and the resolution on Abduction of Children in Africa adopted under item 13, the CHR adopted the following resolutions directly related to children's rights:

1. The resolution on **Human rights in the administration of justice, in particular juvenile justice** (2004/43, adopted by consensus)<sup>15</sup> deals with juvenile justice issues in its paragraphs PP 2, 6, 9, 10 and OP 10, 11, 12, 15, 16, 17, 18, 19.

In the preamble it recalls particular situation of children in conflict with the law and emphasizes the need for special attention towards them. It also reaffirms the importance of considering the best interest of the child when he/she is confronted with the justice system. OP 10 asks States to remain in conformity with international human rights standards when taking and/or implementing measures, including such related to juvenile justice, to combat terrorism. During the plenary session, the USA requested a vote on whether to delete OP 11, which "urges States to ensure that under their legislation and practice neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age", or not. The paragraph remained in the resolution, as the US were the only voting in favor of its deletion, while 43 States voted against it and 8 abstained from voting.

2. The **Resolution on the Right to Education** (2004/25; adopted by consensus)<sup>16</sup> urges all States "to give full effect to the right to education and to guarantee that this right is recognized and exercised without discrimination of any kind"<sup>17</sup>. Nevertheless, States refused once again to explicitly name the right to education as a human right, although it had been proposed by the Portugal delegation in the first draft, which "[emphasized] the importance of a human rights based approach to attain the Millennium Development Goals"<sup>18</sup>. Another disappointment was the fact, that the proposal of the Canadian delegation to add the words "sex education" to the list of issues to be encouraged in order to improve the quality of education, has been rejected after long debates<sup>19</sup>.

Moreover, compared to last year's resolution, there were few changes and additions in the new text. Some of these additions concern the references to the Millennium Development Goals and to the Durban Declaration made in the preamble, as well as the determination to strengthen collaboration between different UN bodies and mechanisms (especially UNESCO, UNICEF) to address education issues<sup>20</sup>. A further positive development is the integration of a new paragraph 7 (q), which urges all States "to ensure that no child is prevented from receiving free primary education on account of his or her disability". This was possible thanks to a Danish proposal. The resolution also renewed the mandate of the SR on the Right to Education for three years<sup>21</sup>, inviting him/her "to review the interdependence and interrelatedness of the right to education with other human rights" and "to apply a gender

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<sup>15</sup> To see the resolution on Human rights in the administration of justice, in particular juvenile justice: [http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/0cfcde9575008463c1256e82002f683b/\\$FILE/G0413868.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/0cfcde9575008463c1256e82002f683b/$FILE/G0413868.pdf)

<sup>16</sup> To see the resolution on the Right to Education, go to: [http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/7022446690f820cec1256e82003192f6/\\$FILE/G0413757.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/7022446690f820cec1256e82003192f6/$FILE/G0413757.pdf)

<sup>17</sup> 2004/25 OP7 (a).

<sup>18</sup> OP 5 of the first draft of the resolution on the Right to Education. The final version only states: "and emphasizing the realization of the right to education in attaining the Millennium Goals".

<sup>19</sup> 2004/25 OP 7 (c).

<sup>20</sup> 2004/25 PP 5, 7, OP 4, 6, 9 (d), 10.

<sup>21</sup> 2004/25 OP 8.

perspective in his or her work”<sup>22</sup>. Despite criticisms expressed in the Special Rapporteur’s report concerning the lack of support for her mandate and therefore her suggestion to terminate it, it was extended for 3 more years and a new rapporteur will have to be nominated.

3. The resolution on **Trafficking in women and girls** (2004/45)<sup>23</sup> and the one creating the mandate of a **Special Rapporteur on trafficking in persons, especially in women and children** (2004/110)<sup>24</sup> were both adopted by consensus. Yet, there were strong concerns amongst both NGOs and members States that the consultation process on the creation of the special mechanism had not been broad and transparent enough for the international community to fully share ownership and support for this new mandate.
4. The resolution on **the Right of everyone to the enjoyment of the highest attainable standard of physical and mental health** (2004/27)<sup>25</sup>. The 2004 resolution includes some references to children but no specific focus. The mandate of the Special Rapporteur is renewed. Yet, although some of the issues he tackles in his reports are vaguely mentioned and there is a clear reference to reproductive health both in this and in the omnibus resolution on the rights of the child, the resolution offers no special support for his mandate. This is a pity, given the sharp hostility he met from the US and some fundamentalist religious groups/governments on that issue.
5. Other resolutions also affecting children include the **Resolution on Torture and other cruel, inhuman or degrading treatment or punishment** (2004/41)<sup>26</sup>, which once again reminds States that “corporal punishment, including of children, can amount to cruel, inhuman or degrading punishment or even torture”<sup>27</sup>. It also invites States Parties to the Convention to incorporate a gender perspective and information concerning children and juveniles when submitting reports to the Committee against Torture”<sup>28</sup>.

## Special Rapporteurs

The Subgroup invited some SRs to Morning Briefings or Side Events (Mr. Theo Van Boven, SR on Torture and other cruel, inhuman or degrading treatment; Mr. Juan Miguel Petit, SR on the Sale of children, child prostitution and child pornography; Mr. Miloon Kothari, SR on the Right to adequate Housing; Ms. Katarina Tomasevski, SR on the Right to education; Yakin Ertürk, SR on Violence against Women, Henrik Haggstrom, Programme Officer for the Office of the Special Representative of the Secretary General for Children and Armed Conflict)

Particularly, Caucus Morning Briefings were very useful for child rights NGOs to enter in a direct dialogue with them. It helped them to better understand whether and how different SRs deal with

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<sup>22</sup> 2004/25 OP 9 (e), (f).

<sup>23</sup> To see the resolution on Trafficking in women and girls, go to:  
[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/0cfc9575008463c1256e82002f683b/\\$FILE/G0413868.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/0cfc9575008463c1256e82002f683b/$FILE/G0413868.pdf)

<sup>24</sup> To see the report of the SR on trafficking in persons, especially in women and children, go to:  
[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/11baed6c86b754f0c1256e830057508e/\\$FILE/G0413962.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/11baed6c86b754f0c1256e830057508e/$FILE/G0413962.pdf)

<sup>25</sup> To see the resolution on the Right of everyone to the enjoyment of the highest attainable standard of physical and mental health, go to:  
[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/7022446690f820cec1256e82003192f6/\\$FILE/G0413757.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/7022446690f820cec1256e82003192f6/$FILE/G0413757.pdf)

<sup>26</sup> To see the resolution on Torture and other cruel, inhuman or degrading treatment or punishment, go to:  
[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/0cfc9575008463c1256e82002f683b/\\$FILE/G0413868.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/0cfc9575008463c1256e82002f683b/$FILE/G0413868.pdf)

<sup>27</sup> 2004/41, § 6.

<sup>28</sup> 2004/41, § 18.

children's right issues in the exercise of their mandate. It also gave the possibility to discuss possible strategies for the future. In this regard, most of the present SRs and NGO members agreed that more intensive collaboration would be needed.

Katarina Tomasevski explained why she was opposed to the renewal of the mandate of the SR on the Right to education, as governments would do everything to hinder the SR from doing his/her job properly. Yakin Ertürk argued that a common study on trafficking in children by several SRs would probably be more useful than the establishment of a new SR mandate on the issue. Mr. Petit shared his experiences and concerns, as well as some suggestions for the future, including the improvement of the capacity of his mandate to intervene in urgent situations. Henrik Haggstrom discussed the current work and future possibilities of his office. He said that the SR's report dealt increasingly with thematic issues, such as killing and maiming, sexual exploitation and abduction. He explained that Olara Otunnu himself was unable to attend the briefing because of problems to be solved regarding the lists of countries that use children in armed conflict. Finally, Mr. Miloon Khotari explained that he wished to increase collaboration with the CRC and national NGOs in the future. He further underlined that children's right to adequate housing is widely violated in both the north and south. Most SRs said they would be in touch with Mr. Pinheiro, the independent expert on the UN Study on Violence against Children, in order to contribute to his report. (see detailed reports of each briefing and side event in annex)

Report on the sale of children, child prostitution and child pornography by Mr Juan Miguel Petit (E/CN.4/2004/9 and Add.1-2)<sup>29</sup>

The report is based on information submitted to the SR in reply to a questionnaire sent to all Governments, International Organizations and Non-Governmental Organizations on 29<sup>th</sup> July 2003. Firstly, the SR's report welcomes the entry into force of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, on December 25<sup>th</sup> 2003.

Moreover, Mr. Petit underlined the importance of comprehensive strategies for combating commercial (and other) sexual exploitation of children. They should primarily be based on prevention, but can not be separated from policies on protection, recovery and participation. It is of utmost importance to tackle the problem at all levels (local, regional, national and international). Further, as commercial sexual exploitation of children is a "multifaceted and evolving phenomenon"<sup>30</sup> strategies to combat it must be adapted to the different local conditions. However, some conditions are crucial for a successful strategy: "political will; a sound knowledge base; an institutional presence; a multidisciplinary approach and coordination between different institutions; the participation of children and their families; outreach to the grass-roots level, especially to marginalized groups; attention to gender issues and the concerns of groups exposed to higher risks of sexual exploitation, as well as adequate human and financial resources."<sup>31</sup>

In his oral statement to the plenary session, Mr. Petit presented some of his findings on his missions to France and Brazil and underlined that the mandate of the Special Rapporteur on Human Trafficking

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<sup>29</sup> To see the Report on the sale of children, child prostitution and child pornography by Mr Juan Miguel Petit: [http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/1384bb1d9b0173cdc1256e3c0036210f/\\$FILE/G0410040.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/1384bb1d9b0173cdc1256e3c0036210f/$FILE/G0410040.pdf)

Addendum 1 on mission to France:

[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/cbba1e5f4208f627c1256df7002f3b5a/\\$FILE/G0316328.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/cbba1e5f4208f627c1256df7002f3b5a/$FILE/G0316328.pdf)

Addendum 2 on mission to Brazil:

[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/aafefb3d35fbde1dc1256e580038281d/\\$FILE/G0410754.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/aafefb3d35fbde1dc1256e580038281d/$FILE/G0410754.pdf)

<sup>30</sup> E/CN.4/2004/9 §126

<sup>31</sup> E/CN.4/2004/9 §127

should be based on a broad definition of trafficking (as in the Palermo Protocol), and not only address trafficking in women and girls. (see resolution E/CN.4/2004/L.62.)

#### Report on the UN Study on Violence Against Children

Mr. Paulo Sergio Pinheiro, Independent Expert leading the UN SG's Study on violence against children, addressed the Commission on April 5<sup>th</sup>. He referred to his concept paper<sup>32</sup> and said it "outlines the objectives and scope of the study." He underlined that his intention was to "provide a [...] global picture of violence against children" and that he will provide "clear recommendations for the improvement of legislation, policy and programs to prevent and respond to violence against children." The study will not only pay attention to children as victims of violence, but also to children as perpetrators of violence against other children. Further, it will specially focus on "violence against children in the family, the community, including schools, care and residential institutions, detention facilities and prisons and in the administration of justice". The issue of children in armed conflict will not be included.

Mr. Pinheiro further underlined that NGOs "have already proven to be key partners" and welcomed the establishment of the Subgroup on children and violence within the NGO Group for the Convention on the Rights of the Child. He also welcomed the establishment of an Advisory Panel to the Study by NGOs and underlined the importance of child participation in the study. He went on saying that "the process of preparation of the Study should be viewed as an opportunity to increase attention to violence against children at the national, regional and international levels. It should be a catalyst for the mobilization of resources and political will [...]".

Finally, Mr Pinheiro reported that a small secretariat to support his work was established in Geneva. However, he regretted that "no provision has been made in the regular budget" of the UN for the study, which therefore depends from voluntary contributions. He concluded by stating: "I would urge the Commission to call on all States to provide resources for the study, so that it can live up to its promise and serve as a dynamic force for the change with respect to the disturbing problem of violence against children"<sup>33</sup>.

#### Report on the Right to education by Ms Katarina Tomasevski (E/CN.4/2004/45 and Add.1-2)<sup>34</sup>

Ms Tomasevski expressed her disappointed about the increasing obstacles she met in the exercise of her mandate and recommended not to renew the mandate of the Special Rapporteur on the right to education. She further urged the Commission - and UN in general - to finally adopt a human rights based approach towards education (as mentioned above, this year's UNHCR resolution on Education did once again fail to do so.). While backing this claim, many NGOs reaffirmed the need for the mandate itself to be maintained. They believe that this mechanism can – if surely only to some extent – help to monitor education policies and problems in different countries.

The SR also focused on the financial obstacles to the realization of the right to education and particularly deplored that governments apparently prefer spending money for military purposes than

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<sup>32</sup> E/CN.4/2004/68, see:

[http://www.unhchr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.2004.68.En?Opendocument](http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.2004.68.En?Opendocument)

<sup>33</sup> To read his statement, go to: <http://www.unhchr.ch/html/menu2/6/crc/speechCHR60.doc>

<sup>34</sup> To see the report on the Right to Education by Ms Tomasevski, go to:

[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/05af86414ce903c9c1256e3000357284/\\$FILE/G0410332.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/05af86414ce903c9c1256e3000357284/$FILE/G0410332.pdf)

- Addendum 1 on mission to China:

[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/d2a0154274b5f3f3c1256dff002ff8f4/\\$FILE/G0317038.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/d2a0154274b5f3f3c1256dff002ff8f4/$FILE/G0317038.pdf)

- Addendum 2 on mission to Colombia:

[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/ebe73a2be6b6973fc1256e4a0039d6c8/\\$FILE/G0410986.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/ebe73a2be6b6973fc1256e4a0039d6c8/$FILE/G0410986.pdf)



for education: not even primary education is free in a majority of countries. Moreover, she raised concern about the fact that education has become a traded service. Other important shortcomings are the lack of protection of teachers' rights, especially in China and Colombia, the two countries she visited last year; discrimination against girls for whom marriage and pregnancy constitute an obstacle to attend school in numerous States; as well as the use of education for propaganda by some governments.

#### References to children by other SRs and Independent Experts reports

**Ms. Anne-Marie Lizin, the Independent Expert on the question of Human rights and extreme poverty** ([E/CN.4/2004/43](#))<sup>35</sup> stated that "the total world military budget for 2003 alone would cover the cost of building all the schools that Africa needs for young people aged from 0 to 18 years and pay their teachers for 15 years."<sup>36</sup> She also denounced "the denial of an individual's right to existence, arising from the failure to register a birth, which means persons can be sold or married off or fall victim to traffickers [...] The situation of illegitimate children as regards birth registration or identity cards all too often conceals unacceptable forms of discrimination [...]".<sup>37</sup> The Independent expert also focuses on the "lively interest in civil registration policies"<sup>38</sup> in § 44 and 45 of her report.

**Mr. Jean Ziegler, Special Rapporteur on the right to food** ([E/CN.4/2004/10](#) and [Add.1-2](#))<sup>39</sup> noted that every 7 seconds a child dies from consequences linked to the lack of adequate food. During the presentation of the second Addendum to his report, concerning his mission to the Occupied Palestinian Territories, he mentioned that 22% of the children under the age of 10 there, suffer severe malnutrition.

**Ms. Fatma Zohra Ouhachi-Vesely, Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights** ( [E/CN.4/2004/46](#) and [Add.1](#) and [Corr.1](#) and [Add.2-3](#) ) raised concern about the fact that 70% of working children are occupied in the agricultural sector, where the use of toxic products is very common.

Finally, **the Special Rapporteur on the right to adequate housing, Mr. Miloon Khotari** ([E/CN.4/2004/48](#) and [Add.1, 2, 3](#) ) made several references to the CRC at the beginning of his report.

## **6. The Children's Human Rights Caucus: Catalyzing and reaching out**

The Subgroup covered the whole CHR from March 15<sup>th</sup> to April 23<sup>rd</sup>. It disseminated a total of 8 "info sheets", providing reports on the most important developments at the commission and informing about side events related to children's rights. The Caucus also supported side events organized by child

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<sup>35</sup> To see the report of Ms. Anne-Marie Lizin, the Independent Expert on the question of Human rights and extreme poverty:

[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/67750bb7d0eb1004c1256e7b002c4a10/\\$FILE/G0411124.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/67750bb7d0eb1004c1256e7b002c4a10/$FILE/G0411124.pdf)

<sup>36</sup> [E/CN.4/2004/43](#), §6.

<sup>37</sup> [E/CN.4/2004/43](#), §42.

<sup>38</sup> [E/CN.4/2004/43](#), §44.

<sup>39</sup> To see the report of Mr. Jean Ziegler, Special Rapporteur on the right to food:

[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/34441bf9efe3a9e3c1256e6300510e24/\\$FILE/G0410777.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/34441bf9efe3a9e3c1256e6300510e24/$FILE/G0410777.pdf)

- Add.1 on the mission to Bangladesh:

[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/0308a990a753d049c1256de400365bd3/\\$FILE/G0316457.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/0308a990a753d049c1256de400365bd3/$FILE/G0316457.pdf)

- Add.2 on the mission to the Occupied Palestinian Territories:

[http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/6e9719ba73a9c45bc1256e00002eb053/\\$FILE/G0316489.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/6e9719ba73a9c45bc1256e00002eb053/$FILE/G0316489.pdf)

rights NGOs. This year, the Subgroup publicized and produced reports on the following 13 Side Events:

- ❑ The Security Barrier/Separation Wall in Light of International Human Rights and International Humanitarian Law (organized by several NGOs including Save the Children)
- ❑ Children's Rights (organized by the Coordinating Board of Jewish Organizations)
- ❑ Briefing on Human rights in Democratic Republic of Congo at half-way of the democratic transition (organized by the FIDH)
- ❑ Health, rights and children: What role for BINGOs<sup>40</sup> and PINGOs<sup>41</sup>? Challenges and promises (organized by the NGO subgroup on the child's rights to health)
- ❑ The Right to Education (briefing by Katarina Tomasevski)
- ❑ Kids behind bars (organized by the NGO subgroup on juvenile justice)
- ❑ Right to education (organized by the International Organization for the Development of Freedom of Education (OIDEL))
- ❑ The Secretary-General's Study on Children and Violence (briefing with the independent expert Paulo Sergio Pinheiro, the study director and NGO representatives including under 18).
- ❑ Protecting the rights of children deprived of parental care: the need for standards (organized by UNICEF)
- ❑ Prevention Strategies to Address the Sexual Exploitation of Children: Learning From Experience; with Juan Miguel Petit (organized by the NGO subgroup on the sexual exploitation of children)
- ❑ Education for the sake of peace
- ❑ We are Family! Prejudice and Discrimination Against Non-Traditional Families

The Caucus also organized the following Morning Briefings:

- ❑ Children's Rights in Palestine
- ❑ Children's Rights in Colombia
- ❑ Children's Rights in Afghanistan
- ❑ CRC Committee Upcoming Issues
- ❑ Torture, Inhuman or Degrading Treatment or Punishment of Children; with Theo Van Boven
- ❑ UNICEF Priorities at CHR 60<sup>th</sup> Session & Children's Right to Adequate Housing (with Special Rapporteur Miloon Kothari)
- ❑ The Setting the Standard Project on Child Protection and Follow-Up Discussion to Resolution on Trafficking
- ❑ Violence against girls; with Yakin Ertürk, SR on Violence against Women
- ❑ At What Age? Research on Age-Determined Child Rights
- ❑ Child participation in the UN study on violence against children by Save the children
- ❑ Sexual Exploitation of Children and Children in Armed Conflict; with Juan Miguel Petit
- ❑ Why do adolescents volunteer as soldiers?
- ❑ Final Caucus Meeting

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<sup>40</sup> Business Interest Non-Governmental Organizations

<sup>41</sup> Public Interest Non-Governmental Organizations

**Annexes:**

- Resolution 2004/48 on the Rights of the Child p. 19
- NGO proposal of omnibus resolution under item 13 p. 36
- Resolution 2004/47 on the Abduction of Children in Africa p. 57
- Children's human rights Caucus timetable p. 61
- High-level segment's focus on children's rights p. 63
- Plenary Session focussing on children's rights p. 73
- Children's human rights Caucus morning briefings p. 97
- Side events focussing on children's rights p. 120



COMMISSION ON HUMAN RIGHTS - 60<sup>TH</sup> SESSION

**NGO GROUP FOR THE CONVENTION ON THE RIGHTS OF THE CHILD  
SUB-GROUP ON THE COMMISSION ON HUMAN RIGHTS**

**? RESOLUTION 2004/48?**

**RIGHTS OF THE CHILD**

## 2004/48. Rights of the child

*The Commission on Human Rights,*

*Emphasizing* the importance of the Convention on the Rights of the Child and that its provisions and other relevant human rights instruments must constitute the standard in the promotion and protection of the rights of the child, reaffirming that the best interests of the child shall be a primary consideration in all actions concerning children, and reaffirming also the general principles of, inter alia, non-discrimination, participation, and survival and development,

*Bearing in mind* the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict,

*Reaffirming* the World Declaration on the Survival, Protection and Development of the Child and the Plan of Action for the Implementation of the World Declaration on the Survival, Protection and Development of the Child in the 1990s adopted in September 1990 by the World Summit for Children (A/45/625, annex), the United Nations Millennium Declaration and the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights,

*Reaffirming also* the outcome document of the special session of the General Assembly on children entitled “A world fit for children”, and the firm commitments contained therein to promote and protect the rights of each child - every human being below the age of 18 years - and the integration of child rights issues into the outcome documents of all major United Nations conferences, special sessions and summits,

*Recalling* all its previous resolutions relating to the rights of the child, in particular, resolution 2003/86 of 25 April 2003, and taking note of General Assembly resolution 58/157 of 22 December 2003,

*Welcoming* the work of the Committee on the Rights of the Child in examining the progress made by States parties in implementing the obligations undertaken in the Convention on the Rights of the Child and in providing recommendations to States parties on its implementation and, in cooperation with the Office of the United Nations High Commissioner for Human Rights, in enhancing awareness of the principles and provisions of the Convention, and taking note of the conclusions of the general discussion on the rights of indigenous children held in September 2003 (CRC/C/133, annex II),

*Taking note* of the issuance by the Committee on the Rights of the Child of general comment No. 3 on HIV/AIDS and the rights of the child, general comment No. 4 on adolescent health and development in the context of the Convention on the Rights of the Child and general comment No. 5 on general measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6),

*Welcoming* the increase of the membership of the Committee on the Rights of the Child from ten to eighteen and aware of the need to continue to address the working methods of the Committee with the view to enabling it to deal efficiently with its important and increasing workload,

*Welcoming also* the start of the Secretary-General's study on the question of violence against children, as well as the establishment of a secretariat, and taking note of the report of the World Health Organization entitled *World Report on Violence and Health*,

*Profoundly concerned* that the situation of children in many parts of the world remains critical as a result of the persistence of poverty, social inequality, inadequate social and economic conditions in an increasingly globalized economic environment, pandemics, in particular HIV/AIDS, malaria, tuberculosis, natural disasters, armed conflicts, displacement, exploitation, illiteracy, hunger, intolerance, discrimination, gender inequality, discrimination on the basis of disability and inadequate legal protection, and convinced that urgent and effective national and international action is called for,

*Recognizing* that environmental damage has potentially negative effects on children and their enjoyment of their life, health and a satisfactory standard of living,

*Underlining* the need for mainstreaming a gender perspective in all policies and programmes relating to children,

*Concerned* that, in conflict situations, children continue to be victims and deliberate targets of attacks with consequences that are often irreversible for their physical and emotional integrity,

*Taking note with appreciation* of the reports of the Secretary-General on the status of the Convention on the Rights of the Child (E/CN.4/2004/67), of the Special Rapporteur on the right to education (E/CN.4/2004/45 and Add.1-2), of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2004/9 and Add.1-2), and taking note of the reports of the Special Representative of the Secretary-General for Children and Armed Conflict to the General Assembly at its fifty-eighth session (A/58/328 and Corr.1) and to the Commission at its sixtieth session (E/CN.4/2004/70), the report of the Secretary-General on children and armed conflict (S/2003/1053 and Corr.1), the progress report of the Secretary-General on the study on the question of violence against children (E/CN.4/2004/68) and the Secretary-General's bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13),

*Welcoming* the entry into force on 25 December 2003 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,

*Concerned* at the number of illegal adoptions, of children growing up without parents and of child victims of different forms of violence, abuse, exploitation and neglect within and outside the family,

*Recognizing* that the family is the basic unit of society and as such should be strengthened; that it is entitled to receive comprehensive protection and support; that the primary responsibility for the protection, upbringing and development of children rests with the family; that all institutions of society should respect children's rights and secure their well-being and render appropriate assistance to parents, families, legal guardians and other caregivers so that children can grow and develop in a safe and stable environment and in an

atmosphere of happiness, love and understanding, bearing in mind that in different cultural, social and political systems, various forms of family exist,

*Recognizing also* that partnership between Governments, international organizations and relevant bodies and organizations of the United Nations system, in particular the United Nations Children's Fund, and all actors of civil society, in particular non-governmental organizations, as well as the private sector, is important to realize the rights of the child,

*Bearing in mind* the International Decade for a Culture of Peace and Non-Violence for the Children of the World, 2001-2010 and recalling the Declaration and Programme of Action on a Culture of Peace, which serve as the basis for the International Decade, *Reaffirming* the interrelatedness of all human rights and the necessity of taking into account the universality, indivisibility, interdependence and interrelatedness of civil, political, economic, social and cultural rights, including the right to development, to promote and protect the rights of the child,

## I. IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD AND OTHER INSTRUMENTS

1. *Urges once again* the States that have not yet done so to consider signing and ratifying or acceding to the Convention on the Rights of the Child as a matter of priority and, concerned at the great number of reservations to the Convention, urges States parties to withdraw reservations incompatible with the object and purpose of the Convention and to consider reviewing other reservations with a view to withdrawing them;

2. *Urges* States that have not yet done so to consider signing and ratifying or acceding to the Optional Protocols to the Convention on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, and calls upon States parties to implement them fully, in accordance with the best interests of the child;

3. *Calls upon* States parties to implement the Convention fully and to ensure that the rights set forth in the Convention are respected without discrimination of any kind and that the best interests of the child are a primary consideration in all actions concerning children, to recognize the child's inherent right to life and that the child's survival and development are ensured to the maximum extent possible, and that the child is able to express his/her views freely in all opinions on matters affecting him/her and that these views are listened to and given due weight in accordance with his/her age and maturity;

4. *Stresses* that the achievement of the goals of the World Summit for Children and the special session of the General Assembly on children will contribute to the implementation of the Convention;

5. *Urges* States parties to take all appropriate measures for the implementation of the rights recognized in the Convention, bearing in mind article 4 of the Convention, by:

(a) Strengthening relevant governmental structures for children, including, where appropriate, ministers in charge of child issues and independent commissioners for the rights of the child;

(b) Ensuring adequate and systematic training in the rights of the child for professional groups working with and for children, including specialized judges, law enforcement officials,

lawyers, social and community workers, medical doctors, health professionals and teachers, and coordination among various government bodies involved in children's rights, and encourages States and relevant bodies and organizations of the United Nations system to continue to promote education and training in this regard;

6. *Calls upon* all States to end impunity for perpetrators of crimes committed against children, recognizing in this regard the contribution of the establishment of the International Criminal Court as a way to prevent violations of human rights and international humanitarian law, in particular when children are victims of serious crimes, including the crime of genocide, crimes against humanity and war crimes, and to bring perpetrators of such crimes to justice, and not to grant amnesties for these crimes;

7. *Encourages* all States to strengthen their national statistical capacities and to use statistics disaggregated, inter alia, by age, gender and other relevant factors that may lead to disparities and other statistical indicators at the national, subregional, regional and international levels to develop and assess social policies and programmes so that economic and social resources are used efficiently and effectively for the full realization of the rights of the child;

8. *Calls upon* States parties:

(a) To ensure that the members of the Committee on the Rights of the Child are of high moral standing and recognized competence in the field covered by the Convention, serving in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems;

(b) To strengthen their cooperation with the Committee and to comply in a timely manner with their reporting obligations under the Convention and the Optional Protocols thereto, in accordance with the guidelines elaborated by the Committee, as well as to take into account the recommendations made by the Committee in the implementation of the provisions of the Convention;

9. *Decides* to request the Secretary-General:

(a) To ensure the provision of appropriate staff and facilities from the United Nations regular budget for the effective and expeditious performance of the functions of the Committee, and invites the Committee to continue to enhance its constructive dialogue with the States parties and its transparent and effective functioning;

(b) To take note of the Committee's ongoing efforts to reform its working methods and to give further consideration to the proposals made thus far, inter alia, the possibility of working in two parallel chambers;

10. *Requests* the Office of the United Nations High Commissioner for Human Rights, United Nations mechanisms, all relevant organs of the United Nations system, in particular special representatives, special rapporteurs and working groups, regularly and systematically to incorporate a strong child rights perspective throughout all activities in the fulfilment of their mandates, as well as to ensure that their staff is trained in child protection matters, and calls upon States to cooperate closely with them;

11. *Calls upon* all States and relevant actors concerned to continue to cooperate with the special rapporteurs and special representatives of the United Nations system in the implementation of their mandates, requests the Secretary-General to provide them with appropriate staff and facilities from the United Nations regular budget, when this is in accordance with their respective mandates, invites States to continue to make voluntary contributions, where appropriate, and urges all relevant parts of the United Nations system to provide them with comprehensive reporting to make the full discharge of their mandates possible;

## II. PROTECTION AND PROMOTION OF THE RIGHTS OF THE CHILD

### **Identity, family relations and birth registration**

12. *Calls upon* all States:

(a) To continue to intensify efforts to ensure the registration of all children, irrespective of their status, immediately after birth, including by the consideration of simplified, expeditious and effective procedures;

(b) To undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations, as recognized by law, without unlawful interference, and, where a child is illegally deprived of some or all of the elements of his or her identity, to provide appropriate assistance and protection with a view to re-establishing speedily his or her identity;

(c) To ensure as far as possible the right of the child to know and be cared for by his or her parents; to ensure that the child shall not be separated from his or her parents against their will, except when the competent authorities, subject to judicial review, determine, in accordance with applicable law and procedures and giving all interested parties an opportunity to participate in the proceedings and make their views known, that such separation is necessary for the best interests of the child, consistent with article 9 of the Convention on the Rights of the Child;

(d) To address cases of international abduction of children, bearing in mind that the best interest of the child shall be the primary consideration, and encourages States to engage in multilateral and bilateral cooperation to ensure, inter alia, the return of the child to the country where he or she resided immediately before the removal or retention and, in this respect, to pay particular attention to cases of international abduction of children by one of their parents or other relatives;

(e) To guarantee, to the extent consistent with each State's obligations, the right of a child whose parents reside in different States to maintain on a regular basis, except if it is contrary to the child's best interests, personal relations and direct contacts with both parents by providing means of access and visitation in both States and by respecting the principle that both parents have common responsibilities for the upbringing and development of their children;

(f) To take all appropriate measures, especially educational measures, to further promote the responsibility of both parents in the education, development and raising of children;

## **Poverty**

13. *Reaffirms* that investments in favour of children and the realization of their rights contribute to their social and economic development and are among the most effective ways to eradicate poverty in the long term, and therefore encourages States, inter alia, to allocate financial resources particularly in areas that contribute to the development of children in a holistic manner;

14. *Calls upon* States and the international community to cooperate, support and participate in the global efforts for poverty eradication at the global, regional and country levels, recognizing that strengthened availability and effective allocation of resources are required at all of these levels, in order to ensure that all the development and poverty reduction goals, as set out in the United Nations Millennium Declaration, are realized within their time framework, and to promote the enjoyment of the rights of the child;

## **Health**

15. *Calls upon* all States to take all appropriate measures to develop sustainable health systems and social services and to ensure access to such systems and services without discrimination, and to pay particular attention to adequate food and nutrition to prevent disease and malnutrition, to prenatal and post-natal health care, to special needs of adolescents, to reproductive and sexual health and to threats from substance abuse and violence, in particular to all vulnerable groups, and calls upon all States parties to take all necessary measures to ensure the right of all children, without discrimination, to the enjoyment of the highest attainable standard of health in accordance with article 24 of the Convention on the Rights of the Child and the World Health Organization's definition of health;

16. *Also calls upon* all States to give support and rehabilitation to children and their families affected by HIV/AIDS and to involve children and their caregivers, as well as the private sector, to ensure the effective prevention of HIV infections through correct information and access to voluntary and confidential care, treatment and testing, including pharmaceutical products and medical technologies affordable to all, giving due importance to the prevention of mother-to-child transmission of the virus;

## **Education**

17. *Calls upon* all States:

(a) To recognize the right to education on the basis of equal opportunity by making primary education free and compulsory for all, without discrimination and ensuring that all children, including girls, children in need of special protection, children with disabilities, indigenous children, children belonging to minorities and children from different ethnic origins, have access without discrimination to education of good quality, as well as making secondary education generally available and accessible for all, in particular by the progressive introduction of free education, bearing in mind that special measures to ensure equal access, including affirmative action, contribute to achieving equal opportunity and combating exclusion, and that the education of the child is carried out and that States parties develop and implement programmes for the education of the child in accordance with articles 28 and 29 of the Convention on the Rights of the Child;

(b) To develop national plans of action, or to strengthen existing ones, in order to achieve the objectives of Education for All so as to ensure that all boys and girls complete a full course of primary schooling, and reaffirms the coordinating role of the United Nations Educational, Scientific and Cultural Organization in this regard;

(c) To design and implement programmes to provide social services and support to pregnant adolescents and adolescent mothers, in particular to enable them to continue and complete their education;

(d) To promote an educational setting that eliminates all barriers that impede the schooling of pregnant adolescents and adolescent mothers;

(e) To take all appropriate measures to prevent racism and discriminatory and xenophobic attitudes and behaviour through education, keeping in mind the important role that children play in changing these practices;

(f) To ensure that children, from an early age, benefit from education and from participation in activities which develop respect for human rights and to emphasize the practice of non-violence towards oneself and others, with the aim of instilling in them the values and goals of a culture of peace, and invites States to develop national strategies for human rights education which are comprehensive, participatory and effective;

(g) To ensure that education programmes and materials reflect fully the promotion and protection of human rights and values of peace, tolerance and gender equality, using every opportunity presented by the International Decade for a Culture of Peace and Non-Violence for the Children of the World (2001-2010);

(h) To harness the rapidly evolving information and communication technologies to support education at an affordable cost, including open and distance education, while reducing inequality in access and quality;

18. *Urges* States:

(a) To take measures to protect students from violence, injury or abuse, including sexual abuse and intimidation or maltreatment in schools, to establish complaint mechanisms that are age appropriate and accessible to children and to undertake thorough and prompt investigations of all acts of violence and discrimination;

(b) To take measures to eliminate the use of corporal punishment in schools;

### **Freedom from violence**

19. *Welcomes* the establishment of a secretariat for the Secretary-General's study on the question of violence against children in collaboration with the Office of the United Nations High Commissioner for Human Rights, the United Nations Children's Fund and the World Health Organization, invites Member States, United Nations bodies and organizations, including the Committee on the Rights of the Child, as well as other relevant intergovernmental organizations, to provide substantive and, where appropriate, financial support, including through voluntary contributions, for the effective conduct of the study and



invites non-governmental organizations to contribute to the study, taking into account the recommendations of the Committee made following the general discussions on violence against children held in September 2000 and 2001, and, further, encourages the independent expert to seek also the participation of children in the study, taking into account their age and maturity;

20. *Requests* the Secretary-General to submit a substantive progress report on the study to the Commission at its sixty-first session and the final in-depth study to the Commission at its sixty-second session for its consideration, with the aim of evaluating all possible complementary measures and future actions;

21. *Requests* all relevant human rights mechanisms, in particular special rapporteurs and working groups, within their mandates, to pay attention to the special situation of violence against children, reflecting their experience in the field;

22. *Calls upon* all States to take all appropriate national, bilateral and multilateral measures to prevent and to protect children from all forms of physical, sexual and psychological violence, including violence occurring, inter alia, in the family, in public or private institutions, in society, or perpetrated or tolerated by private individuals, juridical persons or the State;

23. *Also calls upon* all States to investigate and submit cases of torture and other forms of violence against children to the competent authorities for the purpose of prosecution and to impose appropriate disciplinary or penal sanctions against those responsible for such practices;

### III. NON-DISCRIMINATION

24. *Calls upon* all States to ensure that children are entitled to their civil, political, economic, social and cultural rights without discrimination of any kind;

25. *Notes with concern* the large number of children, particularly girls, among the victims of racism, racial discrimination, xenophobia and related intolerance, and stresses the need to incorporate special measures, in accordance with the principle of the best interests of the child and respect for his or her views, in programmes to combat racism, racial discrimination, xenophobia and related intolerance, in order to give priority attention to the rights and the situation of children who are victims of these practices, and calls upon States to provide special support and ensure equal access to services for those children;

26. *Calls upon* all States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist not to deny to a child belonging to such a minority or who is indigenous the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language;

#### **The girl child**

27. *Calls upon* all States to take all necessary measures, including legal reforms where appropriate:

(a) To ensure the full and equal enjoyment by girls of all human rights and fundamental freedoms, to take effective actions against violations of those rights and freedoms, and to base programmes and policies on the rights of the child, taking into account the special situation of girls;

(b) To eliminate all forms of discrimination against girls and all forms of violence, including female infanticide and prenatal sex selection, rape, sexual abuse and harmful traditional or customary practices, including female genital mutilation, son preference, marriages without free and full consent of the intending spouses, early marriages and forced sterilization, including addressing their root causes, by enacting and enforcing legislation and, where appropriate, formulating comprehensive, multidisciplinary and coordinated national plans, programmes or strategies protecting girls;

### **Children with disabilities**

28. *Calls upon* all States to take necessary measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms by children with disabilities in both the public and private spheres, including access to good quality education and health care, protection from violence, abuse and neglect and to develop and, where it already exists, to enforce legislation against their discrimination to ensure their dignity, promote their self-reliance and facilitate their active participation and integration in the community, taking into account the particularly difficult situation of children with disabilities living in poverty;

29. *Encourages* the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities to consider in its deliberations children with disabilities;

### **Migrant children**

30. *Calls upon* all States to ensure, for migrant children, the enjoyment of all human rights as well as access to health care, social services and education of good quality; States should ensure that migrant children and especially those who are unaccompanied, in particular victims of violence and exploitation, receive special protection and assistance;

## **IV. PROTECTION AND PROMOTION OF THE RIGHTS OF CHILDREN IN PARTICULARLY DIFFICULT SITUATIONS**

### **Children working and/or living on the street**

31. *Calls upon* all States to prevent violations of the rights of children working and/or living on the street, including discrimination, arbitrary detention and extrajudicial, arbitrary and summary executions, torture, all kinds of violence and exploitation, and to bring the perpetrators to justice, to adopt and implement policies for the protection, social and psychosocial rehabilitation and reintegration of these children, and to adopt economic, social and educational strategies to address the problems of children working and/or living on the street;

### **Refugee and internally displaced children**

32. *Calls upon* all States to protect refugee, asylum-seeking and internally displaced children, in particular those who are unaccompanied, who are particularly exposed to risks in connection with armed conflict, such as recruitment, sexual violence and exploitation, to pay particular attention to programmes for voluntary repatriation and, wherever possible, local integration and resettlement, to give priority to family tracing and reunification and, where appropriate, to cooperate with international humanitarian and refugee organizations;

### **Child labour**

33. *Calls upon* all States to translate into concrete action their commitment to the progressive and effective elimination of child labour that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, and to immediately eliminate the worst forms of child labour, to promote education as a key strategy in this regard, including the creation of vocational training and apprenticeship programmes and the integration of working children into the formal education system, as well as to examine and devise economic policies, where necessary, in cooperation with the international community, that address factors contributing to these forms of child labour;

34. *Urges* all States that have not yet done so to consider ratifying and implementing the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) and the Convention concerning the Minimum Age for Employment, 1973 (No. 138) of the International Labour Organization and calls upon States parties to these instruments to implement them fully and to comply in a timely manner with their reporting obligations;

### **Children alleged to have or recognized as having infringed penal law**

35. *Calls upon*:

(a) All States, in particular, States in which the death penalty has not been abolished, to comply with their obligations as assumed under relevant provisions of international human rights instruments, including in particular articles 37 and 40 of the Convention on the Rights of the Child and articles 6 and 14 of the International Covenant on Civil and Political Rights, keeping in mind the safeguards guaranteeing protection of the rights of those facing the death penalty and guarantees set out in Economic and Social Council resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989, and calls upon those States to abolish by law as soon as possible the death penalty for those aged under 18 at the time of the commission of the offence;

(b) All States to protect children deprived of their liberty from torture and other cruel, inhuman or degrading treatment or punishment;

(c) All States to take appropriate steps to ensure compliance with the principle that depriving children of their liberty should be used only as a measure of last resort and for the shortest appropriate period of time, in particular before trial, and to ensure that, if they are arrested, detained or imprisoned, children are provided with adequate legal assistance and are separated from adults, to the greatest extent feasible, unless it is considered in their best interest not to do so, and also to take appropriate steps to ensure that no child in detention is sentenced to forced labour, corporal punishment, or deprived of access to and provision of health-care

services, hygiene and environmental sanitation, education, basic instruction and vocational training, taking into consideration the special needs of children with disabilities in detention, in accordance with their obligations under the Convention on the Rights of the Child;

36. *Encourages* States to develop national disaggregated statistics in the area of juvenile justice, including statistics on children in detention;

## V. PREVENTION AND ERADICATION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

37. *Calls upon* all States:

(a) To take all appropriate national, bilateral and multilateral measures, inter alia to develop national laws and allocate resources for the development of long-term policies, programmes and practices and to collect comprehensive and disaggregated gender-specific data, to facilitate the participation of child victims of sexual abuse and exploitation in the development of strategies and to ensure the effective implementation of relevant international instruments concerning the prevention and the combat of trafficking and sale of children for any purpose or in any form, including the transfer of the organs of the child for profit, child prostitution and child pornography, and encourages all actors of civil society, the private sector and the media to cooperate in efforts to this end;

(b) To increase cooperation at all levels to prevent and dismantle networks trafficking in children;

(c) To consider ratifying or acceding to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

(d) To criminalize and effectively penalize all forms of sexual exploitation and sexual abuse of children, including within the family or for commercial purposes, child pornography and child prostitution, child trafficking, child sex tourism, the sale of children and their organs, and the use of the Internet for these purposes, while ensuring that, in the treatment by the criminal justice system of children who are victims, the best interests of the child shall be a primary consideration, and to take effective measures against the criminalization of children who are victims of exploitation and effective measures to ensure prosecution of offenders, whether local or foreign, by the competent national authorities, either in the country where the crime was committed, or in the offender's country of origin, or in the country of destination, in accordance with due process of law;

(e) In cases of the sale of children, child prostitution and child pornography, to address effectively the needs of victims, including their physical and psychological recovery and full reintegration into society;

(f) To combat the existence of a market that encourages such criminal practices against children and factors leading to these practices, including through the adoption and effective application of preventive and enforcement measures targeting customers or individuals who sexually exploit or sexually abuse children, as well as ensuring public awareness;

(g) To afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 3, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, including assistance in obtaining evidence at their disposal for the proceedings;

(h) To contribute to the elimination of the sale of children, child prostitution and child pornography by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structures, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children;

38. *Requests* the Special Rapporteur on the sale of children, child prostitution and child pornography to submit a report to the Commission at its sixty-first session;

## VI. PROTECTION OF CHILDREN AFFECTED BY ARMED CONFLICT

39. *Reaffirms* the essential role of the General Assembly, the Economic and Social Council and the Commission on Human Rights for the promotion and protection of the rights and welfare of children, including children in armed conflict, and takes note of the importance of the debates held by the Security Council on children and armed conflict, of Council resolutions 1379 (2001) of 20 November 2001 and 1460 (2003) of 30 January 2003, and of the undertaking by the Council to give special attention to the protection, welfare and rights of children in armed conflict when taking action aimed at maintaining peace and security, including provisions for the protection of children in the mandates of peacekeeping operations, as well as the inclusion of child protection advisers in these operations;

40. *Stresses* the continuing importance of the Plan of Action on Children Affected by Armed Conflict of the International Red Cross and Red Crescent Movement and the resolution on this subject adopted at the twenty-seventh International Conference of the Red Cross and Red Crescent;

41. *Recognizes* the inclusion in the Rome Statute of the International Criminal Court, as a war crime, of crimes involving sexual violence and crimes of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflicts;

42. *Calls upon* States:

(a) To end the recruitment of children and their use in armed conflicts contrary to international law, including obligations assumed under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) of the International Labour Organization;

(b) When ratifying the Optional Protocol, to raise the minimum age for voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention, bearing in mind that under the Convention persons under 18 years of age are

entitled to special protection, and to adopt safeguards to ensure that such recruitment is not forced or coerced;

(c) To take all feasible measures to prevent recruitment and use of children by armed groups, as distinct from the armed forces of a State, including the adoption of legal measures necessary to prohibit and criminalize such practices;

(d) To take all feasible measures to ensure the demobilization and effective disarmament of children used in armed conflicts and to implement effective measures for their rehabilitation, physical and psychological recovery and reintegration into society, taking into account the rights and the specific needs and capacities of girls;

43. *Recognizes* that education is an integral part of the process of demobilization, effective disarmament, rehabilitation, physical and psychological recovery and reintegration into society of children involved in armed conflicts, and that it is a means of facilitating a return to normality for such children and is a key protection measure against re-recruitment by parties to armed conflict as well as against sexual abuse and exploitation and other rights violations;

44. *Calls upon*:

(a) All States and other parties to armed conflict to respect fully international humanitarian law and, in this regard, calls upon States parties to respect fully the provisions of the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977;

(b) Armed groups that are distinct from the armed forces of a State not, under any circumstances, to recruit or use in hostilities persons under the age of 18 years;

(c) All States and relevant United Nations bodies and agencies and regional organizations to integrate the rights of the child into all activities in conflict and post-conflict situations, to ensure adequate child protection training of their staff and personnel and to facilitate the participation of children in the development of strategies in this regard, making sure that there are opportunities for children's voices to be heard;

(d) All States and relevant United Nations bodies to continue to support national and international mine action efforts, including through financial contributions, assistance to victims and social and economic reintegration, mine awareness programmes, mine clearance and child-centred rehabilitation, taking note of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, and welcomes the positive effects on children of concrete legislative and other measures with respect to anti-personnel mines, and also taking note of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices (Amended Protocol II) to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, and the implementation of these instruments by those States that become parties to them;

45. *Recommends* that, whenever sanctions are imposed, in particular in the context of armed conflict, their impact on children be assessed and monitored and, to the extent that there are humanitarian exemptions, they be child-focused and formulated with clear guidelines for their application, in order to address possible adverse effects of the sanctions, and reaffirms the

recommendations of the General Assembly and the International Conference of the Red Cross and Red Crescent;

## VII. RECOVERY AND SOCIAL REINTEGRATION

46. *Encourages* States to cooperate, including through bilateral and multilateral technical cooperation and financial assistance, in the implementation of their obligations under the Convention on the Rights of the Child, including in the prevention of any activity contrary to the rights of the child and in the rehabilitation and social integration of the victims, such assistance and cooperation to be undertaken in consultation among concerned States and relevant international organizations as well as other relevant actors;

47. *Encourages* States to promote actions for the social reintegration of children in difficult situations, considering, inter alia, views, skills and capacities that these children have developed in the conditions in which they lived and, where appropriate, with their meaningful participation;

## VIII.

48. *Decides*: (a) To request the Secretary-General to submit to the Commission at its sixty-first session a report on the rights of the child, with information on the status of the Convention on the Rights of the Child and on the problems addressed in the present resolution; (b) To continue its consideration of this question at its sixty-first session under the same agenda item.

COMMISSION ON HUMAN RIGHTS - 60<sup>TH</sup> SESSION

**NGO GROUP FOR THE CONVENTION ON THE RIGHTS OF THE CHILD  
SUB-GROUP ON THE COMMISSION ON HUMAN RIGHTS**

**? OMNIBUS RESOLUTION UNDER ITEM 13 ?**

**RIGHTS OF THE CHILD**

**NGO PROPOSAL**



**Children's Human Rights Caucus**  
At the 60th Session of the UN Commission on Human  
Rights  
15 March – 23 April 2004

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Item 13: Rights of the Child

**Alternative  
NGO resolution**

**NGO Group  
for the Convention on the Rights of the Child  
Subgroup on the Commission on Human Rights**

Anti-Slavery International, Arigatou Foundation, Baha'I International Community, Consortium for Street Children, Defence for Children International, ECPAT International, Friends World Committee for Consultation (Quakers), Human Rights Watch, International Alliance of Women, International Federation Terre des Hommes, International Council of Women, International Federation of Social Workers, NGO Group for the CRC Liaison Unit Programme, Save the Children, World Organisation Against Torture, World Union of Catholic Women, World Vision.

For further information please contact: Séverine Jacomy, Sub-Group Convenor  
c/o World Organisation Against Torture (OMCT) : [sj@omct.org](mailto:sj@omct.org)  
Tel.: 0041/22 809 49 39 / Fax: 0041/22 809 49 29

Rights of the Child

*The Commission on Human Rights,*

PP1. *Emphasizing the importance of the Convention on the Rights of the Child and that its provisions and other relevant human rights instruments must constitute the standard in the promotion and protection of the rights of the child, and bearing in mind also the importance of its Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, as well as other relevant human rights instruments, (GA 58/157)*

PP2. *Reaffirming that the general principles of, inter alia, the best interests of the child, non-discrimination, participation and survival and development provide the framework for all actions concerning children, including adolescents, (GA 58/157)*

PP3. *Reaffirming the World Declaration on the Survival, Protection and Development of the Child and the Plan of Action for the Implementation of the World Declaration on the Survival, Protection and Development of the Child in the 1990s adopted in September 1990 by the World Summit for Children (A/45/625, annex), the United Nations Millennium Declaration and the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), which, inter alia, state that national and international mechanisms and programmes for the safeguard and protection of children, in particular those in especially difficult circumstances, should be strengthened, including through effective measures to combat exploitation and abuse of children, female infanticide, harmful child labour and the immediate elimination of its worst forms, sale of children and organs, child prostitution and child pornography, as well as other forms of sexual abuse,*

PP4. *Reaffirming also the outcome document of the special session of the General Assembly on children entitled 'A world fit for children' adopted on 10 May 2002 (Resolution S- 27 /2, annex) and the firm commitments contained therein to promote and protect the rights of each child – every human being below the age of 18 years,*

PP5. *Reaffirming further all its previous resolutions related to the rights of the child, particularly resolution 2000/85, 2001/75, 2002/92 and 2003/86; and taking note with appreciation of General Assembly resolution 57/190 of 18 December 2002 and 58/157 of 22 December 2003,*

PP6. *Welcoming the integration of child rights issues into the outcome documents of all major United Nations conferences, special sessions and summits, and in the World Bank's Poverty Reduction Strategy Papers<sup>42</sup>,*

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<sup>42</sup> *Poverty Reduction Strategy Papers (PRSPs) are the main instruments for directing multilateral lending. Introduced in 1999, they have become the key instrument in directing World Bank and International Monetary Fund lending programmes in developing countries. PRSPs are intended to be nationally owned strategy documents prescribing the funding of national policies in areas such as education, health, housing, provision of services like transport, industrial policy and infrastructure. They are potentially the key instrument for poverty reduction. By focusing the multilateral and bilateral donor community financing on nationally owned policies that specifically target poverty reduction, enormous strides could be made in real poverty reduction. The PRSP, if fully carried out, is a nationally owned strategy that puts poverty reduction policy change, and crucially, its funding, at the heart of national and international planning for a specific country. By bringing together civil society, the private sector, local and national government along with multilateral and bilateral donors on a set of policy strategies that target poverty reduction, the PRSP can bring coherence and focus to poverty reduction.*

PP7 *Welcoming* the Secretary-General's Bulletin on Special measures for protection from sexual exploitation and sexual abuse T/SGB/2003/13 of 9 October 2003,<sup>43</sup>

PP8 *Welcoming* the entry into force on 1 July 2003 of the Convention on the Rights of Migrant Workers and their Families

PP 9 *Welcoming* the entry into force of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children Supplementing the United Nations Convention against Transnational Organized Crime on 25 December 2003.

PP10. *Welcoming* the work of the Committee on the Rights of the Child in examining the progress made by States parties in implementing the obligations undertaken in the Convention on the Rights of the Child and in providing recommendations to States parties on its implementation and, in cooperation with the Office of the United Nations High Commissioner for Human Rights, in enhancing awareness of the principles and provisions of the Convention ,taking note of the conclusions of the general discussions on the rights of indigenous children in September 2003,

PP 11 *Welcoming* the increase of the membership of the Committee on the Rights of the Child from 10 to 18, and convinced that fundamental reform of the working methods of the Committee on the Rights of the Child is further required so that the Committee can consider States parties' reports in a timely manner, (A/C.3/58/10 Recommendation of the Committee on the Rights of the Child on working methods).

PP 12 *Welcoming* the start of the United Nations Study on Violence Against Children as well as the formation of its secretariat

PP13. *Profoundly concerned* that the situation of children in many parts of the world remains critical as a result of the persistence of poverty, social inequality, inadequate social and economic conditions in an increasingly globalized economic environment, pandemics, in particular HIV/AIDS, malaria, tuberculosis, natural disasters, armed conflicts, displacement, exploitation, illiteracy, hunger, intolerance, discrimination, exclusion on the basis of disability<sup>44</sup> and inadequate legal protection, and convinced that urgent and effective national and international action is called for,

PP14. *Recognizing* that environmental damage has potentially negative effects on children and the enjoyment of their life, health and satisfactory standard of living,

PP15. *Underlining* the need for mainstreaming a gender perspective in all policies and programmes relating to children,

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<sup>43</sup> Also referred to in the 2004 Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography E/CN.4/2004/9 : "The Special Rapporteur welcomes the issuing of the Secretary-General's bulletin on special measures for protection from sexual exploitation and sexual abuse entered into force on 15 October 2003 (ST/AB/2003/13). The bulletin reiterates that sexual exploitation and sexual abuse violate universally recognized international legal norms and standards and have always been prohibited conduct for United Nations staff. The bulletin details specific situations that amount to sexual exploitation or abuse and establishes reporting duties and procedures.

<sup>44</sup> One of the central issues in disability rights is stereotyping, that is, disability being seen as something negative and that persons with disabilities need charity/sympathy. The inclusion of disability in a long list of negative things (with the exception of HIV/AIDS, which is another area trying to tackle stigmatization) can feed into the negative stereotyping. (The other issue this raises is the question of prevention, which is also controversial in disability. E.g. most PWDs from the North are strictly against mention of prevention, because of disability pride issues. With respect to the Draft Disability Convention, it was almost unanimously agreed that prevention had no place in the Convention because it is about PwithD, not Pwithout).

PP16. *Concerned* that, in conflict situations, children continue to be victims and deliberate targets of attacks with consequences that are often irreversible for their physical and emotional integrity,

PP17. *Welcoming* the reports of the Secretary General on the status of the Convention on the Rights of the Child (E/CN.4/2004/67), of the Special Rapporteur on the right to education [E/CN.4/2004/45](#), of the Special Rapporteur on the right to health (E/CN.A/2004/49)<sup>45</sup>, of the Special Rapporteur on the sale of children, child prostitution and child pornography [E/CN.4/2004/9](#) and [E/CN.4/2004/9/Add.2](#), of the Special Representative of the Secretary General on the impact of armed conflict on children to the General Assembly at its fifty-eighth session (A/58/328) and to the Commission at its sixtieth session (E/CN.4/2004/70) and the report of the Secretary General on children and armed conflict ((S/2003/1053) and on the study on the question of violence against children (E/CN.4/2004/68)

PP18. *Concerned* at the number of illegal adoptions, of children growing up without parents and of child victims of different forms of violence, abuse, exploitation and neglect within and outside the family,

PP19 *Recognizing* that the family, in its various forms<sup>46</sup>, is the basic unit of society and as such should be strengthened; that it is entitled to receive comprehensive protection and support; that the primary responsibility for the protection, upbringing and development of children rests with the family; that all institutions of society should respect children's rights and secure their well-being and render appropriate assistance to parents, families, legal guardians and other caregivers so that children can grow and develop in a safe and stable environment and in an atmosphere of happiness, love, and understanding;

PP20. *Recognizing* that partnership between Governments, international organizations and relevant bodies and organizations of the United Nations system, in particular the United Nations Children's Fund, and all actors of civil society, in particular non-governmental organizations, as well as the private sector, is important to realize the rights of the child,

PP21. *Bearing in mind* the International Decade for a Culture of Peace and Non-Violence for the Children of the World (2001-2010) and recalling the Declaration and Programme of Action on a Culture of Peace, which serve as the basis for the International Decade,

PP22. *Reaffirming* interrelatedness of all human rights and the necessity to take into account the universality, indivisibility, interdependence and interrelatedness of civil, political, economic, social and cultural rights, including the right to development, education and health<sup>47</sup>, to promote and protect the rights of the child,

## I. IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD AND OTHER INSTRUMENTS

1. *Urges once again* the States that have not yet done so to sign and ratify or accede to the Convention on the Rights of the Child as a matter of priority, and, concerned at the great number of reservations to the Convention, urges States parties to withdraw reservations incompatible with the

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<sup>45</sup> *The child's right to health is as fundamental as the right to education and the mandate of the Special Rapporteur on the right to health requires that he focus specifically on children and adolescents. Health, along with education, is a priority issue in national poverty reduction strategies (PRS), Child health in particular (not just reduced to infant mortality) is an effective indicator of sustainable development. The Special Rapporteur on Health deals with wide-ranging issues extremely relevant to linkages between health, poverty and sustainable development; his reports should be listed along with those of other SR mentioned in this point of the preamble.*

<sup>46</sup> *World fit for Children alternative NGO text, parag.15)*

<sup>47</sup> *Note: the right to health, closely linked to the right to education, is all too often not considered a fundamental right but rather a "need", it would be important to emphasise it along with another "neglected" right (to development)*

object and purpose of the Convention and to consider reviewing other reservations with a view to withdrawing them;

2. *Urges* the States that have not yet done so to sign and ratify or accede to the its Optional Protocols to the Convention on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography and urges States Parties to implement them fully;

3. *Calls upon* States parties to implement the Convention fully and to ensure that the rights set forth in the Convention are respected without discrimination of any kind, that the best interests of the child are a primary consideration in all actions concerning children, to recognize the child's inherent right to life and to the enjoyment of the highest attainable standard of health<sup>48</sup>, and that the child's survival and development is ensured to the maximum extent possible, and that the child is able to express his/her views freely in all opinions on matters affecting him/her and that these views are listened to and given due weight in accordance with his/her age and maturity;

4. *Stresses* that the achievement of the goals of the World Summit for Children and the special session of the General Assembly on children will contribute to the implementation of the Convention;

5. *Urges* States parties to:

a) take all appropriate measures for the implementation of the rights recognized in the Convention, bearing in mind article 4 of the Convention and General Comment N°5 of the Committee on the Right of the Child of 3 October 2003 on "General measures of implementation for the Convention on the Rights of the Child", by strengthening relevant governmental structures for children, including, where appropriate, ministers in charge of child issues and independent commissioners for the rights of the child;

b) ensure adequate and systematic training in the rights of the child for law enforcement and all professionals involved in activities concerning children, including teachers, police, judges, lawyers, army personnel and social workers, as well as coordination between various bodies at the governmental and local levels; (former OP12 moved up – as in GA 58/157, which is more logical + addition of mention of police and army personnel who are key agents of protection)

6. *Calls upon* all States to end impunity for perpetrators of crimes committed against children, and recognises in this regard the contribution of the establishment of the International Criminal Court (GA 58/157) as a way to prevent violations of international human rights and humanitarian law, in particular when (GA 58/157) children are victims of serious crimes, such as the crime of genocide, crimes against humanity and war crimes, and to bring perpetrators of such crimes to justice, and not grant amnesties for these crimes;

7. *Encourages* all States, to strengthen their national statistical capacities and to use disaggregate statistics, inter alia, by age, gender, other relevant factors that may lead to disparities and other statistical indicators at national, sub-regional, regional, and international levels in order to develop and assess social policies and programmes so that economic and social resources are used efficiently and effectively for the full realization of the rights of the child;

8. *Calls upon* States parties:

(a) To ensure that the members of the Committee on the Rights of the Child are of high moral standing and recognized competence in the field covered by the Convention, serving in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems;

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<sup>48</sup> **Note:** The right to health is intimately related to the right to life.

(b) To strengthen their cooperation with the Committee and to comply in a timely manner with their reporting obligations under the Convention and the Optional Protocols thereto, in accordance with the guidelines elaborated by the Committee, as well as to take into account the recommendations made by the Committee in the implementation of the provisions of the Convention;

9. *Decides* to request the Secretary-General:

- a) to ensure the provision of appropriate staff and facilities from the United Nations regular budget for the effective and expeditious performance of the functions of the Committee,
- b) to support the Committee's recommendations to consider the reports of States parties in two parallel chambers, thereby increasing the number of States parties' reports to be examined each year, including under the two new Optional Protocols; and to provide appropriate financial resources from the United Nations regular budget to enable the Committee to work in two chambers, for an initial period of two years (see A/C.3/58/10 Recommendation of the Committee on the Rights of the Child on working methods)

10. *Requests* the Office of the United Nations High Commissioner for Human Rights, United Nations mechanisms, all relevant organs of the United Nations system in particular the Sub-Commission on the Promotion and the Protection of Human Rights<sup>49</sup>, special representatives, special rapporteurs and working groups, regularly and systematically to incorporate a strong child rights perspective, throughout all activities in the fulfilment of their mandate as well as to ensure their staff is trained in child protection matters and calls upon States to cooperate closely with them;

11. *Calls upon* all States and relevant actors concerned to continue to cooperate with the special rapporteurs and special representatives of the United Nations system in the implementation of their mandates and requests the Secretary-General to provide them with appropriate staff and facilities from the United Nations regular budget, when this is in accordance with their respective mandates, invites States to continue to make voluntary contributions, where appropriate, and urges all relevant parts of the United Nations system to provide them with comprehensive reporting to make the full discharge of the mandate possible;

12. *Encourages* Governments and relevant United Nations bodies, as well as relevant non-governmental organizations and child rights advocates, to continue to contribute, as appropriate, to the web-based database launched by the United Nations Children's Fund so as to continue the provision of information on laws, structures, policies and processes adopted at the national level to translate the Convention into practice, and in this regard commends that body for its work to disseminate lessons learned in the implementation of the Convention; (GA 58/157)

## II. PROTECTION AND PROMOTION OF THE RIGHTS OF THE CHILD

### **Identity, family relations and birth registration**

13. *Calls upon* all States:

(a) To continue to intensify efforts to ensure the registration of all children, irrespective of their status, immediately after birth, by ensuring the existence of a free, effective and universally

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<sup>49</sup> See Oral intervention of the Subgroup for the Commission on Human Rights of the NGO Group for the Convention on the Rights of the Child at the Sub-Commission 55<sup>th</sup> Session, 28 July to 15 August 2003 stating the lack of clear policy for child rights mainstreaming in the sub-commission work.

accessible registration system and by developing simplified, expeditious and effective procedures, especially for refugee, displaced and stateless children<sup>50</sup>;

- (b) To undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations, as recognized by law without unlawful interference and, where a child is illegally deprived of some or all of the elements of his or her identity, to provide appropriate assistance and protection with a view to re-establishing speedily his or her identity and facilitating speedy family contacts and reunification<sup>51</sup>;
- (c) To consider ways of preventing statelessness of children whose fathers do not register the birth, in particular in countries where nationality descends from the father<sup>52</sup>;
- (d) To comply with the recommendations the Committee on the Rights of the Child's 2003 day of general discussion to fully respect the right to identity of indigenous children by, inter alia, allowing indigenous parents to give their children a name of their own choosing, by respecting the right of the child to preserve her/his identity and by taking all necessary measures to prevent indigenous children from being or becoming stateless.<sup>53</sup>

(e) To ensure as far as possible the right of the child to know and be cared for by his or her parents, and to ensure that a child shall not be separated from his or her parents against their will, except when the competent authorities, subject to judicial review, determine, in accordance with applicable law and procedures, and the participation of all interested parties, that such separation is necessary for the best interests of the child; to ensure that the child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures and giving all interested parties an opportunity to participate in the proceedings and make their views known; that such separation is necessary for the best interests of the child; such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence; to respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests; where such separation results from action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents of the child, that State shall, upon request provide the parents, the child or if appropriate another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family, unless the provision of the information would be detrimental to the well-being of the child; to further insure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned;

(f) To prevent and address cases of international abduction of children, bearing in mind that the best interest of the child shall be the primary consideration, and encourages States to engage in

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<sup>50</sup> GRULAC 2002

<sup>51</sup> *When children's identity has been falsified for instance for the purpose of trafficking by private actors or illegal detention by governmental or other armed groups, as soon as their true identity is re-established, it is primarily through information and support to the families that rehabilitation processes can be initiated.*

<sup>52</sup> *For instance, across many countries that have experienced multi-lateral deployments, children are routinely fathered by peace keeping troops and officials of multi-lateral deployments. In countries where jus sanguinis through the "male line" is a basis of acquiring nationality these children would be entitled to the nationality of their fathers. In many countries, these children become effectively stateless as the fathers end their duty and leave (eg. Angola, Congo, Liberia, Lebanon, Vietnam, etc.).*

<sup>53</sup> CRC 34<sup>th</sup> session, 15<sup>th</sup> Sept-3Oct. 2003, day of general discussion recommendations, para. 15.

multilateral and bilateral cooperation<sup>54</sup> and, in this respect, to pay particular attention to cases of international abduction of children, by one of their parents or other relatives;

**(g) To guarantee, to the extent consistent with each State's obligations, the right of a child whose parents reside in different States to maintain on a regular basis, save in exceptional circumstances, personal relations and direct contacts with both parents by means of access and visitation in both States and by respecting the principle that both parents have common responsibilities for the upbringing and development of their children;**

(h) To take all appropriate measures, especially educational measures, to further promote the responsibility of both parents in the education, development and raising of children;

## Poverty

14. *Reaffirms (GA 58/157)* that investments in children and the realization of their rights are among the most effective ways to eradicate poverty;

15. *Calls upon* States and the international community to:

- a) cooperate, support and participate in the global efforts for poverty eradication recognizing that strengthened availability, effective and equitable allocation of resources and child sensitive economic policies are required at all levels to ensure that all the development and poverty reduction goals, as set out in the United Nations Millennium Declaration are realized within their time framework, and to promote the enjoyment of the rights of the child;
- b) review trade policies and commitments which may have adverse affects on children in order to protect children and their families from the negative effects of globalisation<sup>55</sup> , ,
- c) ensure that any privatisation of public services does not negatively affect accessibility and quality of services to all children, noting the recommendations of the 2002 discussion day of the Committee on the Rights of the Child on the Private Sector as Service Provider;

## Health

16. *Calls upon* all States to take all necessary measures to ensure the right of all children to the enjoyment of the highest attainable standard of physical and mental health in accordance with the World Health Organization definition of health, reiterated in CHR resolution 2003/28 of 22 April 2003, as a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity, and taking into consideration article 24 and the basic principles of non

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<sup>54</sup> *In cases of parental abduction, return to the country of residence may not always be the best option. Such issues should be solved on a case-by-case basis, taking into account penal aspects of cases, when relevant. See for instance the case of Switzerland raised in the 2004 Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography E/CN.4/2004/9:*

*Para 17. On 9 January 2003, The Special Rapporteur sent an urgent appeal to the Government of Switzerland jointly with the Special Rapporteur on violence against women. The Special Rapporteurs were concerned about the situation of child J. and child M., brother and sister, who were supposed to be repatriated from Switzerland to Australia and assigned to the custody of their father, despite the accusations of abuse by child M. against her father. Following this accusation, the mother of the children had illegally taken them from Australia to Switzerland.*

*18. On 24 January 2003, the Government of Switzerland replied that the decision to repatriate the two children was taken in compliance with the law, in particular with the Hague Convention on the Civil Aspects of International Child Abduction of 1980. The Government stated that Switzerland was not competent to investigate the penal aspects of the case, as the alleged criminal facts were perpetrated abroad. The Government further reported that it had taken appropriate measures to facilitate the return of the children and their mother.*

<sup>55</sup> World Fit for Children chair + NGO alternative text



discrimination, best interest of the child, the right to life, survival and development and respect for the views of the child of the Convention,<sup>56</sup>

17. *Calls upon* all States to take all appropriate measures and allocate the necessary resources to programmes targeting children in order to develop quality<sup>57</sup> and sustainable health systems and social services and to ensure access to such systems and services without discrimination, and to pay particular attention to adequate food and nutrition to prevent disease and malnutrition, to prenatal and post-natal health care, to special needs of adolescents, to reproductive and sexual health and to threats from substance abuse and violence, in particular to all vulnerable groups,<sup>58</sup>

18. *Calls upon* all States to give support and rehabilitation to children and their families affected by HIV/AIDS, and to involve children and their caregivers, as well as the private sector, to ensure the effective prevention of HIV infections through correct information and access to voluntary and confidential care, treatment and testing, including pharmaceutical products and medical technologies, affordable to all, giving due importance to the prevention of mother-to-child transmission of the virus;

## Education

19. *Calls upon all States:*

(a) To recognize the right to education on the basis of equal opportunity by making primary education free and compulsory to all, without discrimination, and ensuring that all children, including girls, children in need of special protection such as refugees, IDPs, asylum seekers, and working children, children with disabilities, indigenous children, children belonging to minorities and children from different ethnic origins have access, in practice as well as in law and without discrimination, to education of good quality of their choosing<sup>59</sup>, as well as making secondary education generally available and accessible to all, and in particular by the progressive introduction of free education, bearing in mind that special measures to ensure equal access, including affirmative action, contribute to achieving equal opportunity and combating exclusion, and that the education of the child is carried out and that States parties develop and implement programmes for the education of the child in accordance with articles 28 and 29 of the Convention on the Rights of the Child;

(b) To develop national plans of action, or to strengthen existing ones, in order to achieve the objectives of Education for All so as to ensure that all boys and girls complete a full course of primary schooling and reaffirms UNESCO coordinating role in this regard; (GA 58/157)

(d) To promote an educational setting that eliminates all barriers that impede the schooling of pregnant adolescents and adolescent mothers and to provide them with social services and support to enable them to continue and complete their education; (GA 58/157 – merger of 25 c and d)

(e) To take all appropriate measures to prevent racism and discriminatory and xenophobic attitudes and behaviour through education, keeping in mind the important role that children play in changing these practices;

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<sup>56</sup> *a) There should be consistency with all CHR resolutions in approaching health in a broad and comprehensive manner and b) all rights covered by the CRC are indivisible. The above-mentioned rights have been held as basic principles by the Committee on the Rights of the Child and need to be recalled to ensure a full and coherent implementation of article 24.*

<sup>57</sup> *See the report of the Special Rapporteur on Health E/CN/2004/49*

<sup>58</sup> *Taken out as better stated in previous para. This would ensure a better coherence in the substance of the health section*

<sup>59</sup> *One of the key issues in education and disability is the right to choose. Most disability groups prefer an inclusive setting (CWDs generally do not have the option to have mainstream schooling), exceptions are the deaf and some blind groups, who prefer separate schooling, provided it is of the same quality as the mainstream schools. This language would also probably appeal to ethnic minorities as well who are equally concerned with linguistic rights.*

(f) To ensure that children, from an early age, benefit from education and from participation in activities which develop respect for human rights and emphasize the practice of non-violence with the aim of instilling in them the values and goals of a culture of peace; and invites them to develop national strategies for human rights education which are comprehensive, participatory and effective;

(g) To ensure that education programmes and materials reflect fully the promotion and protection of human rights and values of peace, tolerance and gender equality, using every opportunity presented by the International Decade For A Culture Of Peace And Non-Violence For The Children Of The World, 2001-2010;

(h) To harness the rapidly evolving information and communication technologies to support education at an affordable cost, including open and distance education, while reducing inequality in access and quality

20. *Urges States:*

- (a) To take measures to protect students from violence, injury or abuse, including sexual abuse and intimidation or maltreatment (GA 58/157) in schools, to establish complaint and mediation mechanisms that are accessible to children and to undertake thorough and prompt investigations of all acts of violence and discrimination;
- (b) To implement measures to eliminate the use of corporal punishment in all schools and other educational settings;
- (c) To explore and apply alternative pedagogical methods to prevent violence in educational settings.

**Freedom from violence**

21. *Welcomes* the establishment of the secretariat for the independent expert's study on the question of violence against children, in collaboration with the Office of the High Commissioner for Human Rights, the United Nations Children's Fund and the World Health Organization, and invites the member States, United Nations bodies and organizations, including the Committee on the Rights of the Child, as well as other relevant intergovernmental organizations and non-governmental organizations to contribute to the study, taking into account the recommendations of the Committee on the Rights of the Child made following the general discussions on violence against children held in September 2000 and 2001; and further encourages the independent expert to also seek the participation of children in the study, taking into account the age and maturity of the child;

22 *Urges* member States to support the study with financial contributions and to encourage and support national-level research, including by NGOs and in particular with the participation of children;

23 *Encourages* States to include a strong focus on violence against children under all relevant issues of the National Plans of Action on the follow-up to the UN Special Session on Children, in all consultations leading to their development and implementation;

24. *Requests* the Secretary-General to submit a substantive progress report on the study to the Commission at its sixty-first session and to present an oral progress report to the 59<sup>th</sup> session of the General Assembly (GA 58/157), and encourages the Secretary General to present a further report to the Commission at its sixty-second session and the final in-depth study to the General Assembly at its 60th session, for consideration, with the aim of evaluating all possible complementary measures and future actions;

25. *Requests* all relevant human rights mechanisms, in particular special rapporteurs and working groups, within their mandates, to pay attention to the special situation of violence against children, reflecting their experience in the field;

26. *Calls upon* all States to take all appropriate national, bilateral and multilateral measures to prevent, and to protect children from, all forms of physical, sexual and psychological violence, perpetrated or tolerated by private individuals, juridical persons or the State, including torture, child abuse, abuse by police, other law enforcement authorities and employees and officials in detention centres or welfare institutions, including orphanages, and domestic violence;(GA 58/157)

27. *Also calls upon* all States to investigate and submit cases of torture and other forms of violence against children to the competent authorities for the purpose of prosecution and to impose appropriate disciplinary or penal sanctions against those responsible for such practices;

### III. NON-DISCRIMINATION

28. *Calls upon* all States to ensure that children are entitled to their civil, political, economic, social and cultural rights without discrimination of any kind;

29. *Notes with concern* the large number of children, particularly girls, among the victims of racism, racial discrimination, xenophobia and related intolerance, and stresses the need to incorporate special measures, in accordance with the principle of the best interests of the child and respect for his or her views, in programmes to combat racism, racial discrimination, xenophobia and related intolerance, in order to give priority attention to the rights and the situation of children who are victims of these practices, and calls upon States to provide special support and ensure equal access to services for those children;

30. *Calls upon* all States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist not to deny to a child belonging to such a minority or who is indigenous the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language;

#### **The girl child**

31. *Calls upon* all States to take all necessary measures, including legal reforms where appropriate:

(a) To ensure the full and equal enjoyment by girls of all human rights and fundamental freedoms, to take effective actions against violations of those rights and freedoms, and to base programmes and policies on the rights of the child, taking into account the special situation of girls;

(b) To eliminate all forms of discrimination against girls and all forms of violence, including female infanticide, and prenatal sex selection, rape, sexual abuse and harmful traditional or customary practices, including female genital mutilation, the root causes of son preference, marriages without free and full consent of the intending spouses, early marriages, in crimes committed in the name of honour<sup>60</sup>, and forced sterilization, by enacting and enforcing legislation and, where appropriate,

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<sup>60</sup> *This reference is included in the resolution on The Elimination of Violence Against Women 2003/45 and must be reiterated when it comes to the girl child : para 4. Affirms that the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life, and including domestic violence, **crimes committed in the name of honour**, crimes committed in the name of passion, trafficking in women and girls, traditional practices harmful to women, including female genital mutilation, early and forced marriages, female infanticide, dowry-related violence and deaths, acid attacks and violence related to commercial sexual exploitation as well as economic exploitation;*

formulating comprehensive, multidisciplinary and coordinated national plans, programmes or strategies protecting girls;

c) To give support to authorities, communities and NGOs targeting discriminatory attitudes towards girls, gender stereotypes and gender discrimination through community-based approaches;

### **Children with disabilities**

32. *Welcomes* the General Assembly resolutions A/RES/56/168 and A/RES/57/246 and the establishment of an Ad Hoc Committee on the elaboration of an international integral convention to promote and protect the rights and dignity of persons with disabilities, urges the Ad Hoc Committee to pay specific attention to the rights<sup>61</sup>, needs and views of children with disabilities and welcomes its decision to invite the Committee on the Rights of the Child, as well as other relevant intergovernmental and non-governmental organizations, to contribute to its work;

33. *Calls upon* all States to ;(following para. from GRULAC 2002+NGO alternative res. 2003)

- a) Take all necessary measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms by children with disabilities and their families,, to develop and enforce legislation against their discrimination to ensure development, dignity, promote self-reliance and facilitate the child's active participation inclusion and integration in the community, including fully supported access to good quality health care, (re)habilitation<sup>62</sup>, leisure, good quality education of their choosing<sup>63</sup> and work opportunities, particularly taking into account the situation of children with disabilities living in poverty
- b) To provide full assistance to families and professionals in caring for children with disabilities, to take adequate steps to prevent and reverse institutionalisation, and to reallocate resources to develop child-sensitive, non-discriminatory alternatives, including care by the extended family or foster care, respite care and day care community-based services;
- c) To take all necessary measures to ensure prevention and protection from violence, neglect and abuse, including sexual abuse, for all children with disabilities, through legislation , policies and services which uphold those children's right to life and inclusion in society;

### **Migrant children**

34. *Urges* States that have not yet done so to sign and ratify or accede to the Convention on the Rights of Migrant Workers and their Families

35. *Calls upon* States parties to implement the Convention fully and to ensure that the rights set forth in the Convention are respected without discrimination of any kind, that the best interests of the child are a primary consideration;

36*Calls upon* all States to ensure, for migrant children, the enjoyment of all human rights as well as unrestricted access to health care, social services and education of good quality; States should

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<sup>61</sup> *The Convention on the Rights of Persons with Disabilities should not undercut the CRC and should also address children's rights and not just issues.*

<sup>62</sup> *(Re)habilitation is a central issue for CWDs. Habilitation refers to children who are born with a disability, and rehabilitation for acquired disabilities*

<sup>63</sup> *One of the key issues in education and disability is the right to choose. Most disability groups prefer an inclusive setting (CWDs generally do not have the option to have mainstream schooling), exceptions are the deaf and some blind groups, who prefer separate schooling, provided it is of the same quality as the mainstream schools.*

ensure that migrant children and especially those who are separated<sup>64</sup>, in particular victims of violence and exploitation, receive special protection and assistance including effective procedures for identification, reporting, referral, investigation, treatment, and follow-up of instances of maltreatment;

#### IV. PROTECTION AND PROMOTION OF THE RIGHTS OF CHILDREN IN PARTICULARLY DIFFICULT SITUATIONS

##### **Children working and/or living on the street**

37 *Urges* all States to prevent violations of the rights of children working and/or living on the street, including discrimination, arbitrary detention and extra-judicial, arbitrary and summary executions, torture, all kinds of violence and exploitation, to bring the perpetrators to justice and provide reparation to victims and their families, to adopt and implement policies for the protection, social and psychosocial rehabilitation and reintegration of these children, and to adopt economic, social and educational strategies to address the needs and respect the rights of children working and/or living on the street, as well as the factors contributing to their situation, such as poverty, school drop-out, violence and abuse in the family;

38. *Urges* all states to recognise that children are particularly vulnerable to recruitment into armed groups, such as non-state paramilitaries, drug factions or organised criminal gangs<sup>65</sup>, and to give these children urgent attention, enhancing protection and assistance mechanisms that include the implementation of policies for the protection, social and psychosocial rehabilitation and reintegration of these children, and the adoption of educational, economic, cultural and social alternatives.

##### **Refugee and internally displaced children**

39. *Calls upon* all States to protect and not to detain arbitrarily<sup>66</sup> refugee, asylum seeking and internally displaced children, in particular those who are separated, who are particularly exposed to risks in connection with armed conflict, such as recruitment, sexual violence and exploitation, to pay particular attention to programmes for voluntary repatriation and, wherever possible, local integration and resettlement, to give priority to family tracing and reunification and, where appropriate, to cooperate with international humanitarian and refugee organizations;

##### **Child labour**

40. *Calls upon* all States to translate into concrete action their commitment to the progressive and effective elimination of child labour that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, and to immediately eliminate the worst forms of child labour, including the most invisible ones<sup>67</sup>; to promote education as a key strategy in this regard, including the creation of vocational training and apprenticeship programmes and the integration of working children into the

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<sup>64</sup> *Unaccompanied children* are defined by UNHCR as, 'those persons under 18 years of age, who are separated from both parents and are not being cared for by an adult who, by law or custom, is responsible for doing so.' (UNHCR, *Save the Children, Action for the Rights of Children, Critical Issues, Separated children, August 2001, Geneva, p 5.*) - Many more children are what are referred to as *separated children*, that is children under 18 years of age who are separated from both parents or from their previous legal or customary primary caregiver. (*Ibid.*, p 6)

<sup>65</sup> See for instance "Children of the drug trade", Viva Rio & ISER, Rio de Janeiro 2003.

<sup>66</sup> Illegal migrants are routinely detained upon their arrival in a third country, sometimes for several months. It is not uncommon that separated children who are entitled to special protection and who cannot be legally detained with adults, are held together with other migrants without due separation and special support from the authorities. See for instance OMCT "Child concern" urgent appeals.

<sup>67</sup> Such as abusive domestic work and work on the black market

formal education system, to fully respect the rights of children who work<sup>68</sup>, as well as to examine and devise economic policies, where necessary, in cooperation with the international community, that address factors contributing to child labour;

41. *Also urges* all States that have not yet done so to ratify and implement the ILO Convention concerning the prohibition and immediate action for the elimination of the worst forms of child labour (No. 182) and the ILO Convention concerning the minimum age for employment (No. 138) to involve employers' and workers' organizations and other concerned groups in their implementation, and to facilitate the participation of working children in planning, programming and reporting processes related to these Conventions.

#### **Children alleged to have or recognized as having infringed penal law**

42. *Calls upon*:

(a) All States, in particular States in which the death penalty has not been abolished, to comply with their obligations as assumed under relevant provisions of international human rights instruments, including in particular articles 37 and 40 of the Convention on the Rights of the Child and articles 6 and 14 of the International Covenant on Civil and Political Rights, keeping in mind the safeguards guaranteeing protection of the rights of those facing the death penalty and guarantees set out in Economic and Social Council resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989; and calls upon those States to abolish by law as soon as possible the death penalty for those aged under 18 at the time of the commission of the offence;

(b) All States to protect children deprived of their liberty from torture and other cruel, inhuman or degrading treatment or punishment;

(c) All States to ensure that depriving children of their liberty is used only as a measure of last resort and for the shortest appropriate period of time, in particular before trial, and to ensure that, if they are arrested, detained or imprisoned, children are provided with adequate legal assistance and are separated from adults, to the greatest extent feasible, unless it is considered in their best interest not to do so, and also to take appropriate steps to ensure that no child is sentenced to life imprisonment<sup>69</sup>, forced labour, corporal punishment, or deprived of access to and provision of health-care services, hygiene and environmental sanitation, education, basic instruction and vocational training, taking into consideration the special needs of children with disabilities in detention, in accordance with their obligations under the Convention on the Rights of the Child;

d) All States to develop juvenile justice systems and special procedures in line with all relevant international standards on juvenile justice, with special support to diversion, mediation procedures and alternatives to imprisonment for all under 18 in conflict with the law;

e) All States, to develop their national statistical capacities and to use disaggregate statistics, inter alia, by age, gender, other relevant factors, in the area of juvenile justice, including statistics on all under 18 in detention.

#### **V. PREVENTION AND ERADICATION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

43. *Calls upon* all States:

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<sup>68</sup> See for instance positions of associations of working children in Latin America (NATs)

<sup>69</sup> **CRC Article 37: States Parties shall ensure that: (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;**

(a) To take all appropriate national, bilateral and multilateral measures, inter alia to develop national laws and allocate resources for the development of long-term policies, programmes and practices and to collect comprehensive and disaggregated gender-specific data, to facilitate the participation of child victims of sexual abuse and exploitation in the development of strategies and to ensure the effective implementation of relevant international instruments concerning the prevention and the combat of trafficking and sale of children for any purpose or in any form, including the transfer of the organs of the child for profit, child prostitution and child pornography, and encourages all actors of civil society, the private sector and the media to cooperate in efforts to this end;

(b) To implement the Yokohama Global Commitment, and in doing so, to recognise the problem of sexual exploitation and abuse of all persons under 18 in its totality

(c) To give all children the right to special protection against sexual exploitation up to the age of 18 and to separate the legal age of sexual consent from the upper age of protection against sexual exploitation.<sup>70</sup>

(d) To increase cooperation at all levels to prevent and dismantle networks trafficking in children;

(e) To ratify or accede to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

(f) To criminalize and effectively penalize all forms of sexual exploitation and sexual abuse of children, including within the family, in contexts of child marriage<sup>71</sup>, or for commercial purposes, child pornography and child prostitution, child trafficking, child sex tourism, the sale of children and their organs, and the use of the Internet for these purposes, while ensuring that, in the treatment by the criminal justice system of children who are victims, the best interests of the child shall be a primary consideration and children be not criminalised or further victimised, and to take effective measures to ensure prosecution of offenders, whether local or foreign, by the competent national authorities, either in the country where the crime was committed, or in the offender's country of origin, or in the country of destination, in accordance with due process of law;

(g) In cases of the sale of children, child prostitution and child pornography, to effectively address the needs of victims, including their physical and psychological recovery and full reintegration into society;

h) To develop measures combating all factors leading to the increasing demand for a market that encourages such criminal practices against children, including through addressing

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<sup>70</sup> A child under 18 should not be considered as able to consent to engagement in prostitution, pornography and/or trafficking for sexual purposes – whatever the legal minimum age of sexual consent is. The criminal responsibility should rest solely with the perpetrator.

<sup>71</sup> Child marriage increases the vulnerability of girls in particular to sexual abuse and exploitation through all stages in their lives, and puts very young girls at risk of health problems associated with early sexual intercourse and pregnancy. Many girls married at a young age have limited schooling or training in self-sufficiency skills, which increases their economic dependence on husbands. Child marriage is also associated with later divorce or abandonment, which often means acute poverty for the girl or young woman and leaves them more vulnerable to resorting to some form of commercial sex to survive. Child marriage can be regarded as a form of commercial sexual exploitation of children, where a child is to be used for sexual purposes, through marriage, in exchange for cash, goods or kind. This is the case where parents or a family marry off a child in order to gain benefit or support to the family. Different societies have different perceptions of childhood, but most governments have committed through the Convention on the Rights of the Child to ensure the overall protection of children and young people aged under 18.

underlying social norms and constructs which contribute to create demand for sex with children and through effective prevention and enforcement measures targeting customers or individuals who sexually exploit or sexually abuse children, through public awareness campaigns and the immediate dismissal and prosecution of any person in public or private service who facilitates, profits or sexually exploit children;<sup>72</sup>

(i) To afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 3, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, including assistance in obtaining evidence at their disposal for the proceedings;

j) To contribute to the elimination of the sale of children, child prostitution and child pornography by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structures, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children;

44. *Requests* the Special Rapporteur on the sale of children, child prostitution and child pornography to submit a report to the Commission at its sixty-first session;

## VI. PROTECTION OF CHILDREN AFFECTED BY ARMED CONFLICT

45. *Reaffirms* the essential role of the General Assembly, the Economic and Social Council and the Commission on Human Rights for the promotion and protection of the rights and welfare of children, including children in armed conflict, and takes note of the importance of the debates held by the Security Council, on children and armed conflict, of Council resolutions 1379 (2001) of 20 November 2001, and 1460 (2003) of 30 January 2003 and of the undertaking by the Council to give special attention to the protection, welfare and rights of children in armed conflict when taking action aimed at maintaining peace and security, including provisions for the protection of children in the mandates of peacekeeping operations as well as the inclusion of child protection advisers in these operations;

46 Encourages the Security Council to systematically engage in dialogue with parties to armed conflict and to establish a culture of accountability for crimes against children, exploitation and other forms of violence and abuse of children, including rape of boys and girls<sup>73</sup>.

47 *Stresses* the continuing importance of the Plan of Action on Children Affected by Armed Conflict of the International Red Cross and Red Crescent Movement and the resolution on this subject adopted at the twenty-seventh International Conference of the Red Cross and Red Crescent;

48. *Recognizes* the inclusion in the Rome Statute of the International Criminal Court as a war crime, of crimes involving sexual violence and crimes (GA 58/157) of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflicts;

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<sup>72</sup> *Social constructions directly and indirectly facilitate and/or encourage sexually exploitative behavior. These elements include socio-cultural norms that tolerate and subtly sanction the misuse of power by adults over children, which combined with other manifestations of inequality such as gender and race differentials create vulnerability for children to sexual exploitation and abuse by adults. As these constructs underpin social interactions between adults and children they must be addressed and inform preventive action.*

<sup>73</sup> *Rationale: The incidence of sexual abuse and exploitation of children in all types of situations of emergency (natural, civil and armed conflict) is increasingly recognized and documented including the abduction of children as sex slaves to combating groups. This factor is not addressed adequately in section VI.*



49. *Urges* all States:

- a) in ratifying the Optional Protocol to raise the age of voluntary recruitment to the highest extent possible and reminds them that no voluntary recruitment of under 18s is permitted without full and effective compliance with the Protocol's safeguards.
- (b) to protect children affected by armed conflict, in particular to protect them from acts that constitute violations of international humanitarian law and human rights law and to ensure that they receive timely, effective and unhindered humanitarian assistance as well as support for physical and psychological recovery; (GA 58/157)

50. *Urges* all States and all other parties to armed conflicts to:

- (a) respect fully their obligations under international humanitarian law and human rights law including the Convention on the Rights of the Child, its Optional Protocols and the African Charter on the Rights and Welfare of the Child;
- (b) prevent and end the recruitment and use of children in situations of armed conflict, in particular those identified in the annexes of the report of the Special Representative of the Secretary-General for Children and Armed Conflict (E/CN.4/2004/70), and urges these parties to immediately end such recruitment and use and develop concrete, time-bound action plans to prevent such recruitment and to demobilize all children in their forces;
- (c) ensure their demobilization, effective disarmament and rehabilitations, physical and psychological recovering and reintegration into society, taking into account questions of nationality of child soldiers who have crossed borders and children of girl soldiers;
- (d) to ensure the disarmament and demobilization of girl soldiers, giving systematic consideration to their rights, needs and capacities during conflict and in post-conflict situations, and to implement gender-sensitive measures for their rehabilitation, physical and psychological recovery and reintegration into society, in consultation with the girls themselves;

50. Requests the Special Representative of the Secretary-General for Children and Armed Conflict to submit a progress report on the parties listed in the Annexes to his report with his next report to the Commission and to recommend actions to be taken by the Commission on Human Rights in cases where no progress is shown.

51. *Calls upon*:

(a) All States and relevant United Nation bodies and agencies and regional organizations to integrate the rights of the child into all activities in conflict and post-conflict situations, to ensure adequate child protection training of their staff and personnel, taking into account the Secretary General's Bulletin on Special measures for protection from sexual exploitation and sexual abuse T/SGB/2003/13 of 9 October 2003, and to facilitate the participation of children in the development of strategies in this regard, making sure that there are opportunities for children's voices to be heard;

(b) All States and relevant United Nations bodies to continue to support national and international mine action efforts, including through financial contributions, mine awareness programmes, mine clearance, victim assistance and child-centred rehabilitation, taking note of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, and welcomes the positive effects on children of concrete legislative and other measures with respect to anti-personnel mines, and also taking note of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices (Amended Protocol II) to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, and the implementation of these instruments by those States that become parties to them;

52. *Recommends* that, whenever sanctions are imposed, in particular in the context of armed conflict, their impact on children be assessed and monitored and, to the extent that there are

humanitarian exemptions, they be child-focused and formulated with clear guidelines for their application, in order to address possible adverse effects of the sanctions, and reaffirms the recommendations of the General Assembly and the International Conference of the Red Cross and Red Crescent;

## VII. RECOVERY AND SOCIAL REINTEGRATION

44. *Encourages* States to cooperate, including through bilateral and multilateral technical cooperation and financial assistance, in the implementation of their obligations under the Convention on the Rights of the Child, including in the prevention of any activity contrary to the rights of the child and in the rehabilitation and social integration of the victims, such assistance and cooperation to be undertaken in consultation among concerned States and relevant international organizations as well as other relevant actors;

55. *Recommends* that all actions aiming at the social reintegration of children in difficult situations be developed with their meaningful participation and be based on their views and on the resilience and skills that these children have developed in the conditions in which they live.

## VIII

45. *Decides:*

(a) To request the Secretary-General to submit to the Commission at its sixtieth-first session a report on the rights of the child, with information on the status of the Convention on the Rights of the Child and on the problems addressed in the present resolution;

(b) To continue its consideration of this question at its sixtieth first session under the same agenda item;

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COMMISSION ON HUMAN RIGHTS - 60<sup>TH</sup> SESSION

**NGO GROUP FOR THE CONVENTION ON THE RIGHTS OF THE CHILD  
SUB-GROUP ON THE COMMISSION ON HUMAN RIGHTS**

**? RESOLUTION 2004/47 ON ABDUCTION OF CHILDREN IN AFRICA?**

**RIGHTS OF THE CHILD**

## **2004/47. Abduction of children in Africa**

*The Commission on Human Rights,*

*Recalling* its resolution 2003/85 of 25 April 2003,

*Recalling* the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, the African Charter on Human and People's Rights and the African Charter on the Rights and Welfare of the Child,

*Recalling also* the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography,

*Recalling* the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention,

*Reaffirming* the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993 and the United Nations Millennium Declaration, as well as the special session of the General Assembly on children, which inter alia called for the protection of children, particularly those under difficult circumstances,

*Recalling* the obligation to respect and strictly observe international humanitarian law, including the Geneva Conventions of 12 August 1949 relative to the Treatment of Prisoners of War and to the Protection of Civilian Persons in Time of War, as well as for the States parties of the two 1977 Protocols additional to the Geneva Conventions, *Bearing in mind* Security Council resolutions 1379 (2001) of 20 November 2001 and 1460 (2003) of 30 January 2003 on children in armed conflict,

*Taking into account* its own resolutions on the rights of the child,

*Welcoming* the appointment by the Secretary-General of the independent expert for a study on violence against children,

*Welcoming with satisfaction* the progress report of the Secretary-General on the study on the question of violence against children (E/CN.4/2004/68),

*Also welcoming* the entry into force of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 25 December 2003,

*Expressing* its appreciation to those African countries which have established national mechanisms to ensure greater protection of children, including measures to combat and eliminate abduction of children,

*Deeply alarmed* at the spread of the practice of abduction of children for various purposes,

1. *Condemns* the practice of abduction of children for various purposes, for example as soldiers or workers, for purposes of sexual exploitation and/or paedophilia, and for the purposes of trade in human organs;
2. *Also condemns* the abduction of children from camps of refugees and internally displaced persons by armed groups, and their subjection of children to forced conscription, torture, killing and rape;
3. *Demands* the immediate demobilization and disarmament of all child soldiers who have been recruited or used in armed conflicts in contravention of international law;
4. *Calls for* the immediate and unconditional release and safe return of all abducted children to their families and communities;
5. *Calls upon* African States:
  - (a) To pay particular attention to the protection of refugee children, especially unaccompanied refugee minors, and internally displaced children who are exposed to the risk of being abducted or becoming involved in armed conflicts;
  - (b) To take extra measures to protect refugee children and internally displaced children, particularly girls, from being abducted by guerrilla groups;
  - (c) To take adequate measures to prevent the abduction and recruitment of children by armed forces and armed groups, through, inter alia, the adoption of legal measures to prohibit and criminalize such practices;
6. *Encourages* all African States to integrate the rights of the child into all peace processes, peace agreements and post-conflict recovery and reconstruction phases;
7. *Urges* all African States that have not yet done so to consider ratifying the African Charter on the Rights and Welfare of the Child, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and the Optional Protocol on the sale of children, child prostitution and child pornography;
8. *Welcomes* the progress achieved in the eradication of abduction of children by some national mechanisms and encourages other States which have not yet done so to consider establishing such mechanisms;
9. *Requests* African States, in cooperation with the relevant United Nations agencies, to provide the victims and their families with the necessary assistance and to support sustainable rehabilitation and reintegration programmes for abducted children, including the provision of psychological assistance, basic education and vocational training, taking into account the special needs of abducted girl children;
10. *Requests* States, relevant United Nations bodies and donors to provide African States and African regional mechanisms with the necessary assistance, including technical assistance, in order, firstly, to devise appropriate programmes to combat cross-border abduction of children and protect refugee children, especially unaccompanied minors and internally displaced children in African countries, who are exposed to the risk of being abducted, and, secondly, to

develop and implement programmes for the reintegration of children in the peace process and in the post-conflict recovery and reconstruction phase;

11. *Encourages* all States, and particularly their agencies responsible for internal security, as well as Interpol, to cooperate and take steps to prevent cross-border abductions, and to exchange information with the aim of preventing the abduction of children;

12. *Calls on* Member States to put an end to impunity and to take appropriate steps to identify those responsible for child abductions and bring them to justice;

13. *Requests* the Office of the High Commissioner for Human Rights, within existing resources, to organize subregional consultations which will provide a framework for gathering research, expertise and information from each subregion, and for sensitizing political actors and networking among public authorities and civil society, including non-governmental organizations;

14. *Encourages* the independent expert for a study on violence against children to complete his study on the protection of children against all forms of physical and mental violence, including child abduction;

15. *Urges* States to submit observations on the implementation of this resolution, and calls on the relevant international organizations to submit reports on this issue to the Office of the High Commissioner for Human Rights;

16. *Requests* the High Commissioner for Human Rights to submit to it at its sixty-first session a report on the abduction of children in Africa;

17. *Decides* to continue its consideration of this question at its sixty-first session under the same agenda item.

COMMISSION ON HUMAN RIGHTS - 60<sup>TH</sup> SESSION

**NGO GROUP FOR THE CONVENTION ON THE RIGHTS OF THE CHILD  
SUB-GROUP ON THE COMMISSION ON HUMAN RIGHTS**

**? CHILDREN'S HUMAN RIGHTS CAUCUS TIMETABLE ?**

	US BRIEFING / 9.00 – 10.00 Room E-3025	PANELS / p.m. 1 - 3	ARY & OTHER CHILD RIGHTS & NC TS
<b># 1</b>			
Thu. 18	High level segment		
19			Panel on the role of Truth Commissions in reventing further violations, APT, room 23
<b># 2</b>			
ay 22		he separation wall in light of international HR and international humanitarian law Organised by ICJ, FIDH, Save the Children XXII	
ay 23			
uesday 24	ren's rights in Palestine n Getman, World Vision and Ghada Yassin & Janet Symes, Save the Children		
ay 25	ren's rights in Colombia Amalia Eraso, "Coalition against the ovement of boys, girls and youth to the armed conflict in Colombia", Save the Children		Panel on Chechnya
26	ren's rights in Afghanistan Shirin Persson, Save the Children		
<b># 3</b>			
ay 29	<b>CRC Committee up-coming issues</b> Paulo David, Secretary of the CRC Committee		ITEM 10 (ESC Rights)
ay 30	<b>Torture, inhuman or degrading treatment or punishment of children,</b> Theo Van Boven, SR on Torture	<b>h, rights and children : What role for BINGOS and OS ?</b> anised by the Subgroup on the child's rights to health – NGO Group for the CRC room XXIII  <b>The Right to Education</b> Briefing by Katarina Tomaševski, SR on the Right to Education 14:00-15:00, room XXIV	ITEM 10 (ESC Rights)
uesday 31	<b>UNICEF priorities at CHR 60<sup>th</sup> session</b> Lesley Miller, UNICEF <b>Children's Right to Adequate Housing</b> Miloon Kothari, SR on the right to adequate housing		ITEM 11 (incl. juvenile justice)
ay 1	<b>Setting the Standard project on child protection,</b> by Colin Tucker from Terre des Hommes		ITEM 11 (incl. juvenile justice)
2	<b>nce against girls</b> Yakin Erturk, SR on Violence Against Women at briefing with Gender/Women's HR Caucus Room E3023	consultation of the African Group on the <b>Resolution on the Abduction of children in Africa</b> 15.00-17.00, room XXIII	ITEM 11 (incl. juvenile justice) ITEM 12 (incl. violence against girls) child members of the AdPanel of the Study of VAC meeting in GE)
<b># 4</b>			
unday 5	<b>At What Age ? Research on Age-determined child rights</b> By Angela Melchiorre, researcher	<b>ds Behind Bars</b> 11am-1pm in room XXIII Organised by the subgroup on juvenile justice NGO Group for the CRC  <b>'Human Rights and Irregular Migration: Trafficking, Smuggling and Forced Labour'</b> 1-3pm in room XXIII organised by the IGO group on trafficking	ITEM 12 (incl. violence against girls)  <u>anel on conscientious objection to military service</u> , Quakers (NGO AdPanel on VAC meeting in GE)
Tuesday 6	<b>Child participation,</b> by Save the Children in the UN study on violence against children by Eva Åhlén, Helena Gezelius and Ravi Karkara, Save the Children	<b>Study on Violence Against Children</b> Organised by the subgroup on children and violence– NGO Group for the CRC <b>Room XII</b>	ITEM 13  <b>All day CHR plenary (according to provisional agenda)</b> - 3-5pm: Meeting on the Subgroup on Children and Violence
Wednesday 7	<b>Sexual exploitation of children &amp; report on Brazil</b> Juan Miguel Petit, SR on the Sale of Children, Child Prostitution and Child Pornography	<b>Protecting the rights of children deprived of parental care: The need for standards</b> <b>Organised by UNICEF -Room XXIV</b>  <b>Open negotiations on the resolution on the rights of the child</b> 10.00.- 1.00 pm - Room XXIII	<b>Human Rights Defenders' Martin Ennals Ceremony</b> With Lyda Yusupova, Award-winner, fi Memorial, Grozny.
Thursday 8	<b>Prevention Strategies to Address the Sexual Exploitation of Children: Learning from Experience"</b> Organised by the subgroup on the sexual exploitation of children NGO Group for the CRC <b>9-11 am in Room XX</b>		Panel on Chechnya: Forced Normalisat Room XII
Friday 9	Good Friday		
<b>Week # 5</b>			
Monday 12	Easter Monday		
Tuesday 13	<b>Why do adolescents volunteer as soldiers,</b> by Rachel Brett from the Quaker UN Office		
Wednesday 14		<b>Education for the sake of Peace</b> Organised by ICJW & ICW – Room XX	Jaap Doek presenting the CRC Committee' to the CHR
Thursday 15			
Friday 16			
<b>Week # 6</b>			
Monday 19	<b>Final Caucus meeting:</b> reporting on negotiations on item 13	<b>Alternative families</b> Organised by International Research Centre on Social Minorities (IRCSM)	VOTING ON ITEM 13 in the afternoon plenary (according to agenda)
Tuesday 20			



COMMISSION ON HUMAN RIGHTS - 60<sup>TH</sup> SESSION

**NGO GROUP FOR THE CONVENTION ON THE RIGHTS OF THE CHILD  
SUB-GROUP ON THE COMMISSION ON HUMAN RIGHTS**

**? HIGH-LEVEL SEGMENT ?**

**FOCUS ON CHILDREN'S RIGHTS**

**REPORT\***

\* This report, produced by the Children's Human Rights Caucus, highlights all references made to children's rights during the High Level Segment of the 60<sup>th</sup> session of the United Nations Commission on Human Rights.

## **Monday, 15<sup>th</sup> of March**

The Chairman **Mike Smith**, (Australia) opened the session. He did not mention children's rights in his speech.

Bertrand Ramcharan, the Acting High Commissioner on Human Rights covered a large scale of human rights issues such as racism, racial discrimination and xenophobia, as well as economic, social and cultural rights, including poverty and the right to development. He explicitly referred to **children in the context of Israel/Palestine**, pointing a finger to their **dramatic situation** in this region. He further called upon States to ensure human rights education in all level schools and in local languages and stressed the establishment of an International Convention on Human Rights Education.

The first speaker of the afternoon was **Mr Brian Cowen TD, Minister for Foreign Affairs of Ireland, speaking on behalf of the European Union**. He said that children's rights are a priority for the EU and that it is committed to the struggle, in order to ensure the protection, rights and wellbeing of **children exposed to armed conflicts**. That fore, the implementation of the EU Guidelines on Children and Armed Conflict (adopted on December 8<sup>th</sup> 2003) is a priority of the European Union. Further, he regrets that the general situation of children remains grave and unacceptable and that conflict-parties violating the rights of children continue to benefit from impunity. For this reason he urged all states to ratify the Rome Statute of the International Criminal Court, which includes - as a war crime - conscription or enlisting children under the age of fifteen years or using them to participate actively in hostilities, in both international and non-international armed conflicts.

**Joscka Fischer, Federal Minister for Foreign Affairs of Germany** also talked about the implementation of children's human rights as a priority for his country and remarked that notwithstanding the almost universal ratification of the Convention on the Rights of the Child, millions of children are still subject to violence every day. He particularly named **child labour, the recruitment of child soldiers, trafficking in children and child prostitution, but also domestic violence against children and other previously ignored forms of abuse**. He mentioned that Germany, in collaboration with Bosnia & Herzegovina and UNICEF, organized a Conference on the situation of children in Europe and Central Asia and that the ambitious goals for the implementation of children's rights are set out in the Berlin Commitment. A first follow-up meeting to this Conference will be hold in Sarajevo in May 2004, in order to review the progresses made on this issue. Germany hopes this will also contribute to the further consideration of children's rights required within the UN framework.

Next speaker was **Leila Rachid de Cowles, Minister for foreign Affairs of Paraguay**. She exposed her country's human rights achievements, including some concerning children. Among others, she mentioned the visit of her country by Juan Miguel Petit, SR on the **Sale of Children Child Prostitution and Child Pornography** from 23.02-05.03 2004.

All the other scheduled speakers were absent.

## **Tuesday, 16<sup>th</sup> of March**

Most of today's speakers addressed discrimination and violence against women in general, and some of them expressively named the **violence against girls**. Terrorism was also of great concern and while almost all the speakers talked about terrorism itself, some of them referred to the importance of respecting human rights and fundamental freedoms in every counter terrorism strategy. **Trafficking in human beings, and especially of women and girls** was also of great concern.

Those speakers who expressively talked about children are the following:

**Micheline Calmy-Rey, Minister for Foreign Affairs of Switzerland** focussed on the importance of the elimination of the discrimination against women and referred to the Declaration on Violence

Against Women elaborated during the meeting of Women Minister for Foreign Affairs on March 15<sup>th</sup>. Among other issues, she treated **sexual violence against women and girls** and the issue of **trafficking in human beings, especially of women and children**. On this behalf, she welcomed the entry into force of the Additional Protocol to the UN Convention on Transnational Organized Crime as an important means to tackle this problem. Switzerland is being engaged in the process for its ratification. Finally she underlined the importance of protecting the most vulnerable population groups, including children.

**Ms Laila Freivalds, Minister for Foreign Affairs of Sweden**, discussed the fact that women and **girls** often are the targets **in armed conflicts** and that their bodies become a battleground: The widespread recourse to sexual violence as means of warfare is a frightening example of the violations of the human rights of women and young girls. As examples she talked about enforced pregnancy as a strategic war aim in Bosnia & Herzegovina and about gang rape as a means of warfare in Rwanda. She also named Congo, where vaginal injuries are routinely labelled "war wounds" and urged States to tighten, respect and implement international humanitarian law as well as human rights law, in order to better protect women and young girls who are at the risk of becoming targets of armed attacks. Also she expressed Sweden's support to the International Criminal Court, in order to avoid **impunity for perpetrators of crimes against humanity and war crimes, including those relating to sexual and other violence against women and girls**. Further, she advocated for a gender perspective in all activities aimed at conflict prevention and solution, in peace agreements as well as in peace consolidation process, in order to take the special needs of women and girls into account. She also paid special attention to harmful traditional practices such as female genital mutilation and so-called crimes committed in the name of honour and underlined that these acts are a threat to health, dignity and life of women and girls. She also announced that Sweden hold an international meeting in Stockholm on women's and girl's right to health based on preventive efforts against female genital mutilation in Sweden and African Countries. Finally, Ms Laila Freivalds pointed the finger on Zimbabwe for training young people in the use of indiscriminate violence, as well as on the Occupied Palestinian Territories, where children are subjected to inappropriate detention conditions and often denied access to health and education, which is in clear violation of the Convention on the Rights of the Child.

**Ms Benita Ferrero-Waldner, Minister of Foreign Affairs of Austria**, talked about gender-based violence as the perhaps most shameful human rights violation and said that one of its expression is **domestic violence**, a problem Austria is tackling by establishing centres (e.g. in Kosovo) that provide legal counsel and psychological care for women and children who have suffered this kind of violence. She also underlined that women and **girls are particularly affected by the consequences of armed conflicts**. To counter **systematic rape**, which is often used in this context, Austria strongly supports the Rome Statute of the International Criminal Court, under which the persecution of women and girls, their systematic rape and other acts of sexual violence may constitute crimes against humanity. As Chair of the Human Security network a year ago, Ms Benita Ferrero-Waldner ensured that the particular vulnerability of women and girls is highlighted in the "Support Strategy for Children Affected by Armed Conflict", adopted by the ministers of the Network at their last meeting in Graz. Further she highlighted the fact that **women and children make up the vast majority of refugees and of internally displaced persons**. Then she underlined the importance of the **education of girls** and announced Austria's concern about **trafficking in human beings, many of them being girls ending up in prostitution or as cheap labour**. In this respect, she called upon governments to ratify the Protocol to the UN Convention on Transnational Organized Crime as an important tool to combat it. Finally she announced that Austria will present a **resolution on juvenile justice** during the Commission.

**Ms Jadranka Kosor, Deputy Prime Minister of Croatia**, assured that children's rights were one of her government's priorities. She mentioned Croatia's National Plan against trafficking in human beings and insisted in the importance of providing school children with information about the danger of human trafficking.

The **Italian Vice-Minister for Foreign Affairs, Ms Margaritha Boniver** also qualified children's rights as a priority. She remembered that the main EU guidelines on this behalf were established during the Italian presidency. She particularly mentioned the **situation of children in armed conflicts and trafficking of children**, a topic which was also treated by the **Estonian Minister for Foreign Affairs, Ms Kristiina Ojuland**.

The **Minister for Human Rights of Yemen, Ms Amat AL-Aleem Alsoswa**, explained that her country created mechanisms to promote the rights of **children with disabilities** in the year 2000. Further, they would try to promote scholarship of the girl-child, but important difference in education would still remain.

While the **Ministers for Foreign Affairs of El Salvador (Ms Eugenia Brizuela de Avila) and Canada (Mr Bill Graham)**, did not mention children's rights, the **Armenian (Mr Vartan Oskanian)** mentioned that his country is working on an National Plan of Action for Children, and the **Special Envoy and Advisor to the Minister for Foreign Affairs of Thailand, Mr. Vitthya Vejajiva**, said education for children was a priority issue for his government.

The **Secretary of Foreign Affairs of the Philippines** stressed the appointment of a **Special Rapporteur on trafficking in women and girls** to assure continued monitoring of the problem. He also talked about violence against women and its broader consequences on the whole family and endorsed the idea of an International **Convention on the Rights of Migrants and their families**, which he wishes to be ratified by all countries.

**Mr Kastriot Islami, Albania's Minister for Foreign Affairs**, talked about the government's work to promote all human rights. As regards the protection and promotion of children's rights, he explained that the Albanian Government is implementing a National Strategy on promotion of the rights of the child, as well as other sectorial strategies in line with the CRC. These efforts are undertaken in collaboration with the civil society and specialized UN agencies.

**Ms Brigitte Mamandla, South Africa's Minister of Housing**, stated that South Africa was committed to implement all human rights since it became a democracy 10 years ago. Her statement was very much focussed on discrimination and all forms of violence against women, and sometimes girls. In recognising that women and girls still constitute a significant number of victims of violence, she underlined that her government ratified the CEDAW and accordingly passed the Domestic Violence Act in 1998. She also underlined the existence of special courts in South Africa addressing the crimes of violence against women and children.

The next speaker, **Lydie Polfer, the Vice-Prim Minister of Foreign Affairs of Luxemburg**, also addressed **domestic violence**, specifying that children, were often its victims. Other concerns were the situation of **children in armed conflict, sexual abuse and labour exploitation of children** In this light, she called upon the member states to ensure that engagements made during the Commission be followed up by concrete acts.

The other speakers did not specifically named children.

During the afternoon session, terrorism (and the importance of guaranteeing human rights in counter-terrorism actions) and trafficking in human beings was again given great attention in many statements. Additionally, the trend to associate Islam with terrorism was denounced by some delegations.

The delegations which talked about children's rights in particular, are the following:

The **Minister for Foreign Affairs of the Ukraine, M. Kostyantyn Gryshenko**, underlined the importance of combating impunity as a means to improve the overall human rights situation. He also noted that women and children are particularly vulnerable groups, especially when it comes to **armed conflicts**. Regarding his country's children's rights policy, he assured that his government undertakes

every effort to combat **sexual exploitation of children**. Further, he explained Ukraine's youth policy and the support it provides to the families: The year 2004 has been declared “the year of the family” by a presidential decree and a new **Ministry of children, family and youth has been established**, in order to improve the situation of children and women.

The **Secretary-General of the Organization of the Islamic Conference, Mister Abdelouahed Belkeziz**, talked about children’s rights in the broader context of economic and social rights, and particularly the right to development. He said that the **implementation of children’s, women’s and migrants' social rights** are disturbed by the negative effects of globalisation.

The **Slovenian Minister for Foreign Affairs, Dr. Dimitrij Rupel**, concentrated on the concept of "human security", stating that continuing attention to **children in armed conflicts, mine clearing and the problems linked to small arms and light weapons** must be a priority for the international community. In the name of the principle of non-discrimination, he underlined that adequate protection for specially vulnerable population groups such as children (he named many others), must be ensured. Consequently, he called upon all the competent authorities to establish fair procedures impeding abusive and stigmatic treatment, as well as to adopt measures protecting human dignity of every human being. Dr. Dimitrij Rupel subsequently said that Slovenia does devote particular attention to the **status and rights of children** and that its legal system does provide for adequate **participation of children in legal procedures**. Moreover, a National Program for the Improvement of Children’s situation - determining the objectives and activities up to 2013 - is prepared and will be submitted to the parliamentary procedure in the following months. Subsequently, in order to inform children about their rights, the Ombudsman’s office has started an information campaign, explaining children’s right in a dynamic manner. Concerning social justice for children, Dr. Dimitrij Rupel said that Slovenia is currently working on the ratification of the two Optional Protocol to the Convention on the Rights of the Child (on the sale of children, child prostitution and child pornography and on children in armed conflict) and that it is expected to be completed soon. Additionally, the Slovenian Government gives great attention to the **psychological rehabilitation of children who are affected by armed conflicts**, by backing - in collaboration with NGOs - programs in South Eastern Europe and in Iraq. Lastly, Dr. Dimitrij Rupel urged the International Community to give attention to the problem of **trafficking in human beings, especially when children** and women are involved.

### Wednesday, 17<sup>th</sup> of March

The **Minister for Foreign Affairs of Bosnia & Herzegovina, Mr Mladen Ivanic**, talked about his country’s actions to improve the human rights situation. In relation with children’s rights, he assured that his government was undertaking actions in the framework of regional cooperation. As an example, he gave last weeks Regional Youth Forum, where ways to improve the situation of this population group in South East Europe were discussed. As Joschka Fischer did on Monday, he referred to the **Second Inter-governmental Conference on making Europe and Central Asia “Fit for children”**, which will be hold in Sarajevo from May 15<sup>th</sup> to 17<sup>th</sup>. He reiterated that the Conference is aiming to identify future actions to be taken to further promote and protect children’s rights in the region.

**Marta Altolaguirre, the Minister for Foreign Affairs of Guatemala**, reiterated Guatemalas open invitation for Special Rapporteurs and backed the other mechanisms of the UNHCHR. She said sexual exploitation of children and women is a dangerous reality (also in her country) and mentioned Yakin Ertürk’s visit to Guatemala in February 2004.

**Mr Felipe Pérez Roque, Minister for Foreign Affairs of Cuba**, raised concern that the USA is still applying death penalty to persons who have committed their crimes while being under 18 years old. He also condemned USA’s human rights policy regarding Guantanamo.

**The State Minister for Foreign Affairs of Bangladesh, Mr Reaz Rahman**, said that the rights of the child are a priority to his government. He mentioned their struggle for an **amelioration of the judicial**

**system**, assuring that they were giving special attention to children's needs. He also named some reforms, which benefit to the children, and especially girls, such as **free access to public school for girls** under 12 years old.

The **Minister of State and Government Spokesperson of Jordan, Ms Asma Khader**, said that Jordan has recently amended its 1996 Labour law, raising the legal age for juveniles working in potentially hazardous conditions from 17 to 18. Furthermore, the government is in the final process of drafting of a national strategy to combat **child labour**. She explained that the Family Project Management Team, established to combat the problem of domestic violence received the 2003 UN Price for Human Rights and that Jordan led a regional Conference held in Amman this February, which brought 23 countries together, in order to assess the scope of **child abuse** in the region. That was the first collaborative effort to eradicate **child maltreatment** in the region. It also saw the establishment of a regional network, as well as the adoption of a certain number of recommendations including the need for developing national frameworks in all Arab countries protecting children and families.

The last speaker of this morning, the **Minister for Foreign Affairs of the Netherlands, Mr Bernard Bot**, merely addressed children's rights ensuring that he regrets that so many children are still facing **child labour**. He spoke mainly about women's rights, urging states to implement the provision of the Cairo agenda and to combat **domestic violence**, including **matrimonial rape**.

The two first speakers of the afternoon, the delegates of **Botswana (Mr. Daniel K. Kwelagobe, Minister for Presidential Affairs and Public Administration)** and of **Rwanda (Ms. Edda Mukabagwiza, Minister of Justice)** did not focus on children's rights. Nonetheless, the first one assured that the government continues implementing its National Gender Plan of Action, which mainly focuses – among others – on education and health rights of the girl child. Rwanda's delegate mainly treated the 1994 genocide, and in this context, outlined the disastrous consequences it has on children: not only was rape against women and girls used as an arm, but many of the raped girls were infected by the HIV-virus on this occasion. Many of them are now having children.

**Dr. Gustavo Beliz, Minister of Justice, Security and Human Rights of Argentina**, mainly spoke about the importance to combat **impunity** of human rights violations, referring to the dictatorship Argentineans suffered in the past. He mentioned that the Secretary for Human Rights is promoting a National Plan for the Rights of the Child which would promote children's rights at the national and regional level. He added that since the new government was established in May 2003, his country adopted various important international human rights instruments, including the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

The Finnish **Minister for Foreign Affairs, Mr Erkki Tuomioja**, in addition to what has already been said by the president of the European Union, said that good governance was one of the priorities to promote (children's) human rights: for example, **corruption and discriminatory practices** can create **obstacles for girls to get to school or for women to have access to health services**. Further, he affirmed that violations of children's rights, including the recruitment of **child soldiers**, may undermine the prospects for stable development. He also noted that this kind of problem can be the consequence of lack of access to justice and meaningful ways to participate in the society, which pave the way for extremism. He finally announced that his government will present a comprehensive Human Rights Report later this month, in which special emphasis is placed on the rights of children, women and others.

The last speaker of the day, **Poland's Under-Secretary of State in the Ministry of Foreign Affairs, Mr Jakub Wolski**, also wished to support the European Unions priorities for this Commission, including the protection of children's rights. He underlined that Poland wishes also to put emphasis on the prevention of the participation of children in armed conflicts.

## **Thursday, 18<sup>th</sup> of March**

The **Deputy Minister for foreign Affairs of Belarus, Mr Alyaksandr**, was the first orator. He said the struggle against modern slave trade is a priority for his country, as it is a country of origin and in some cases, its territory is used for transit of victims of trafficking. On this behalf, the Republic of Belarus ratified the Protocol to prevent, suppress and punish **trafficking** in human beings - and especially women and children, supplementing the UN Convention against Transnational Organized Crime. He called upon all the countries to contribute to tackle trafficking in human beings in a consolidated manner.

Following speaker **Arévalo Méndez, the Vice-Minister for Foreign Affairs of Venezuela**, focussed on his government's reforms strengthening good administration of law and exposed some of the government's recent efforts to combat **poverty**. Specifically, he mentioned the Plan of Economic and Social Development of the nation, which aims to ensure better access for children to education, food and drinking water. He said infant mortality has been reduced and a "Statutory Law of Protection of the Boy, the Girl and the Adolescent" has been approved and put into practice.

**Ms Marie-Madeleine Kalala, Minister for Human Rights of the Democratic Republic of Congo**, outlined the necessity to combat impunity for crimes committed in RDC in general, and in the conflict region of Ituri in Eastern DRC particularly. In order to do so, she called for the establishment of the International Criminal Tribunal for Congo and expressed her support for the ICC. One of the main concerns was the issue of **rape and other sexual violence committed against women and children**. She mentioned that her government established, in collaboration with the UN and NGOs, a program to prevent and counter sexual violence against women and children. Another main point in her statement was the governmental action taken to achieve disarmament, demobilisation and finally reintegration into community of **child soldiers**, persons with disabilities and former combatants. In order to achieve this goal, an Inter Ministerial Committee was established.

The **State Secretary for European Affairs and Minister for foreign Affairs of Belgium, Ms Frédérique Ries**, dedicated her speech to the need of reforming the UNHRC. She did not expressly mention children's human rights, but approved the position of the EU, presented by Mr Cowen on Monday, 15<sup>th</sup> of March.

**Ms. Frances Rodrigues, Vice-Minister for Foreign Affairs and Cooperation of Mozambique**, stated that the elimination of violence against children remained a top priority area for her government. She said Mozambique is determined to advance the rights and interest of children. She also talked about the special vulnerability of children and said that her country adopted a number of relevant measures to protect and empower them. At the regional level, Mozambique plays an active role in the activities of the African Committee of Experts on the Rights and the Welfare of the Child in Africa. At the international level, her country is signatory to the International Convention on the rights of the Child and is currently working towards creating legal and operational mechanisms for its implementation. Ms Frances Rodrigues also talked about the recently published information on alleged trafficking in human organs of children in the province of Nampula. She said the government attaches great importance to these allegations and has charged a team led by the Attorney General's Office to investigate into these allegations. Although preliminary conclusions did not show evidence of the allegations, further investigations will be carried out. Lastly, she addressed the problem of missing children in Mozambique and called upon international community and all walks of society to endorse the authorities to tackle the problem.

**Dr. G. Ali Khoshroo, the Deputy Foreign Minister for Legal and International Affairs of the Islamic Republic of Iran**, did not put children's rights on the priority list for Iran, but underlined nevertheless, that his country has acceded to the ILO Convention (N° 182) on the Worst Forms of Child Labour

**Mr. Kassymjomart Tokaev, the Minister for Foreign Affairs of Kazakhstan**, mentioned his country's record in securing the rights of children and stated that Kazakhstan's report on the implementation of the Convention of the Rights of the Child was well received by the relevant international institutions, including the UN.

**Mr. Tyronne Fernando, the Minister for Foreign Affairs of Sri Lanka** explained his government's attempts to strengthen human rights. He stated that Sri Lanka signed the **Optional Protocol on Sale of Children, Child Prostitution and Pornography** and was currently taking steps to ratify it. He also mentioned the relevancy of making non-state actors responsive to human rights aspects, particularly on issues such as **child soldiers**.

The delegate of **Honduras, the Minister of Governance and Justice Dr. Jorge Hernandez Alcerro**, based almost his entire speech on the Report of Ms Asma Jahangir, the Special Rapporteur on Extra Judicial, Summary or Arbitrary Executions, who visited the country from August 5<sup>th</sup> to 15<sup>th</sup> 2001. The delegate's intervention provided a special focus on the problem of **violent deaths of children under the age of 18**, which hampers the country. He talked about the measures his government is undertaking in order to tackle the problem and implement the SR's recommendations. Among these, he cited the Executive Decree PCM-006-2002 creating the "Standing Committee for the Protection of the Physical and Moral Integrity of Children", the establishment of a "Special Unit for the investigation of Child Deaths" in September 2002 and other measures of social, economic and political character the government has launched in order to prevent further such killings. He also provided detailed information about the results of the investigation. Finally he invited UN bodies as well as governments and private organizations to further collaborate with Honduras, in order to find a final solution to the problem.

**Mr. Déogratias Rusengwamihiho, the Minister for Constitutional Reform, Human Rights and Relations with the Parliament of Burundi**, briefly addressed the problems of **child soldiers** and **child labour**. He explained that Burundi has ratified the International Convention on the Rights of the Child and that projects and assistance centres are being established in collaboration with UNICEF. As main objectives of the government's children policy, he named demobilisation, disarmament and social as well as professional reintegration into community of all children and said that a transit centre for street children is being established, which also aims to foster professional and social reintegration. Lastly, he talked about children's education as an objective.

**Mr. Hamady Ould Meimou, the Human Rights Commissioner of Mauritania** included **education** issues in his statement. 42% of the population is illiterate, reason why the government passed a law under which police sanctions parents of 6 to 14 year-old children, if they do not go to school. Consequently, schooling rate is of 90 % for boys and 83% for girls.

The **Moldavian Deputy Minister for Foreign Affairs, Ms. Eugenia Kistruga**, addressed the problem of **discrimination between boys and girls** and the grave situation in the Moldavian schools.

During the afternoon session, **Mr. Ali Osman Yassin, the Minister of Justice of Sudan**, outlined the improvements Sudan made last year regarding human rights. As for children's rights, he underlined that the Council of Ministers approved last November a **new Child Law**, which contains provisions to enhance the enjoyment of rights and welfare by children in conformity with the UN Convention on the Rights of the Child (CRC). He also mentioned that Sudan has ratified the two optional Protocols to the CRC. Further, he stated that the **Federal Committee for the Eradication of Abduction of Women and Children** succeeded to completely stop abduction of children and women in 2003. Last month, the committee received half a billion Sudanese Dinars from the government and is convinced that it has acquired the capacity to deal with all remaining cases of abduction within 12 months. Finally, the delegate was concerned about the violence exercised by the Israeli forces against the **Palestinian civilian population, and in particular children and Women**.



**Mr. Friis A. Petersen, Permanent Secretary of State of Denmark**, enumerated Denmark's priorities for this commission, which are: women, indigenous people, persons with disabilities, the rights of Human Rights Defenders, as well as **children in armed conflicts**. He said that their suffering was a shameful fact and welcomed the adoption of the EU guidelines on children and armed conflicts last December. He is sure that it is an effective means for Denmark and the EU partners to enhance the protection and fulfilment of children's rights. He added that the swift and effective implementation of the guidelines has been given high priority.

**Mr. Bill Rammell MP, Minister for International Human Rights of the United Kingdom of Great Britain and Northern Ireland**, did not speak a lot about children's rights. He only mentioned that the UK has ratified the Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts. Further, he expressed concern about the situation in North Korea, where - he said - reports about **testing of chemicals on political prisoners, including children** have recently begun to emerge. (These allegations were denied by the North Korean Delegation, who used its right to reply.)

**Mr. Jan Petersen, Minister for Foreign Affairs of Norway**, called for the universal and absolute abolition of the death penalty and said that the use of **capital punishment against child offenders** is totally unacceptable. He also mentioned the importance of strengthening the role of women in post-conflict situations, which would also benefit to other vulnerable groups, including children.

**NGO GROUP FOR THE CONVENTION ON THE RIGHTS OF THE CHILD  
SUB-GROUP ON THE COMMISSION ON HUMAN RIGHTS**

**? PLENARY SESSION ?**

**FOCUS ON CHILDREN'S RIGHTS**

**REPORT\***

\* This report, produced by the Children's Human Rights Caucus, highlights references made to children's rights during the plenary sessions of the 60<sup>th</sup> session of the United Nations Commission on Human Rights.

### **Friday, March 19<sup>th</sup>: Agenda items 3, 4, 5**

#### **Item 4: Report of the United Nations High Commissioner for Human Rights and follow-up to the World Conference on Human Rights**

**Mr. Bertrand Ramcharan**, the Acting U.N. High Commissioner for Human Rights, presented the annual report (E/CN4/2004/12). Concerning **human rights education** (first part of the report), he recommended the elaboration of “teaching booklet[s] in local language[s] for every teacher” in both primary and secondary schools. He thinks human rights education for teachers themselves is crucial (also in the local language), because it enables them to better train children. Moreover, he repeated his suggestion for a Convention on human rights’ education (see his statement from March 15<sup>th</sup>). Finally, he condemned **trafficking in young women** (E/CN4/2004/12 § 67) and strongly “appeal[ed] to the Commission to consider the establishment of a mechanism to study and analyse the problem, to present findings and recommendations to the Commission, to engage in urgent action for the protection of those at risk and to lead an international campaign against trafficking in human beings”.

Mr. Bertrand Ramcharan’s statement was approved by several States, which considered human rights education for children as an effective means to raise knowledge of human rights within the population. Those who expressly approved it were Pakistan (on behalf of the International Islamic Conference), Egypt, Ukraine, Indonesia and the Russian Federation.

**Mexico** recognized that children are often victims of serious scourges in this country.

#### **Item 5: The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation**

The few references to children under this item came from the following representatives:

**Qatar** accused Israel to infringe children’s human rights by bombing Palestinian schools. **Pakistan** attempted to make a touching statement by referring to the human costs in Kashmir, including an example of a graveyard for children. Finally, the **International Islamic Federation of Students Organisation (NGO)** denounced disappearances of young people in Kashmir.

### **Monday, March 22<sup>nd</sup>: Agenda items 5 & 6**

#### **Item 6 - Racism, racial discrimination, xenophobia and all forms of discrimination: (A) Durban Declaration**

After Mr Doudou Diène’s (**Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**) presentation of his Reports on Guyana and Canada (E/CN.4/2004/18 and Add.1-4), the Canadians mentioned that “double discrimination”, including discrimination suffered by children because of their origin and their age, is an important problem.

**The Chairperson-Rapporteur of the Working Group on People of African Descent (E/CN.4/2004/21)**, Mr Peter Kasanda, said that his report highlights the urgent need for promoting justice for persons of African descent. There fore he called upon States to introduce an ombudsman on discrimination and to improve **African descent’s access to education** (he expressively named youths and children).

**The Chairperson-Rapporteur of the Working Group on the effective implementation of the Durban Declaration and Programme of Action (E/CN.4/2004/20)**, Mr Juan Martabit, stated that the eradication of poverty and the promotion of education would lead to a decrease in discrimination.

#### **Member States**

**Mexico** underlined that racism and discrimination against vulnerable groups such as women, children and indigenous people should be given special priority. It then went on to listing its domestic measures against racism. **Nepal** noted that promoting education is a means to avoid racism and all other forms of discrimination. **Sudan** said that young girls are often victims of discrimination and emphasized that it has reformed its school system, so that it better reflects the diversity of the Sudanese population, especially in terms of religion. Lastly, **Congo (on the behalf of the African Group)** raised concern about discrimination towards Africans in Europe, including in education.

#### Observer States/Organizations

**The International Labour Organization** (ILO) outlined its action plan against discrimination in the labour market. It said that there is a linkage between discrimination and forced labour. In particular, it stated that vulnerable groups are more likely to suffer exploitation such as child labour. **Switzerland** raised its concern over the denial of citizenship due to race or origin. It also expressed concern that women can often not transmit nationality to their children.

#### Tuesday, March 23<sup>rd</sup>: Agenda items 6 & 7

##### Item 6

##### NGOs

**Women's International Democratic Federation** wished to recall that the separation wall built by Israel is a form of discrimination, as it prevents Palestinian children's access to education, health, etc. The **European Roma Rights Centre** noticed that numerous Roma children are being placed in specialized schools for children with mental disorder - even if they do not have such disabilities. Due to this segregation in the education system, Roma children are less trained than others, which unavoidably has negative consequences for their upcoming social and professional life. Other child-related concerns were expressed by the **World Peace Council**, which denounced that minors are still being detained in Guantanamo, as well as by the **December 12<sup>th</sup> Movement International Secretariat**, which denounced the extra-judicial killing of a black teenager (at the beginning of the year) by members of the New York Police.

##### Item 7: Right to development

##### Member States

The **Irish representative, speaking on behalf of the European Union**, emphasized that a child right perspective should be integrated in all development policies. **United States of America** assured that good education for girls and boys is one of the most important means for a country's development. The delegation of **Bahrain** denounced that begging is becoming a business for Palestinian children. It also deplored their poor living conditions and the fact that they belong to the poorest part of the society. Further, it underlined that Bahrain's laws especially protect families because they are the corner-stone of the society. Also, free access to social security and education is guaranteed for everybody. Lastly, Bahrain said that it is setting up support programs for orphan children.

#### Wednesday, March 24<sup>th</sup>: Agenda items 3, 7 & 8

##### Item 3 - Special Sitting on the situation in the occupied Palestinian territories after the assassination of Sheikh Ahmad Yassin (called by Pakistan on behalf of the OIC)

There were two brief references to children's situation in the conflict. One by Israel and one by Chile: Israel listed various suicide attacks including the killing of children. It said that women and young

children were used for suicide bombings, but that those were never children from the Hamas activists' own families. Chile just added that "the murder of men, women and children cannot be justified"

#### Item 7

#### NGOs

**Human Rights Advocates** gave great attention to child rights issues. It denounced that "over the next 20 years, up to 118 million people will die from inadequate water and sanitation, nearly twice as many as will die from AIDS. Sadly over 90% of these deaths will occur in children under the age of 5". It also drew attention on the continuing problem of enlisting children as soldiers. It said this phenomenon is closely linked to the lack of development, "education and [the] absence of constructive social incentives" focussed on children. It finally stated that "the right to water and the right to life of children in armed conflict are two key components of the right to development [and urged] that these be viewed as priority issues for the work of the High Level Task Force."

The **Hariri Foundation** talked about difficulties to place children into school in Lebanon. Also, the **International NGO Forum on Indonesia Development** reminded that children's special needs should be taken into consideration while establishing and implementing development policies.

#### Item 8: Question of the violation of human rights in the occupied Arab territories, including Palestine.

#### Members States

Various countries criticized Israel's policy in the Occupied Palestinian Territories, stating that it constitutes a continuous and grave and continuing violation of humanitarian law and human rights law. The "Security Fence" - and its consequences on Palestinian's family structures, access to health services and education (especially for school children and their teachers, but also for elder students), as well as to water and agricultural land - was outlined by most of the speakers.

**South Africa** stated that an important part of the Palestinian children are suffering from malnutrition because of the disastrous situation in the region and called upon the international community to undertake all the necessary efforts to establish peace, as it is the only way to guarantee a healthy development of children.

Saudi Arabia, Indonesia, Ireland (on behalf of the European Union), India (all members of the UNCHR), Palestine, Norway, Switzerland and Algeria (Observers) explicitly talked about the **wall's impact on children, especially concerning their access to health services, schools, families and friends**. It is worth considering the following statements more closely:

**Ireland (EU)** said: "Particularly alarming is the killing and wounding of children on both sides, as well as the impact on the lives, personal development and psychological well-being of those who have been affected by violence against their family members and friends. 550 children have been killed, of whom 460 were Palestinian and 90 Israelis. The number of Palestinian children killed, mainly in air and ground attacks, has increased in 2003. Children are protected under international humanitarian law and human rights law, in particular the Convention on the Rights of the Child, to which Israel is party, and the standards of which the Palestinian Authority is called upon to apply. These protective standard rules are to be observed with regard to all children under the age of 18, yet they are not observed with regard to Palestinian children, who are subject to special military laws which, for example, make it possible to imprison children from as young as 12 years." Wit regard to the right to education and to health, Ireland's delegate stated that they "have also been seriously hampered as a result of the restriction of movement, which has also meant that many schooldays have been lost. The EU also expresses its concern at the closure of Palestinian Universities. The European Union strongly condemns attacks on schools and their use for military purposes, which deprive thousands of Palestinian students of their right to education. It calls upon both parties to ensure an education aimed

at tolerance and peaceful coexistence.” Further, “the European Union is concerned by the large number of arbitrary arrests, including of children, carried out by the Israeli Army and condemns the use of discriminatory rules of detention for the Palestinian residing in the Occupied Territories.”

**Israel** answered that it has the duty to protect its women, youths and children from terrorist attacks. It also focused on the use of children by Palestinian terrorist groups (it explicitly named Hamas) to perpetrate suicide attacks against Israeli soldiers and civilians. It underlined that these attacks also kill Palestinians, including children. The Israeli delegate then went on stating that such a behaviour of Palestinian children was not surprising, but merely the result of hate propaganda against Israel by its neighbour States. The **Palestinian delegation** replied by outlining the high number of killed and injured Palestinian children in the last years. Concerning the use of children for terrorist attacks mentioned by Israel, the Palestinian delegation countered by accusing Israel of using children within their Intelligence Services.

## NGOs

Many NGOs intervened on this item. The following included children’s human rights in their statement:

The “**Movimiento Cubano por la Paz y la Soberania de los Pueblos**” accused Israel of detaining “children in prisons, where they are submitted to abominable ill-treatment.” Further, the NGO said that “uncountable denunciations of sexual abuse have been formulated” against the Israeli Prison Authorities. Sexual abuse is reportedly practiced in order to intimidate Palestinian inmates - especially those under the age of 18 - of both genders, so that they “declare their connection to the resistance.” The organization also added that inmates are often not allowed to contact their family. Such treatment is in flagrant violation with the rights a prisoner is guaranteed under human rights laws. The NGO **North-South XXI** also denounced cases of torture of women and children in Israeli detention centres. Further, the **Hairi Fodation** recalled that the Committee on the Rights of the Child (CRC) stated in its Concluding Observations on Israel (on October 4<sup>th</sup>, 2002), that Israel should provide “adequate compensation, recovery and rehabilitation to the child victims of Israeli forces actions in Southern Lebanon” as well as to its victims in the Palestinian territories. The **International Association of Jewish Lawyers and Jurists** stated that the Special Rapporteur’s report doesn’t mention the cases of children carrying out terrorist attacks against Israelis; and the **Simon Wiesental Centre** mentioned that a very important number of Palestinian children recruited by Hamas have lost their life.

**World Vision** said its “statement is for the over 600 children who lie voiceless in graves and the thousands wasting away with awful injuries in hospitals all over the Occupied Palestinian Territories (OPT) and Israel.” It recalled that, from the 2,780 Palestinians and 956 Israelis who have died over the past three years, over 634 have been children. Concerning the security barrier, the VW delegate said It is imperative to center the existing public discourse on respect for human rights by and for all parties...especially for traumatized children. He further noted that “the ongoing conflict jeopardizes rights of children set forth in the Convention on the Rights of the Child. For one, the trauma and psychological distress caused by the ongoing conflict is having detrimental psychosocial effects on nearly all children on both sides of the wall.” Lastly , he reminded us that children account for nearly one-fifth of all Palestinian and Israeli fatalities during this Intifada [and that] The international community must keep the issue of human rights - especially the rights of the child - at the top of the agenda.” (WV released a special report called “Who will wipe away their tears?”: WipeAwayTears.pdf - <go to <http://www.justice-and-peace.org>> click on Reports.)

**Save the Children** named some of the most important children’s rights violation occurring daily in the Occupied Palestinian Territories, such as restrictions of the freedom of movement. It also outlined that children continue to be at risk from harm through military actions. The demolition of houses and confiscation land leaves them homeless and their families without a viable livelihood. The level of violence faced by children and the tendency for children to use violence for their own problem is increasing. The grave impacts of the Wall built by Israel are numerous (see report of the Panel from

Monday 22<sup>nd</sup>). Although school represents a place where children can find shelters of violence, one can observe an increasing level of violence and child-on-child aggression. Save the Children further stated that 465 Palestinian and 104 Israeli children have lost their lives during the last 3 years of Intifada; 350 are now illegally detained. Moreover, 550 Palestinian children, some as young as 12 years old, were arrested by the Israeli military in 2003, most of them accused of stone throwing. In contradiction to the Convention on the Rights of the Child (CRC), many of them are subjected to inhuman and degrading treatment and punishment. Many witness extreme fear and feeling of helplessness during interrogation and their time in prison. Save the Children also recalled that children's rights are enshrined in International Humanitarian Law including the CRC. Israel - as the occupying power and the builder of the Wall, but also the Palestinian Authority and international governments have the duty to guarantee these rights. For all these reasons, Save the Children called upon the Commission to use the power invested in it to:

- Ensure the implementation of UN resolutions taken in the interest of children living in the Occupied Palestinian Territories (they have declared the occupation illegal and that the wall building must end), the CRC and other international humanitarian and human rights law.
- Support the establishment of an international human rights monitoring presence, including child protection monitors, to be deployed to the Occupied Palestinian Territories.
- Ensure that present and future negotiations for a just peace settlement utilize international instruments for children's rights.
- Call the Government to account for actions taken in violation of children's rights and ensure they meet their obligations under international and human rights law (investigate and bring into account all incidents involving military personnel and the injury of children; fully apply the CRC provisions to detained children; respect the children's right to education and stop the military's entering into Palestinian schools; put an end to extensive and punitive closures and curfews affecting Palestinian children and their families; stop the construction of the wall).
- Call on the Palestinian Authority to reduce the level of violence confronting children in their daily life and to provide all children with a safe and protective environment for learning.

#### **Thursday, March 25<sup>th</sup>: Agenda item 9**

**Item 9: Question of the violation of human rights and fundamental freedoms in any part of the world, including (a) the question of human rights in Cyprus.**

#### **Member States**

The first statement including child issues was made by the representative of **Ireland (on behalf of the European Union)**. It was reminded that children are still "recruited as soldiers and used in armed conflict in many parts of the world". Although progress has been achieved, especially in Western and Central Africa, the problem remains of a great concern. The EU also denounced abduction of children for military use in Northern Uganda. It then mentioned its efforts to stop this practices, e.g. by adopting Guidelines on Children and Armed Conflict. In this regard, the European Union reiterated its wish to end impunity and called upon all the States to sign and ratify the Rome Statute on the International Criminal Court. Finally, the delegate said that "it is essential to bring a strong child perspective to all phases of conflict resolution and the aftermath of conflict, and pay special regard to the particular problems of girls affected by conflict".

**Australia** "is intensely concerned by the deteriorating human rights situation in Zimbabwe. [It] strongly condemns the routine use of government security forces and youth militia to harass and physically attack those who publicly oppose the Government of Zimbabwe. [it is also] concerned by reports of "youth training camps" which politically indoctrinate youth and train them in violent techniques against political opponents." (These allegations were rejected in Zimbabwe's reply.)

## Observer States

**New Zealand** expressed concern about the high level of violence against children throughout the world and urged the international community to create a mechanism in order to compensate all victims of violence.

## NGOs

In their joint statement, the **Dominicans for Justice and Peace, Congregation of St Joseph, Dominican Leadership Conference, Sisters of Notre Dame de Namur, Caritas Interationalis, Maryknoll Fathers and Brothers, Maryknoll Sisters of St. Dominic, and International Presentation Association Sisters of the Presentation** focussed on the right to education in Iraq. They remain gravely concerned about its poor education system which is completely disorganised. The **Association of World Citizens and World Education** reminded that millions of young people are illiterate, both in developing and developed countries. Lastly, the **World Organisation Against Torture (OMCT)** highlighted the situation in Sudan, where more than 200 persons, including minimum 2 children, have been sentenced to death during the last year. Further, girls are often victims of corporal punishment and do not have access to judicial defence.

## Friday, March 25<sup>th</sup>: Agenda item 9 (b)

Today's Plenary Session was closed to the NGOs until 16.30 pm., as it was dedicated to the 15/03 procedure.

## Item 9

**Ms Iulia Motoc, the Special Rapporteur on the situation of human rights in the Democratic Republic of Congo**, talked about the harsh situation of child soldiers during the civil war. In addition to be misused for military purposes, they have been ill-treated and tortured. They have reportedly also been forced to look at acts of cannibalism. The **representative of the DRC** answered that children are indeed a vulnerable part of the society and thus do need special protection. He assured that former child soldiers may benefit from programs aiming to demobilization, as well as to assure those children's rehabilitation and reintegration into community. (E/CN.4/2004/34)

## Monday, March 29<sup>th</sup>: Agenda items 9,10

Item 9: Question of the violation of human rights and fundamental freedoms in any part of the world

## NGOs

**The International Save the children Alliance** talked about the situation of children in Afghanistan stating that it wanted "to draw the attention of the Commission to the continued plight of almost half of the entire population of Afghanistan-children. [...] The combination of endemic poverty, acute drought, decades of civil war and internal strife have had a profoundly negative impact on the lives of Afghan children and their ability to secure their rights. [...] A children's consultation process [...] was organised nationwide with the support of Save the children [...] concerning their security and protection [and was] thereafter presented to the administration for appropriate action by the children's representatives. [...] The Afghanistan Independent Human Rights Commission and its section for child rights is now an instrumental institution for the promotion of children's rights in Afghanistan. [However] children and their families continue to be severely affected by the impact of over two decades of conflict in the country [which] have created an extremely difficult, instable and insecure



environment for Afghan children and young people, especially for girls." Finally Save the Children urged "States and UN agencies:

- To provide adequate assistance to promote quality basic education and to ensure that access to as well as quality education is provided to all children.
- To recommend extension of the mandate of the Afghan Independent Human Rights Commission beyond June 2004 for the purpose of monitoring and reporting on the status of human rights including children's rights in Afghanistan.
- To strengthen the capacity of the Afghanistan Independent Human Rights Commission; in particular its section for child rights to monitor and promote children's rights issues.
- To encourage the UN Independent Expert on Afghanistan when appointed to include children's rights in his/her reports to the Commission on HR and to the General Assembly."

The **African Society of International and Comparative Law** called upon the Commission to condemn Sudan for its incapacity to solve the conflict in the region of Darfour. It stated that one can there observe a humanitarian disaster , including killings of women and children.

**Médecins du Monde** focussed on the dramatic situation of **Chechens** living in Ingushetia (mostly in refugee camps) and in Chechnya itself. It particularly mentioned the limited access to schools for children living in refugee camps, caused by the high number of controls carried out by the Russian police and army. Furthermore, the Russian, Ingushetian and pro Russian Chechen migration authorities are currently implementing "organized pressure strategies", in order to dismantle refugee camps in Ingushetia: they suggest to the refugees to go back to Chechnya, assuring that they would "help" them. If the concerned do not agree, they are threaten not to receive any help if they want to go back on a later date. They would then also be refused official papers, which means that they would be "illegal" and their children would be excluded from health services and schools. The delegate then gave the example of the Satsita's camp at Slepstovsk, where the school and the hospital have been closed last week. Moreover, Médecins du Monde explained that hospitals in Ingushetia are reluctant to receive Chechens, even if they are pregnant women.

Lastly, **Al Haq and Habitat International**, with the support of the **World Organization Against Torture** reiterated their concern about the overall situation in the Occupied Palestinian Territories. They especially mentioned that children can often not attend school because of the Wall built by Israel. They also condemned other violations of human rights such as torture and ill-treatment of Palestinian detainees, including women and children.

#### Item 10: Economic, social and cultural rights

#### Interactive dialogue

**Ms. Anne-Marie Lizin, Independent expert on the question of Human rights and extreme poverty**, presented her report ([E/CN.4/2004/43](#)). Among others, she said that "the total world military budget for 2003 alone would cover the cost of building all the schools that Africa needs for young people aged from 0 to 18 years and pay their teachers for 15 years." (§ 6 of the report). Other references to children can be found in paragraphs 42, 44 and 45 of her report.

**Yemen** (as concerned country) mentioned that it has set up a program in order to reduce infant mortality. **China** (also as concerned country) reported that more and more children are in serious need in the United States of America.

Mr Jean Ziegler, Special Rapporteur on the right to food, also presented his reports ([E/CN.4/2004/10](#) and [Add.1-2](#)). He noted that progress in reducing hunger and malnutrition has virtually come to an end. Every 7 seconds a child dies from consequences linked to the lack of adequate food . During the presentation of the second Addendum to his report, which concerns his mission to the Occupied

Palestinian Territories, he mentioned that 22% of the children under the age of 10 suffer severe malnutrition.

### Member States

The **Cuban delegation** reminded that " 8 million children die every year due to poverty [and] 150 million children under 5 suffer the ravages of malnutrition". It added that the world counts about 100 million street children. Further, it explained the improvements made by its government, stating that the "infant mortality rate has been brought down to 6,3 per one thousand live births, [that] immunization against 13 diseases covers 99,5% of children, [and that] a revolution within the educational system at all levels have been carried out, including the intensive use of audiovisual aids and computers, the creation of an educational TV channel and many other programs, geared to achieving every citizen's general comprehensive culture".

### Tuesday, March 30<sup>th</sup>: Agenda item 10

#### Interactive dialogue

The **Special Rapporteur on adequate housing, Miloon Khotari**, presented his reports today. Although he did not mainly focus on child issues, **Kenya** (as concerned country) mentioned in its reply that its program of free primary education is already in the second year, and that it is a success. (For more information on children's right to adequate housing, please see below the report on the Caucus Briefing from Wednesday, 31<sup>st</sup> of March)

**Ms. Fatma Zohra Ouhachi-Vesely, Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights** said that 70% of working children are occupied in the agricultural sector. This means that these children are particularly exposed to toxic and dangerous products used in agriculture. It is further to be noted, that these products kill 226000 persons every year. These deaths occur mainly in developing countries, while the production of the products is concentrated in 16 OECD countries. Life, health and dignity of vulnerable groups, such as women and children, are especially at risk.

### Item 10: Economic, social and cultural rights

#### Members

**Pakistan** focussed on the negative impacts of globalization. As consequence, poverty has increased, which accentuates the problem of adequate access to food for its population. Pakistan said to tackle this problem by bigger social expenditures and measures such as providing food to schoolchildren.

**India** mentioned the importance to free education for children from 6 –14. The delegation of the **Ukraine** talked about the links between Economic, Social and Cultural Rights and Civil and Political Rights. Education, for example, is important for the reduction of poverty, which is crucial for the enjoyment of civil and political rights. It further stated that children in the Ukraine receive special attention through programs aiming to create a favourable environment and providing them with adequate social and legal protection. It lastly stated that the negative consequences from the Chernobyl catastrophe do still affect children. **Sudan** outlined some of the assistance programs for children it has set up in recent years. Those programs include educational, nutritional and legal measures. **Mauritania** stated that eradication of illiteracy is a priority. Therefore, scholarship for children between 6 ad 14 years is compulsory. Another priority is children's health. In this regard, important vaccination campaigns are being organized throughout the country, which has already brought full immunity of the population against some diseases. **Nepal** reiterated that education is the most effective means to combat poverty and to foster a country's development. Nepali authorities have the intention to raise the rate of scholarship up to 80% until 2007. Further, the Nepali delegation said that its

government undertakes efforts in order to improve the situation of women and children belonging to minorities. Finally, the **Butane** delegation underlined that education is free in this country.

### Interactive dialogue

The **Special Rapporteur on the Right to Education, Ms Katarina Tomasevski**, presented a brief summary of her **annual report** ([E/CN.4/2004/45](#)) and her reports on **China** ([E/CN.4/2004/45/Add.1](#)) and **Colombia** ([E/CN.4/2004/45/Add.2](#)).

**Ms Tomasevski** recommended **not to renew the mandate of the Special Rapporteur on the Right to Education**, since she has been unable to accomplish her work properly due to the lack of collaboration (from the governments, the UNCHR, as well as from the Office of the High-Commissioner on Human Rights itself). She also stressed for taking into consideration the human rights' dimension when observing right to education.

She noticed that States apparently prefer spending money for military purposes than for education. Her researches showed that only 90 states provide free primary education Colombia and China are not among them. Education is thus a traded service in at least 45 countries. The SR also denounced that “excluded” children such as children living in the street, migrants, etc are not taken into account in official statistics. Further, she denounced that teachers’ rights – particularly the right to form trade unions – are too often violated and that the Commission is not about to tackle the problem. Many countries, including China, do not respect trade union freedom. In Colombia, teaching is a dangerous profession. Teachers are threatened and often killed for the only reason of being educators.

Finally, Ms Tomasevski denounced that marriage and pregnancy are obstacles for the education of girls. (For more details, see the panel section below)

**China** (as concerned State) replied that the Special Rapporteur was not objective and that her commentaries were without any ground. The Chinese delegation also mentioned that the level of scholarship in primary and secondary school was high in their country. **Colombia** (as concerned State) said that the SR had a wrong view of reality. It particularly mentioned that in contradiction to her statement, Colombia was not the only country in the region refusing the principle of free education. It also mentioned that violence against teachers has decreased by 48% in 2002 and 2003. It finally stated that Colombia has begun to reform the education's system.

Some countries (particularly **Switzerland**), as well as the **Acting High Commissioner on Human Rights Mr Ramcharan**, called upon the Commission to renew the mandate of the SR on the Right to Education.

### Wednesday, March 31<sup>st</sup>: Agenda items 10 & 11

#### Item 10

##### NGOs

**International Educational Development** raised concern about the poor quality of food in Iraq, which also negatively affects children. It further condemned the ongoing privatisation of water services because of the risks it bears. Bolivia was mentioned as example.

**Organisation internationale pour le droit à l'éducation et la liberté d'enseignement** referred to the annual report of the Special Rapporteur on the right to Education (presented yesterday). It stated that particular attention has to be given to the right to be different (cf. § 46). Further, it supported Miss Tomasevski's call to ensure a human rights approach when dealing with the issue of education (cf. § 43).

The **International Institute for Peace** recalled that education is fundamental for the promotion of people's dignity. Also, human rights education must be put on the top of the agenda.

In their joint statement, the **International NGO Forum on Indonesia Development** and the **Netherlands Organization for International Development Organization** regretted that the Indonesian authorities do not respect the constitutional provisions concerning the amount of resources that must be invested into education. It further stated that about 5000 young people left school because of the situation of armed conflict.

**The World Federation of United Nations Associations** and the **China Society for Human Rights Studies** both called upon the USA to look at their own human rights problems rather than to "attack" other countries. The first organization recalled that the USA are still not a party to various major human rights convention, including the Convention on the Rights of the Child (CRC). It also stated that USA has the highest rate of infarctions committed by juveniles. The second organization condemned that 60 000 children in Arizona do not receive adequate free health services and that the proportion of poor children is increasing throughout the USA.

**MADRE** focussed on the issue of intersexuality in the context of the right to health. The main purpose of their speech was to show "how prejudices about how bodies should be sexed or gendered can lead to mutilation of children". The delegate said that, "according to current medical standards for treatment, girls born with clitoris that are larger than the female genital stereotype are subjected to normalizing clithoridectomies. Boys whose penis are smaller than the masculine genital stereotype are subjected to surgery, too often to turn them into girls, because their bodies contradict stereotypes about masculine genitalia." The speaker further stated that intersex people are usually "not told about the surgeries performed [on them] during [their] early childhood". The organization is opposed to the above mentioned practices for many reasons, including the fact that intersex people should decide on their own, rather they want their body to be changed or not. However, if they are already subjected to medical intervention as young children, they are deprived of this right. Further, "genital mutilation of intersex children damages genital sensitivity in irreversible ways and it causes post-surgical traumas". Therefore, MADRE advocates "for a review of medical practices around intersexuality and the adoption of concrete measures to eliminate genital mutilation of intersex children." (You can find more information related to the issue on [www.isna.org](http://www.isna.org))

**Interfaith International** mentioned the biased curriculum against Shi'a Islam in Northern Pakistan, which was inciting students to demonstrate. These students are then taken into custody and arbitrarily detained. Interfaith International calls on the government to release these students and stop all attempts to bias the curriculum.

The **International League for the Rights and Liberation of Peoples** spoke on the violation of the right to a mother tongue in education in Turkey. Kurdish students who demanded to be taught in Kurdish were arrested or suspended. The International League for the Rights and Liberation of Peoples encouraged the SR on the Right to Education to revisit Turkey and address this issue.

The **International Movement ATD Fourth World** made a statement concerning families in poverty. Children can't do their homework or concentrate because they are hungry. Moreover, these children feel they have nobody to turn to or talk to about this. This climate creates oppression on these children. The organization welcomes mechanisms that involve victims of poverty in the process of their own development (Ex. work with street children to help define with they need). Rights are hard to attain for the poor and we must remember that they are important partners.

The **Asian Forum for Human Rights and Development** expressed concern about the treatment of minorities in Malaysia as manifested by the closure in early 2001 of the 70-year-old Chinese community primary school in Damansara by the government without consultation with the community. National schools have a disproportionately large budget allocation in comparison with

Chinese and Tamil primary schools. Forum-Asia urged the Malaysia government to immediately reopen the Damansara Primary School and to further sign and ratify the ICESCR as a step toward implementing the right to development.

**Pax Romana** made a brief mention of children in terms of HIV/AIDS threatening the right to life, especially women and children. They mentioned that perhaps we need a SR on HIV/AIDS.

The **Japanese Workers Committee for Human Rights** expressed concern about the awful work system in Japan Airlines. In April 2003, Japan Airlines changed its Night Work Exemption Program for cabin attendants in such a way that the new Program nullified the spirit of the Child Care/Family Care Leave Law. The Child Care/Family Care Leave Law stipulates that employers, if so requested, may not let workers, who have a child under the school age or a family member requiring constant care, take night duty. Many female cabin attendants who have been managing child/parent care and their work are driven to quit under the new Program.

#### Item 11: civil and political rights

##### Interactive dialogue

**Ms. Asma Jahangir, Special Rapporteur on extrajudicial, summary or arbitrary executions**, mentioned very briefly in her report that she was encouraged by the fact that an increasing number of governments are recognizing the execution of children under 18 as a violation of human rights. Her report is partly dedicated to extra judicial killings of children.

The **Special Rapporteur on Arbitrary Detention, Ms Leïla Zerrougui**, mentioned that broad powers of police forces affect migrants and street children, particularly in Argentina. (E/CN.4/2004/3; E/CN.4/2004/3/Add.1: ; E/CN.4/2004/3/Add.2 on Argentina; E/CN.4/2004/3/Add.3 on the Islamic Republic of Iran)

##### Members

**Sudan** mentioned that its Constitution prohibits death penalty for people under the age of 18.

#### Thursday, April 1<sup>st</sup>: Agenda item 11

Item 11: civil and political rights (including the question of: torture and detention; disappearances and summary executions; freedom of expression; independence of the judiciary, administration of justice, impunity; religious intolerance; states of emergency; conscientious objection to military service.)

##### Members

**Nepal** denounced that the Maoist rebels force pupils and students to enter into their armed groups.

##### NGOs

In their joint statement, **International Association for Religious Freedom** [and All India Women's Conference, International Federation of Social Workers, Brahma Kumaris World Spiritual University, World Federation of Methodist and Uniting Church Women, World Organization of Former Pupils of Catholic Education, Susila Dharma International Association, World Union of Catholic Women's Organizations, Institute for Planetary Synthesis, International Council of Jewish Women, World Young Women's Christian Association] denounced that many Cuban children become orphans, since their parents are victims of terrorism organised from the United States.

The **Federation of Cuban Women** [and Movimiento Cubano por la Paz y la Soberanía de los Pueblos, Centro de Estudios Europeos, Women's International Democratic Federation, Centro de Estudios sobre la Juventud, Organization for the Solidarity of the Peoples of Asia, Africa and Latin America] recalled the importance of Mr Ramcharan's (Acting High Commissioner on human rights) report on human rights education. It also called upon the Pakistani authorities to set up educational programmes that fully respect religious freedom.

Further, the **China Society for Human Rights Studies**, the **Chinese Association for International Understanding** and the **United Nations Association of China** stated: "While many countries around the world are abolishing executions of minors, some politicians in the US are asking to lower the minimum age for death penalty, and the Federal Supreme Court has even set the age at 16. The US is the country that has handed most of the death penalties to juvenile offenders and carried out the executions in the world. Since 1990, there have been a total of 34 documented executions of juvenile offenders worldwide, and 19 of them in the US."

The **International Educational Development** is "concerned about the conditions of detention of children in the United States, especially those in California. It was recently disclosed that some children in California held in Youth Authority facilities are put in cages [...]. This practice began some years ago, and has taken place in the administrations of governors of both parties. [They] hope this situation will be investigated by the Special Rapporteur on Torture, as surely there can be no more degrading treatment for a child than to be kept in a cage."

Finally, the **World Organisation Against Torture (OMCT)** said the following: "we are very concerned by the absence of a strong commitment to monitoring and implementing juvenile justice standards by the UN Commission on Human Rights. Therefore, OMCT would like to urge the Commission, in this year's Resolution on Human Rights in the Administration of Justice, in Particular Juvenile Justice, to request that States: 1) develop their juvenile justice systems in line with international standards, with special emphasis to *diversion, mediation procedures and alternatives to imprisonment* for all persons under 18 in conflict with the law; and 2) *report on the reality, practice and progress of juvenile justice reforms* in their countries to all treaty monitoring bodies, under the relevant articles of each treaty."

## **Friday, April 2<sup>nd</sup> : Agenda item 11 & 12**

### **Item 11**

#### **NGOs**

**Liberal International** condemned the following situation in Cuba: "political prisoner Jose Daniel Ferrer Garcia's five-year-old daughter was the victim of a beating, along with other family members, carried out by prison officials in November 2003, [in order] to prevent the family from protesting restrictions on food provisions they take to the prison every three months".

Further, the **Human Rights Council of Australia** stated that: "[the Australian Government] has used its wealth and comparative might to bribe another island state, Nauru, to abandon its rule of law and hold children and others in detention on [its] behalf – effectively creating another rogue state to bolster [its] security."

The delegate of the **International Young Catholics Students** denounced enforced deportation of thousands of Saharoui children to Cuba - carried out by the Polisario. He further said that this practice aims to submit those children to indoctrination and military training.

The next speaker was the delegate from **International Possibilities Unlimited**. She welcomed the report from the Special Rapporteur on Extrajudicial, summary, or arbitrary execution, Asma Jahangir

(E/CN.4/2004/7). Among others, it recommends that “the execution of persons who were children, under the age of 18 at the time of the crime, should be completely abolished”. She condemned the lack of cooperation with the SR by the Government of the USA and said: “although there have been a number of important developments in the United States concerning the juvenile death penalty (E/CN.4/NGO/206), now is not the time to let up pressure”. Further, the speaker welcomed “the Secretary General’s report on the administration of justice (E/CN.4/2004/51), and the efforts by UNICEF to develop a set of global indicators for juvenile justice”. Finally, International Possibilities Unlimited strongly urged:

- “the Commission to keep the language related to the juvenile death penalty in the Administration of justice resolution”;
- "States in which the death penalty has not been abolished to stop the shameful practice of executing persons who were juveniles at the time of their crime”.

### **Monday, April 5<sup>th</sup>: Agenda item 12**

**Item 12: Integration of the human rights of women and the gender perspective: (a) Violence against women.**

Interactive dialogue:

**Ms Yakin Erturk, the Special Rapporteur on violence against women** ([E/CN.4/2004/66](#)), said that she had addressed the rights of women and girls in Afghanistan in her report. She also stressed MNC's responsibility.

Member States:

States that explicitly mentioned children (mainly girls) were the following:

The **Dominican Republic** raised concern over growing domestic violence and listed its institutional measures to support both women and girls victims. **Ireland (on behalf of the European Union)** said that genital mutilations, honour killings and marital rape of women and girls should be ended. The EU believed it had established an action programme against trafficking, while calling on equal access to education. It also raised the situation of women and girls in armed conflict, as well as post-war settlements. It finally stressed the EU's guidelines on children on armed conflict. **Lithuania (on behalf of Baltic and Nordic States)** focused on human trafficking of women and children, which it labelled "a new form of slavery." It argued that regional instruments could supplement international bodies and outlined European plans for a declaration on the issue including monitoring. It mentioned that a Nordic/Baltic task force has been established in order to work together with civil society to fight trafficking and limiting "demand for trafficking" in these states in order to pre-empt trafficking. Finally, it called on the international community to raise awareness of the problems. The **Republic of Korea** stressed that trafficking and sexual exploitation of women and girls should be combated, as the latter also threatened them by HIV/AIDS. **Egypt** said that last year was the Egyptian Year on the Girl Child, in order to promote their education. Egypt centred its statement on what seemed to be women's rights to perform as mothers such as marital rights, birthrights and children's education. Finally, **Japan** called on all States to combat trafficking of girls and women.

Observers

**Senegal** said it gave high priority to women and girl's health, marital violence and sexual mutilation. The **UN Population Fund (UNFPA)** said that women die from childbirth and young teenage girls become pregnant before their body and mind are ready. **Botswana** gave its support to allow children's access to child friendly information and stated the need to eradicating all violence against women and



children. **Thailand** said that female prisoners had been allowed to spend more times with their children.

## Tuesday, April 6<sup>th</sup>: Agenda items 12 & 13

### Item 12

#### NGOs

The **Federation of Cuban Women** mentioned the situation of the families, including the children, of 5 Cuban detainees in USA. It said that they have already been waiting for 6 months to get a visa for USA, in order to visit their relatives in the prison. **Jubilee Campaign** referred to the situation of 200 000 – 300 000 North Korean refugees who have been trafficked into China. It said that about half of them were women and children and deplored that they are often submitted to sexual exploitation or other forms of (work) exploitation. The next speaker quoting children was the delegate from the **Organization for the Solidarity of the Peoples of Asia, Africa and Latin America**. She said that there were about 2 million 5 -10 year-old children who had been trafficked and sold as “sexual slaves”. The **Latin American Federation of Associations of Relatives of Disappeared Detainees** talked about women’s situation under the Latin American military dictatorships in the past. Women still suffer the consequences from this period, as their children had been “stolen” during this time. Today, women are still those who are trying to get their children back or at last to know what happened to them. The Latin American Federation of Associations of Relatives of Disappeared Detainees also focused on abduction of adolescents and girls for the purpose of sexual exploitation and its grave consequences for the exploited children and their families. It further noted that, if sexually exploited girls and women can be “freed”, they are often not accepted anymore within their family and/or community. Sometimes, they are even killed. Further, the **International Institute for Non-Aligned Studies** noted that gender discrimination already starts within the family: often, boys can express their views and receive education, while girls do not. **World Vision** quoted a large number of gender based violations, while providing an age based analysis throughout its statement. The **International Institute for Peace** outlined the importance of combating violence against women and girls in order to reach peace and stability everywhere. The **World Young Women’s Christian Association** focussed on trafficking in girls and women labelling it the most developed form of illegal commerce across borders. To combat it, it urged all States to sign and ratify the Optional Protocol of the UN Convention against Transnational Organized Crime and to fight poverty, which it considers as the root problem of trafficking. The **World Muslim Congress** talked about the situation in Kashmir. It assured that the Indian occupation forces use rape of women and girls as a weapon. **Third World Movement against the Exploitation of Women** added that the Kashmir conflict has caused about 100 000 child victims and called upon Ms Ertürk not to ignore that situation. **Anti-Slavery International** raised concern about the rise of unwanted pregnancies and abortions. It also said that governments sometimes refuse to acknowledge children if they exceed the government regulated number. Finally, the **Centre Europe-Tiers Monde** noted that 6 million children under the age of 5 die from hunger each year.

#### Interactive dialogue

The Special Rapporteur on the sale of children, child prostitution and child pornography, Mr. Juan Miguel Petit presented his general report ([E/CN.4/2004/9](#)), as well as country reports on France and Brazil (France: [E/CN.4/2004/9/Add.1](#); Brazil: [E/CN.4/2004/9/Add.2](#)).

With regard to France, he mentioned the ongoing problems with child pornography and underlined its possible links with cases of abuse of children within the family. He also focused on the consequences for professionals working with children (doctors, psychologists etc), who denounce acts of child abuses. In its reply, the French delegation mentioned the role of judges in protective proceedings



concerning children. He also underlined that France has established a Working Group, in order to consider the recommendations of the SR's report.

With respect to Brazil, the SR welcomed the government's efforts to fight sexual exploitation of children. He said that the government's current strategy, which tackles sexual exploitation's root causes- poverty, hunger and social inequality – has to be continued and constant. However, further resources have to set free in order to assure that the State's assistance reaches the whole society, including the poorest. One possible means to do so is to establish and support assistance projects in all districts. In its reply, the Brazilian delegation reiterated that the fight against sexual exploitation and abuse of children remains being a priority. The government adopted a National Plan against Sexual Exploitation of Children in 2000. In order to implement this plan, a Commission - composed by governmental authorities and NGOs - has been established. Among others, its aim is to make perpetrators aware of their liability, to provide assistance to victims, to find how to improve the legal framework.

Finally, Mr. Petit underlined that the mandate of an eventual SR on Trafficking in Human Beings should be based on a broad definition of trafficking (as it is in the Palermo Protocol), and not only address trafficking in women and girls.

The next speaker was **Mr. Paulo Sérgio Pinheiro**, Independent Expert in charge of the Secretary-General's study on the violence against children.

He presented the some of the main themes that will be analyzed in the study he is in charge of. He also referred to the Concept Paper ([E/CN.4/2004/68](#)).

For detail information, please refer to the report on today's Panel on the UN Study on Violence against children.

### Member States

Today's statements mostly focused on one or several of the following issues: trafficking in children, sexual exploitation of children, the situation of children in armed conflict including child soldiers, children affected by the HIV/AIDS virus and child labor. Some delegations also underlined the links between these problems and (extreme) poverty.

The following statements were the most interesting:

**Ireland** (on behalf of the European Union) urged States to sign and ratify the Optional Protocols of the CRC if not yet done so; to limit the scope of any reservations to the CRC and its Protocols; to make reservations only if necessary and compatible with the object of the CRC. It also urged all States Parties to fully cooperate with the Committee on the Rights of the Child, including to take its recommendations into account. It further recalled the importance that the UE attaches to the rights of the child, underlining the resolution it will submit together with the GRULAC. Then it focussed on two specific issues: 1) the situation of children affected by armed conflict and 2) children affected by VIH/AIDS. Concerning the first topic, Ireland mainly called upon States to take into account all international standard which may prevent use of child soldiers, to prosecute perpetrators, etc. It also recalled its commitment to this issue, underlined by the adoption of EU Guidelines on Children in Armed Conflict (December 2003). With regard to the second issue, the Irish delegation reminded that sexual exploitation of children is a major contributor to the spread of HIV/AIDS. Ireland underlined the EU's commitment to this issue by referring to a Conference it recently organized with Central Asian countries. It suggested other regions to organise similar conferences.

The **Canadian** delegate (on behalf of **Canada, Australia and New Zealand**) began by recalling their support to the work of the Committee on the Rights of the Child, UN mechanisms and agencies and NGO partners. It also encouraged States to ratify all relevant international standards aiming at

combating violence against children, as well as to take all the necessary measures to fight sexual exploitation. In this context, the delegate explicitly referred to children that had been trafficked. Australia, Canada and New Zealand also remain concerned that some States re-interpret children's rights exclusively within the family. Moreover they reaffirmed "the fundamental right of young people to participate in decision-making. The delegate then enumerated some of the 3 countries actions in favour of children at the national level. It finally recognized poverty as a major and deep reason for the non-realization of children's rights.

**On behalf of GRULAC, the Argentinean** delegation, advocated for the strengthening of child rights' protection at the international level. It particularly raised concern about the use of child soldiers, the sale and sexual exploitation of children, as well as the problem of child pornography. It stressed that children's protection may (for instance) be reached by alternative measures and basic agreements. It was also concerned about hunger many children suffer, and recognized that it is a risk factor for children's survival. It finally called upon member States to adopt the resolution on the rights of the child by consensus this year.

### **Wednesday, April 7<sup>th</sup>: Agenda item 13: The Rights of the Child**

(for official summaries of CHR reports presented under item 13: [http://www.unhcr.ch/html/menu2/2/60chr/summaries/13\\_E.doc](http://www.unhcr.ch/html/menu2/2/60chr/summaries/13_E.doc))

#### Member States

All State delegations said that children's rights were a very important issue for their governments. However, while the **Russian Federation** talked about combating terrorism as a means for creating a better future for children and **Nepal** blamed the Maoist rebels for all the violations of children's rights (abduction, forced recruitment, no access to school, increased sexual abuse of children) in the country, **Croatia** was the only delegation providing a really constructive statement. It expressed its support to the Committee on the Rights of the Child and said that it is gravely concerned about the gap between the protection of the child in legal norms and in reality. It further stated that the international community has to address the growing problems of violence among children at school and trafficking in human beings, especially when young girls are concerned. Finally, Croatia recalled the importance of the document "A world fit for children" and the EU guidelines on children in armed conflicts, which it qualified as a very important instrument. **Bhutan** explained that the overall situation of children in this country was much better nowadays and said that the Bhutanese authorities were working in order to establish a better system of juvenile justice.

#### Observers

Many observers were concerned about the problems of sexual exploitation of children, trafficking in girls and the impact HIV/AIDS has on children. Many country delegations talked about poverty as a problem for the full implementation of children's rights. The importance of education was also mentioned several times. However, many delegates only enumerated their government's national programs and efforts to promote children's rights in their respective countries.

The following statements were the most interesting:

**Norway** regretted the "brutal and devastating reality" faced by children in spite of the almost universal ratification of the CRC and stated that the most important work now is to implement existing norms rather than creating new ones. It then recalled the importance of the document "A world fit for Children" and underlined the need for child participation: "we have to give [children] the possibility to actively participate in the conditions governing their lives and their future. Children have an essential role to play in a vital and sustainable democracy and we must make use of their unique capabilities and resources." The delegate also stated that child participation is a crucial element in peace building

processes. Further, he addressed the problem of sexual exploitation and trafficking of children (especially young girls) and the situation of children in armed conflicts (in this respect, he welcomed the establishment of the ICC). Norway additionally urged all States to abolish death penalty for juvenile offenders and underlined the importance of the Millennium Development Goals, as combating poverty is a vital element for the implementation of the rights of the child. Norway finally welcomed the General Comment No 5 by the Committee on the Rights of the Child and urged all States “as a matter of urgency” to adhere to the Optional Protocol on the sale of children, child prostitution and child pornography, as well as the Optional Protocol on the involvement of children in armed conflict.

The **International Federation of Red Cross and Red Crescent Societies** asked the present delegations what they have really done to protect children since the elaboration of the Convention on the Rights of the Child. She then underlined the importance of listening and learning from children. She also outlined some of the numerous consequences HIV/AIDS has over children (orphans, need to work, absence from school, etc). Finally, she mentioned the importance to really tackle other types of violations against children, including physical, sexual and emotional ill treatment.

**Iceland** referred to the importance of the family for a child’s development and said it puts great hopes in the Study on Violence against children.

**Switzerland** welcomed the Study on Violence against children and called upon the responsible to develop guidelines on the collaboration between the independent experts and human rights mechanisms, particularly the Human Rights Commission. It also welcomed the last economic publication of the ILO, which shows that the benefits of abolishing child labour are 7 times higher than the costs. It then focussed on the situation of child soldiers and called upon 1) the Commission to condemn the use of child soldiers and 2) States to stop impunity of responsible and to end all forms of military assistance to conflict parties which recruit children. In this regard, Switzerland stressed the utmost importance of the Optional Protocol on the involvement of children in armed conflict and called upon States to ratify it, by recognizing the minimum age of 18 for voluntary recruitment. It further said that it has cancelled its reservation to articles 5 and 40 of the CRC and engaged in the ratification process for the Optional protocol on the sale of children, child prostitution and child pornography. Finally, Switzerland underlined its work for combating the proliferation of child pornography through Internet.

The next speaker was the delegate from the **World Health Organization (WHO)**. She focussed on the great number of traffic accidents affecting children every day. They often result in death, disability or other grave injuries of children or members of their families. When the breadwinner of the family is affected, children often have to leave school and go to work, in order to ensure the survival of the family. For these reasons, she said that the Commission should urge States to recognize the importance of the Plan to Prevent traffic Accidents.

**Slovenia** encouraged the establishment of a Special Rapporteur on Trafficking in Human Beings, as South-Eastern Europe is importantly affected by the problem. The Slovenian delegate also said that there was a lack of data in this area.

**UNICEF** raised concern about the situation of children without parental care and children affected by armed conflicts. It mentioned that “every and each” resolution of the Human Rights Commission should include children.

Finally, **Vietnam** said that it is unacceptable that we still observe so much sexual exploitation, domestic violence and other forms of violence against children in the 21<sup>st</sup> century. It then stressed that it is not enough to establish conventions, but that they have to be implemented and that concrete measures for the protection of children have to be taken. In terms of children's health, Viet Nam said it was committed to fight AIDS and to provide better access to health care.

## NGOs

The **International Save the Children Alliance** (joint statement) welcomed the UN Study on violence against children and said it was a means to effectively improve children's lives and to find ways for a real protection of children against violence. It also stated that Safe the Children has developed guidelines to support child participation in the study. It then gave examples of various forms of violence and abuses suffered by children, such as a Norwegian child who was beaten in a religious sect and a girl in Sudan who suffered genital mutilation. Safe the Children finally underlined that the Commission should call upon States to financially support the secretariat that has been established for the conduct of the study.

The **Centro de Estudios sobre la Juventud** launched a "universal appeal of common sense" to halt of the growth of the military industry. The resources put in this sector could be used for much more constructive finalities. The speaker then focussed on the disastrous consequences of HIV/AIDS for children. She said that 46 million new cases of HIV/AIDS will be registered in 2010, if international contributions to fight the disease are not increased.

The **World Organization against Torture** (OMCT) raised concern about the failure of responsible judiciary and administrative authorities to react to allegations of ill-treatment or torture of children in police facilities, detention centers and other public institutions in most parts of the world. It also stated that the Commission should urge governments to immediately suspend any state agent alleged to have committed acts of ill-treatment against children for the duration of the investigation. If found guilty, state agents should be expelled from any official position where they might be in contact with children. Moreover, the staff composition of the concerned institution should be reviewed, and an adequate child protection policy be adopted, implemented and monitored. Further, child victims of ill-treatment or torture must receive formal recognition and reparation from the State, as well as full support for their psycho-social and medical rehabilitation. Governments should provide more adequate resources for this work. Finally, OMCT believes that the final in-depth UN Study on Violence Against Children must be presented, not only to the Commission on Human Rights, but also to the General Assembly, in order for it to have the desired impact

The **International Federation Terre des Hommes** focussed on trafficking of children. She explained that trafficking exists in various forms and particularly underlined trafficking within state borders, which had been neglected by many authorities. It also expressed its concern over standard measures against trafficking in children, because such programmes must take local aspects into account. It finally underlined that trafficking also takes place within the European Union.

The **General Conference of Seventh-Day Adventists** raised concern for the right of children belonging to ethnical minorities to practice their religion and language.

The **Friend World Committee for Consultation** claimed that children volunteer in armed conflicts due to war, poverty, education, employment and family. It said that children did not look for war, but that war came to them. Not impoverished children do normally not become soldiers. Adolescents drop out of school if it is clear that it does not lead to employment. Many children become homeless when they run away from abusive family patterns. (For more information on this topic, please consult the report of the Morning Briefing from 13.04)

**Human Rights Advocates** spoke out against death penalty and life sentences for children and the **Jubilee Campaign** condemned the proliferation of small arms. It further stated that the detention conditions in Brazil are a national shame and talked about poverty as a root cause of social inequality, corruption etc.

**CIRAC** raised concern about the situation in the RDC. It said that many uneducated children were living on the streets because of the socio-economic crises the country is facing. While they try to find means to survive, they are often recruited by armed groups.

**World Vision International** was concerned about abduction of children for forced recruitment into armed groups and sexual exploitation, in particular in Africa. It called upon the General-Secretary (or an intermediary) to act and to go to the regions where abduction of children is most frequent, in order to ensure the children's liberation and to avoid that the phenomena becomes even more important. World Vision also urged States to stop providing financial and military support to parties involved in armed conflicts during which children are abducted.

The **Permanent Assembly for Human Rights (APDH)** regretted that the provisions of the CRC are often not implemented. The delegate stated that one reason for this is the lack of political will to adopt respective national legal systems. The other reason is that the respect of children's rights also depends from the respect of economic, social and political rights.

**Anti-Slavery International** raised concern over the situation of the Muslim children in the state of Rakhine in Myanmar. They are born stateless and are victims of ethnic discrimination. They further suffer political exclusion, malnutrition, forced labour and the rate of illiteracy among these children is extremely high.

**Families of Victims of Involuntary Disappearance** expressed concerns for children in the Philippines, where many parents disappear or are arbitrarily arrested. The NGO claimed that forced many children into hard labour, which is against the rights of the child. Other concerns were the situation of street children and of children involved in armed groups.

The **International Institute for Peace** raised concern about trafficking and detention of children in Pakistan. It also addressed the need of modern education for all children and said that children who are receiving their education in madrasas are very often subjected to sexual exploitation and corporal punishment.

**B'nai B'rith International** said that thousands of children in many parts of the world are educated to hate, which leads them to carry out suicide attacks, without really knowing what they are doing. The delegate labelled this practice as one of the worst children's rights violation and urged the Commission to include a reference to this topic in its resolution on the Rights of the Child.

The **Center for Economic and Social Rights** said that child poverty remains a great concern in America and raised concern for the absence of accessible and qualified education. It also said: "foreign occupation violated children's human rights."

**Interfaith International** talked about children's rights in Iraq. It explained that 1 out of 5 Iraqi children suffer from malnutrition and that 1 out of 8 children dies before the age of 5. It also emphasised the effects of parents' death for children. The NGO further underlined that the new Iraqi government should give particular attention to children.

**A Woman's Voice International** claimed that children in DPRK suffer from hunger and malnutrition. It further said that children in the DPRK are imprisoned in detention camps and that they do not receive adequate education and health care. In addition, they have to witness public executions. It finally called for a Special Rapporteur in the DRPK.

**Liberal International** believed that the absence of freedom rights in Cuba affects children. It enumerated a number of welfare services that the Cuban government does not provide to children and families. The NGO also condemned the very high rate of abortion.

The **Third World Movement against the Exploitation of Women** condemned the fact that the Netherlands refuses welfare services for asylum seekers, which leads to suffering of "tens of

thousands" of children. The organization also noted that many children of asylum seekers risk to be expelled to countries where their human rights risked to be violated.

Finally, the **International Humanist and Ethical Union** raised concern over systematic sexual abuse to which children are subjected in temples devoted to certain divinities in India. It then urged the Indian authorities to launch serious investigations into these allegations and recalled that India, as a State party to the Convention on the Rights of the Child, has the duty to protect children against such abuses.

#### **VOTING UNDER ITEM 13:**

Both resolutions presented under item 13 were adopted on April 20<sup>th</sup>. The Resolution on Abduction of Children in Africa (E/CN.4/2004/L.50) was adopted without a vote. On the Omnibus Resolution on the Rights of the Child (E/CN.4/2004/L.51), the US delegation requested a vote as they were opposed to the priority given to the Convention on the Rights of the Child (in PP 1), to the recognition of the contribution of the establishment of the ICC (OP 6), as well as to the paragraph urging States to abolish death penalty for juvenile offenders (OP 35). However, as last year, the US was isolated and the resolution was adopted by 52 votes in favour, 1 against (US) and 0 abstentions.

See also resolutions on: Human rights in the administration of justice, in particular juvenile justice, 2004/43 (adopted by consensus); Trafficking in women and girls, 2004/45 and Special Rapporteur on trafficking in persons, especially in women and children, 2004/110 (both adopted by consensus); Right to education, 2004/25; The right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 2004/27.

**NGO GROUP FOR THE CONVENTION ON THE RIGHTS OF THE CHILD  
SUB-GROUP ON THE COMMISSION ON HUMAN RIGHTS**

**CHILDREN'S HUMAN RIGHTS CAUCUS**

**? MORNING BRIEFINGS ?**

- ❑ Children's Rights in Palestine
- ❑ Children's Rights in Colombia
- ❑ Children's Rights in Afghanistan
- ❑ CRC Committee Upcoming Issues
- ❑ Torture, Inhuman or Degrading Treatment or Punishment of Children; with Theo Van Boven
- ❑ UNICEF Priorities at CHR 60<sup>th</sup> Session & Children's Right to Adequate Housing (with Special Rapporteur Miloon Kothari)
- ❑ The Setting the Standard Project on Child Protection and Follow-Up Discussion to Resolution on Trafficking
- ❑ Violence against girls; with Yakin Ertürk, SR on Violence against Women
- ❑ At What Age? Research on Age-Determined Child Rights
- ❑ Child participation in the UN study on violence against children by Save the children
- ❑ Sexual Exploitation of Children and Children in Armed Conflict; with Juan Miguel Petit
- ❑ Why do adolescents volunteer as soldiers?
- ❑ Final Caucus Meeting

## Wednesday, 24<sup>th</sup> of March 2004: Children's Rights in Palestine

**Tom Getman, World Vision (WV)**, began by saying that WV is a member of the OPT Informal Working Group, which is made up of each of the UN agencies with an interest in the Middle East. In this group WV represents the NGOs of the International Council of Voluntary Agencies. Thus, WV has an express interest in moving beyond the demonizing rhetoric that continues to characterize the conflict. For children, we simply cannot spend all this time debating the terms. Children are dying by the hundreds on both sides.

World Vision has contacts with children on both sides of the conflict and intend to keep raising the issue of children's rights in Palestine, along with the United Nations. Getman remarked that WV has tried to move beyond the debate and to meet with people from both sides for small, candid discussions. WV also brings other resources in, such as the International Parliamentary Union, for example.

WV's specific objectives on this issue are to find alternatives to demonizing rhetoric and to meet the needs of traumatized children. Getman distributed two documents: a recent WV publication, "Who Will Wipe Away Their Tears?" and a copy of his statement to the Human Rights Commission.

**Janet Symes, Save the Children**, spoke about her organization's work in the Occupied Territories. Save the Children USA has a large scale operation basis. Save the Children UK and Save the Children Sweden are smaller scale operations and work a great deal with Palestinian partners. Symes' talk summarized some of the findings from a report put together by Save the Children UK and Sweden. The report, which uses the children's own voices and stories, covers three issues: 1) children in communities affected by the wall, 2) children detainees in Israeli detention centers; and 3) the role of education in protection.

Through the framework of the CRC, the report looks at who has the duty to protect. Conclusions found that while Israel is primarily responsible, there are also responsibilities on other entities such as the families and the Palestinian authority, whose clarity has been blurred. For each "duty-bearer" the report looks at different responsibilities.

Among the most concerning issues regarding the right to protection is the fact that the children are in danger. For example, they are in constant conflict with soldiers when they have to pass for school. Also disturbing are the changing attitudes of the children. The wall divides them and there is less interaction between Israeli and Palestinian communities. Children are now talking in terms of prejudice and hatred, looking increasingly to violence as a solution. Save the Children holds that in the long term the wall will not lead to security.

Save the Children Sweden has done the work on Child detainees, looking at what children faced during and after detention. Of the Palestinian children arrested, 90% are accused of throwing stones. The sentences are 10 years for throwing stones at a soldier and 20 years for throwing stones at a car. Children as young as 12 are detained. In practice, sentences range from 6 months to 5 years. Israel's military orders allow for this treatment of children as adults and do not comply to the CRC. Some children are even tortured. The difficulty lies in how to influence the Israeli government.

Regarding the role of education, Symes said that the children feel that school is one place where they're safe. Save the Children has decided that the school would be a good sphere to start dialogue on issues of child protection for both the community and the authority. They are also calling on Israel to take action: to cease taking over schools and to recognize schools as non-military places. Building schools can help to develop the protection process and especially the parents' role therein. They have been working with the Department of Education and a new curriculum has been developed, including greater emphasis on civic education, children's rights, discussion of global terrorism and religious and political tolerance. Save the Children has also been working with the media to establish children's programs that show their positive influence in the community.



In the *Discussion* that followed, the question of linking with local Palestinian NGOs was raised. Getman remarked that this is happening increasingly and WV keeps at it. Symes explained the Coalition for Children's Rights in Palestine, made up of Palestinian NGOs with a children's rights focus. They are very much involved in establishing child law with the Palestinian authority and are now in the final stages. The proposed child law, which was able to largely use the CRC as a basis, was placed before Arafat last week. Regarding local Israeli NGOs, there is a network but not as regularly meeting as perhaps they were two years ago. Save the Children representatives recently met with them to talk about where they might tackle issues. The problem is that in the OPT there is no framework for NGOs to come forward. Interaction relies on informal contact between groups.

Also raised was a question regarding gender issues, which lead to a discussion of the dramatic social change occurring in the region. As a consequence of what's happening in society as a whole, the number of families living under poverty has dramatically increased. Symes recommended seeing the World Bank Reports for a better understanding of these indicators. Huge levels of unemployment, particularly for men, have had a tremendous impact at the family level: men are losing their status as income bringers and also as providers of protection. This has an enormous impact on children, especially psycho-socially. The breakdown of social structures in Palestine has many levels.

The documents distributed by Symes included the report from Save the Children UK and Save the Children Sweden, "Living Behind Barriers: Palestinian Children Speak Out", to be presented to the UN Commission on Human Rights. She also distributed copies of Save the Children Sweden's publication, "One Day in Prison Feels Like One Year", where Palestinian children tell their own stories about their experiences from Israeli prisons and military detainment camps. To order this publication, please see the following link: <http://www1.rb.se/Shop/Products/Product.aspx?ItemId=363>.

#### **Thursday, 25<sup>th</sup> of March 2004: Children's Rights in Colombia**

**Amalia Eraso, Save the Children**, spoke about the work done by the Coalition Against the Involvement of Boys, Girls and Youth to the Armed Conflict in Colombia. Her discussion focused on a report published by this coalition for the Commission.

Six million children are living in poverty and one million are homeless in Colombia. The armed conflict causes children to suffer from psychosocial effects, see their schools destroyed and have possibilities for socialization and recreation diminished. Colombian boys and girls are generally involved through the wrongly understood "volunteer recruitment" to rebel armed groups and paramilitary groups. This involvement is gradually growing: according to UNICEF, Colombia is the third country in the world with the highest number of children involved in conflict, after Congo and Liberia. These boys and girls are used for combat, intelligence, logistic labours, fabrication of explosives, recruitment of other children, etc. They risk execution and torture for mistakes or disobeying. Some of the most serious consequences that children in conflict suffer include separation from their families, sexual abuse and violation of their rights to education, recreation and free development of their personality.

Eraso expressed particular concern about the "Soldiers for a day" program organized by the Army. This program focuses on integrating boys and girls into the armed forces and involves children's participation in the psychological operations group of the Army. Eraso stressed that this program is framed in a war strategy and is not a fulfilment of the articles that would protect children. They have been talking with the children involved in the program and these children say that they have received offers of money or passes to work with the Army. It is clear that four years of this program have not been effective for demobilization: at least 2,200 children are believed to still be involved in the ranks of paramilitary groups and only 35% of the children return to their homes. There is a great deal of opposition to the so-called peace process with the paramilitaries. Because they understand the risk of being subject to the International Criminal Court, the paramilitaries refuse to accept the

statistics regarding the number of children still involved. Furthermore, despite the crime of recruitment of minors in Colombian law, there is a very weak incidence of cases. Colombia has not ratified the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict or the 182 ILO Convention.

Eraso described violations of the right to life, freedom and personal integrity. Children are psychologically affected when the army comes into their homes at night to make mass arrests; they are beaten, tortured or kidnapped; they witness the mistreatment of their families by the armed forces. Last year, 201 children were kidnapped by rebel groups and paramilitaries. The assassination of children is also an alarming issue. An increase in social cleansing operations has killed 150 children.

In terms of gender-based violence, Eraso mentioned that girls in particular are harmed by the conflict but announcements of their mistreatment are rare because they fear stigmatization. In certain cities, paramilitaries have established codes of conduct whereby girls are prohibited from wearing low jeans shorts and are subject to strict curfews. Failure to comply with such codes can result in such demeaning punishment as the girls' heads being shaved by machete. Girls who join the armed forces are often sexually violated and forced to use extreme measures of birth control (Ex. forced abortion).

In the *Discussion* that followed, several issues were raised. Regarding public awareness, Eraso pointed out that unfortunately public awareness only surrounds the use of children by guerrilla groups. There is no public media and the national NGOs are extremely repressed, constantly attacked and threatened by the paramilitaries. Eraso stressed the importance of international support; it is hoped that the increased involvement of the international community will help to better organize programs already in place, such as the government DDR program. In terms of tackling the root causes of child soldiery, Eraso emphasized prevention through such measures as employment and productive processes. The role of the right to development was also discussed as these children truly have no other options.

Eraso outlined the specific objectives of the Coalition as the following: 1) ratification by the government of the Optional Protocol and establish 18 as the minimum age for recruitment; 2) pressure on the army to stay away from children and their schools; 3) increased collaboration with human rights organizations; 4) acceptance by the government of the competence of the International Criminal Court in recognizing child recruitment as a war crime; 5) less impunity in terms of child recruitment and this should also apply to state armed forces (legislation as it does not include the Army); and 6) annual visits of special representatives and monitoring of the implementation of human rights. The Coalition is currently writing a letter the Office of the High Commissioner for Human Rights in Colombia to stress the violations of children's rights. Eraso was encouraged to push for specific points from the government and to bring all of this to the attention of the special rapporteurs.

### **Friday, 26<sup>th</sup> of March 2004: Children's Rights in Afghanistan**

***Shirin Persson, Save the Children Afghanistan***, focused her discussion on Save the Children's third annual report to the Human Rights Commission. This report reflects the most updated situation and current concerns regarding protection issues and rights for children and young adults in Afghanistan. Persson stressed that the term "young adults" is preferable to "young people" in light of the fact that most children in Afghanistan are given adult responsibilities and considered adults from a very young age. The report first tries to project some relevant statistics and then addresses very important children's rights issues according to the social and cultural context of Afghanistan.

Despite the removal of the Taliban, the situation is far from okay for children, young adults and women, especially. The existing social services are inadequate to serve the needs of the population, of whom 3 million are returning refugees or internally displaced people, and many human rights issues are being ignored. Health facilities are below standard, such that one of five children dies before the age of five and the maternal mortality rate is increasing. According to UNICEF, 87% of these deaths would be preventable with improved health facilities. Concerning education, there are high numbers of

boys back in school, but the problem of low enrolment for girls isn't being looked at. High school dropout rates must also be considered; only 3% of girls complete secondary education. Psychosocial rehabilitation is another issue being ignored. There is also the question of war widows: these women are not allowed to remarry or work, leaving a heavy dependence and pressure on the boy child to support the family. Landmines continue to pose a threat. As children move and play between their homes, schools and work places, they are increasingly at risk; 70% of last year's land mine victims were civilians and children. Land mine education must continue. Children are also badly affected by the fight against terrorism. How this affects children, especially on the eastern side, is being neglected. Persson also addressed food assistance, stressing that aid should continue but must be restricted to certain periods of the year so as to avoid cultivating dependence. She suggested that food aid should take place during severe winter periods and be restricted to those areas that suffer drought for 6-8 months of the year. These operations must consider specific community needs.

Afghanistan has seen dramatic positive changes on many levels (Ex. National Solidarity Program for the decentralization of power from Kabul to the provinces). Unfortunately, other issues such as the situation of children and human rights are not addressed by these improvements. One thing the international organizations must consider is that government has not been able to fully extend its power, so some areas are still controlled by commanders. Persson outlined several emerging issues of concern.

There is great confusion in Afghanistan regarding who is a child. Culturally, adulthood starts as young as 12. According to Afghan law, adulthood begins at 16 years of age. The CRC stipulates the age of 18. Afghanistan has signed the CRC, but with reservations. Regrettably, the government doesn't talk about these reservations, so we don't know which articles are actually respected.

The physical environment, especially in Kabul, has become increasingly hazardous to children. For example, traffic has increased (ex. more armed vehicles and careless driving), causing the number of accidents involving children to increase. This must be examined.

Persson then returned to the issue of education. Minorities are denied the right to education and girls are not completing high school; this discrimination should be addressed. The content and quality of education needs to be considered, as well as human rights violations within the classroom. Further, there is the question of home-based schooling, one of the only options for education for many girls. Home-based schooling is not recognized in the Afghan education system, however, and donors have not been pressing for its recognition, as they should.

Child trafficking is also a problem in Afghanistan, though not in terms of sexual exploitation, as we typically understand it. There is no translation for "trafficking" in the languages of Afghanistan; people there understand it to mean the movement of children in large numbers for the purpose of gaining money. The sale of children between Afghanistan and neighbouring countries is a growing problem and for this country we need to see a greater dimension beyond sexual slavery. Trafficking into the west side involves selling boys between 8 and 16 years old into the construction industry. In the east, there is a sexual dimension to trafficking: boys are sold into Pakistan to serve as sexual slaves in religious schools. To the north side, children are used to smuggle drugs. This is of great concern, especially in terms of children's involvement in poppy cultivation.

Afghanistan is characterized by a lack of legal protection for these children. There are no legal aid organizations to with such issues. Girls, for example, are put in institutions for failing to conform to religious traditions. Girls between 7 and 16 years old are detained with older female criminals.

The number of working children is increasing. This is particularly evident in the carpet, chemical and leather industries. These children have no rights to education or rights to development. When addressing such issues, we must see the link between rights and development.

Persson also expressed concern over the micro-credit institutions in Afghanistan, including those of the World Bank. These institutions give small loans to women, enabling them to start entrepreneurship activities. These activities often end up home-based and have considerable impact on children. Because the loans must be paid back within 3-4 months, children are kept from their schools to work at home in order to repay the loans. Such micro-credit institutions are not considering the adverse effects they have on children.

The last topic Persson addressed concerned “provincial rehabilitation teams.” Many countries and organizations are contributing to these teams, which are essentially paramilitary, and 4-5 countries are contributing to the coalition forces. Both sides are trying to give humanitarian assistance. People in the provinces don’t know if aid is coming from the military or from an independent NGO. Persson expressed concern that some governments want to put a humanitarian façade on military campaigns: these two simply cannot coincide.

In the *Discussion* that followed, the first question brought up the status of the Afghan Human Rights Commission. This Commission was set up 2 years ago, and its 2-year mandate is coming up in June. It plays a crucial role in monitoring and preserving rights. An extended mandate is very important, as this is the only institution in Afghanistan that follows cases and reports to donors and the government. Persson mentioned here that Afghanistan has been promised a UN independent expert, but this has yet to be fulfilled. They hope for a resolution at this year’s Human Rights Commission. Also discussed was the impact of coalition forces now getting involved in humanitarian work. This is going to become a much bigger problem. Suggestions included the possibility of teaching children’s rights to the peacekeeping forces. Generally it was felt that we must raise awareness of the negative impact what the military is doing through such publicity ploys (Ex. also in Israel, Kosovo and Iraq). Regarding the sexual exploitation dimension of child trafficking, Persson was encouraged to push the Special Rapporteur on this issue because he is receptive to suggestions. Another question concerned Afghanistan’s reservations to the CRC: anything contrary to the religious law will not be accepted. Suggestions included sitting down with an Islamic Scholar and children’s rights expert as well as asking the government to clarify what they mean regarding reservations. Finally, Persson remarked that in an upcoming donors meeting, they hope to raise all these issues and emphasize the responsibilities of European countries and concerned parties.

Persson distributed copies of Save the Children’s report, “Children and their Rights in Afghanistan: Current concerns regarding protection issues and rights for children and young adults”.

### **Monday, 29<sup>th</sup> of March 2004: CRC Committee Upcoming Issues**

**Paulo David, Secretary of the CRC Committee**, spoke on several recent developments in the CRC Committee. The first issue he addressed was the recent decision of the Committee to re-establish the practice of visiting some countries on which they working, both before and after dialogue. Last summer, for example, a visit was made to India to meet with several national NGOs and young people. The Committee is also requesting visits to North Korea, Myanmar, Panama and El Salvador. Criteria for selecting countries to visit revolves mainly around the need for the Special Rapporteur to obtain more information. Questions of capacity and funding are also important. The Committee often discusses with UNICEF to ascertain the need for such visits. David encouraged NGOs to contact the Committee with questions.

A second important issue for the Committee is its working methods. There is a great deal of pressure on the Committee in terms of workload and currently it is engaged in a process of reform, along with many other treaty bodies. Within this context, the Committee wishes to discuss three methods in particular. First, new periodic guidelines are being considered. As they stand, these guidelines are too long and detailed, generating reports that are also too long and lack quality. A draft has been completed and the Committee wishes to adopt a decision at the September meeting. Also to be examined are the concluding observations. The structure and length of these observations are to be

revised, although this is difficult, so as to keep the observations short. Finally, the Committee is going work on its list of issues. The main problem in reforming working methods is time. With very little time in the sessions, they have decided to convene an informal session outside of the UN buildings a few days before the next session in May. This session will focus on the above issues as well as other key issues for consensus with State Parties (Ex. issue of Muslim girls wearing veils/scarves in public schools).

The drafting process of general comments is another upcoming issue. The Committee has been very productive in the past few years and they are now starting a new cycle, to be finalized in May. The Committee will be working on the following four areas in the next 2 years: 1) Children and Justice (general principles that should be applied); 2) Early Childhood; 3) the Rights of Unaccompanied and Asylum Seeking Children and 4) the Rights of Indigenous Children.

Discussion Day, 17 September, will deal with the issue of Early Childhood and the implementation of children's rights, to reinforce the idea that young children have rights and can even exercise them. David encouraged interested parties to see the website for practical information regarding registration, etc. He also stressed that the Committee needs the support of NGOs and other international organizations and encouraged these parties to submit information for the discussion in advance. He was very glad that the day will be supported by UNICEF and will also include opening statements from each of the Committee's working groups, which are chaired and facilitated by Committee members themselves. David was very positive about this active approach.

Concerning the Optional Protocols, despite an increasing rate of ratification, the submission of reports is very slow. David remarked that once submission becomes active, all states will become involved. They have already received a report from New Zealand and should soon receive one from Austria. David stressed the need to activate and stimulate states to be active under these protocols. Regarding states that are very late in reporting, the Committee will write to that State Party when it is 9 years late, pressuring them to report within 1 year. If the State Party does not do so, the Committee will consider re-evaluating the situation of children's rights within that country. The Committee has written to 10 late states and has found this approach to be quite successful; 8 of the 10 states have very rapidly submitted reports and the other 2 are pending. The first is Angola, whose report is awaiting translation. The second is Bosnia Herzegovina, where political blockage is a significant problem; the draft of the report has not been authorized internally. The Committee will write its last letter to Bosnia in May.

The sixth issue addressed by David was the Committee's proposal to split into two chambers. The Committee is overwhelmed with work and therefore suggested last year to the General Assembly that it meet in two chambers. Excepting two states, there is not much contention. The main issue is funding, which would be extra-budgetary. There will be a two-year try-out period followed by an evaluation. The proposal was not endorsed by the General Assembly last year because it came late, but the Committee has decided to keep it on the agenda and will recommend the 2-chamber approach in their report to the Commission. They hope that the Commission will give its approval to the proposal. David stressed that the Committee is very realistic about the difficulty of changing working methods. He believes that in the future such a change could lead to similar reform in other treaty bodies (Ex. CEDAW). It is being discussed with State Parties and on 14 April it will be presented to the Commission by Jaap Doek, Chair of the Committee, as it is such a vital issue.

Lastly, David briefly touched on the Violence Study from the perspective of the Committee. He articulated two messages that the Committee has expressed regarding this study: 1) The study should remain rights-based. 2) Please keep the CRC Committee involved. David was optimistic about the report not being diverted.

In the *Discussion* that followed, questions concerned the issues raised by David. Regarding the 2-chamber proposal, concern was expressed regarding the costs and implications for coordinating two parts of the Committee, particularly in terms of the risk of subjectivity. David explained two safeguards the Committee will be enforcing: 1) proper geographical and topical distribution on each

chamber, which would change each session and 2) all official documents would be discussed and adopted in plenary sessions, in full committee. Regarding coordination and the risk of this being too time-consuming, the Committee has already been dealing with time constraints, the chambers would be physically close to each other and the Committee will not double the work, only increase it (between 14-15 countries a session). Once again, David stressed that the Committee is aware of the difficulties that must be addressed in this process. The Committee wishes to be seen as a proactive rather than passive body.

David also explained that other options were considered for dealing with the problem of backlog, but ultimately the 2-chamber approach seems best. The Committee considered having longer sessions or perhaps a fourth session, but such alternatives would be almost excessive (in terms of keeping members from their families, for example) and could thus hurt the image of the Committee. Further, they would not make such a difference in the end and the result would be minimal. Although the 2-chamber proposal is radical, it should bring very good results. David mentioned that after 2 years of the 2-chamber approach, it could be that they will reduce to only 2 sessions a year.

A question was also raised concerning the use of external experts on upcoming General Comments. David explained that the Committee is only at the beginning of the entire process. Some experts might be contacted; this needs to be discussed in more detail at the next session. When the first draft is completed, the Committee sends it to interested parties (NGOs, experts, Special Rapporteurs, etc.) for feedback. David encouraged all of the briefing participants to make comments. Feedback at the national level is particularly helpful.

### **Tuesday, 30<sup>th</sup> of March 2004: Torture, Inhuman or Degrading Treatment or Punishment of Children**

*Theo Van Boven, Special Rapporteur on Torture*, is in Geneva to present his reports to the Commission tomorrow. He also uses this trip to meet with all kinds of people, including NGOs, diplomatic missions and others. Mr. Van Boven opened the briefing by saying that used to be a time when there was a competition between the issues torture and children. During the late 1970s, there were two initiatives. The first was for a Convention on Torture, the second for a Convention on Children. The former was completed in 1984; the latter took more time. So why the competition? Most importantly, Mr. Van Boven pointed out, the UN is always short of resources. In addition, somewhat of a political battle ensued, with most western countries in favor of the Convention on Torture and Poland taking the initiative on the Convention on Children. Both conventions are interesting instruments and there is a link between them. There is a provision in the Convention on Torture, for example that deals with the ill-treatment of children. Mr. Van Boven stressed that these instruments are not rival, but complementary.

Mr. Van Boven then began a discussion of his work, first clarifying that it is not directly related to a treaty. The Convention on Torture is less widely ratified than the CRC. Approximately 130-135 states have ratified it. He described the Convention on Torture as sensitive, controversial and even confrontational. Mr. Van Boven's mandate is related not only to states party to the Convention, but also to all countries of the world. He sees this as an advantage. The legal basis for his mandate is weak, however. The mandate was created in 1985 and discussion arose as to whether a Special Rapporteur (SR) was still needed along with the Convention. It is the position of many that the SR and the Committee on the Convention on Torture are complementary. This year's Commission will decide whether to renew the SR's mandate. In this sense, his position is weaker and somewhat ambiguous. On one hand, he is an independent expert. On the other, he is somewhat dependent, as his nomination and election are part of a political process.

The SR can react within 24 hours to urgent cases. This is an advantage that SRs have over treaty bodies. Often, SRs act together (Ex. torture can be related to freedom of expression, violence against women, arbitrary detention, economic and social rights, the right to health, etc.). A disadvantage is the

lack of capacity SRs have to verify the validity of the allegations they receive. It is also difficult to assess the effect of their work. Obviously, they try to save people, but they're not always sure if this is the result of their work exclusively or other forces as well.

Boven emphasized the important relationship between SRs and NGOs, saying that he works a great deal with NGOs as well as local organizations. A sort of network is established. Unfortunately, the SR often gets misgivings from the governments saying that the allegations are not valid and that credibility is given where it isn't due. Mr. Van Boven acknowledged that 5% of his work is based on error, but 95% is based on truth. Of course, the governments always focus on the 5%.

The SR also carries out fact-finding missions to countries of concern. Last year, he went to Spain, the year before he went to Uzbekistan and there is a chance that next month he will visit China. Some countries have issued letter of invitation, while visits to others must be negotiated. Still others have said no for 10 years. These missions must have the consent of the government. They are extremely important; the SR learns a great deal from being faced with the reality of dealing directly with people affected by torture.

Boven said that he also tries to make recommendations. He underlined the fact that follow-up to recommendations is very important but a real weakness within the UN. The follow-up task cannot be accomplished on his own as it is very time-consuming. There is also a risk, of course, that the government in question will not like what is written (Ex. the report on Spain was heavily criticized).

The SR further tries to analyze certain issues which are very relevant. These issues include terrorism and torture, HIV/AIDS and torture and also issues related to children (Ex. detention of minors together with adults, torture against children, corporal punishment of children, etc.).

Again, Mr. Van Boven remarked that the work of NGOs is crucial for the work of SRs. Regarding allegations, most of them are received from NGOs. The SR then asks governments for clarification, information and relief. In the latest report, we will see that some governments do respond, selectively, positively and negatively. The SR does not, however, report back to NGOs, as they can consult the SR's public annual report. NGOs are also valuable resources in terms of providing the SR with information before the country visits. The analysis of issues also depends on input from NGOs. Mr. Van Boven stated that the CRC has an advantage here because it allows for certain contributions from NGOs. Despite some concern that the SR depends too much on NGOs, he again mentioned that he doesn't have much independent research capacity and resources are very limited. This puts a heavy burden on NGOs to provide solid, credible information.

Concerning the relevance of children's rights to his mandate, Mr. Van Boven mentioned torture of children, deliberate starvation or lack of medical care. He cited some examples of child-related cases: juvenile detention centers in Brazil; minors in Sri Lanka accused of stealing and brutally tortured; and police brutality against street children in Brazil. He also mentioned the strict system on immigrants in his own country (the Netherlands), where children are sometimes separated from their parents. Such cases could amount to degrading, inhuman treatment. Other SRs are also concerned, as this issue overlaps with migrants.

In the *Discussion* that followed his speech, several specific questions were raised. When asked how NGOs could better support his mandate, Mr. Van Boven said the SR would welcome cases and analyses of country situations. Long-term structural problems should also be brought to attention. When cases are urgent, however, Mr. Van Boven said that the SR can do more than the CRC, since he can respond within 24 hours. It was also asked if the SR consults with CRC Committee for country specific information, as this could be particularly useful. Boven answered that in the past the SR has consulted with the Secretariat and there has been some contact, although more with the Committee on Torture. He said there is a need for more contact and consultation between treaty bodies and SRs.

There was some discussion regarding the UN Study on Violence Against Children. Mr. Van Boven was asked if he has had any collaboration with Paulo Pinheiro, the newly appointed independent expert for the study. He said that he has not had any contact with Mr. Pinheiro yet and feels that there should be more. The annual meeting in June with all the mandate holders could be an opportunity but Mr. Van Boven feels more contact would be facilitated if Mr. Pinheiro had more of a staff in the Secretariat. In the discussion of this topic, the timeliness of the study was highlighted and Mr. Van Boven was encouraged to collaborate with Mr. Pinheiro in order to reflect on the gaps so that the study does not just gather information that's already there.

In response to a question concerning country visits, and the possibility for a mission to Uganda, Mr. Van Boven replied that gets many requests (Ex. Colombia, Nepal, etc.) and while Uganda is not on *his* list, other SRs would possibly be interested. He feels there should be more collaboration with other SRs so as to better coordinate their visits. The Committee on the Convention on Torture also the opportunity to make visits, in which case he wouldn't visit the same country. China has been an issue of negotiation for many years. On his short list are Nepal, Georgia, Bolivia and Paraguay but there is a whole list of others they have been asking for years, including Indonesia, Israel and the Russian Federation. Mr. Van Boven asserted that he needs a larger staff to do such work in an adequate way.

Mr. Van Boven was also asked about two specific issues and whether or not his reports and analyses refers to them. First, concerning the impact of torture, Mr. Van Boven said that this requires certain disciplines (Ex. psychology and pedagogy) and that he simply does not have the capacity. He would accept help in these fields and would like to see a more interdisciplinary approach. Second, the issue of conditions of detention for children was brought up. It is useful for NGOs to have commentaries from the SR to clarify that certain treatments are actually considered torture. NGOs feel they need more commentary on this issue and Mr. Van Boven was asked if he had any plans to address this. He suggested referring to the Beijing Rules and the CPT, which has developed some standards.

**Wednesday, 31<sup>st</sup> of March 2004: UNICEF Priorities at CHR 60<sup>th</sup> Session & Children's Right to Adequate Housing (with Special Rapporteur Miloon Kothari)**

**Lesley Miller, children's rights and child protection officer for UNICEF**, briefly outlined UNICEF's work during the Commission. She began by announcing a panel that will deal with the issue of children deprived of parental care. UNICEF advocates social policies to prevent institutionalization and protect children who are already institutionalized. They are hoping to involve ISS and Save the Children. The panel will focus on standards: existing standards and the question of whether or not we need international standards on this issue. By next Wednesday (7 April 2004), they hope to launch a discussion. Panelists will include a speaker on the CRC, a speaker on Armenia and UNICEF representative.

This coming Monday (5 April 2004), UNICEF is helping to organize another side-event, this one on the trafficking of children. There has been some talk of establishing a mandate on the trafficking of women and girls. There is some concern regarding such a possibility. Is it appropriate? Is it necessary? Won't it overlap too much with other mandates? What about trafficking in human beings? There seems to be some opening to including more, perhaps "trafficking in human beings, especially women and girls." Lesley Miller stressed that now it is important to be constructive and ideas for good potential candidates are welcome.

As for UNICEF's work outside the Commission, they are doing a great deal of work on the follow-up to the UN Special Session on Children and the UN Study on Violence Against Children.

In the *Discussion* that followed, the issue juvenile justice was addressed. A coordination panel to deal with this subject was established in a resolution from 1997. The group exists to better coordinate the approaches and programs of concerned agencies and NGOs. Although fairly inactive in past years, during the last few months UNICEF has taken the lead, especially with regard to new indicators on



juvenile justice. These organizations are willing to move in this field at an international level. UNICEF facilitated a meeting in Morocco and the group is reforming. They hope in the future to make the issue of juvenile justice more visible at the international level and better coordinated at the national level. A final comment was made concerning the possibility of a trafficking mandate, suggesting that perhaps the child abduction issue was a gap that could be addressed in the future.

**Miloon Kothari, Special Rapporteur on the Right to Adequate Housing**, was the next to speak. He has been the SR since September 2000. In his preliminary report to the Commission then, he defined this right as the right of every man, woman and child to gain a secure place to live. He has been looking at access to services, protection from forced evictions, land rights, freedom from inhuman, degrading treatment, etc. His work has a strong gender focus on women and housing (to be addressed in an upcoming report). He has also looked significantly at children's rights relating to housing and land. He has a dialogue with the CRC and works with national level NGOs, hoping to increase such coordination in the future.

Several thematic reports address children's rights issues. One focused on globalization: the impact of the privatization of social services on children. Displacement's impact on children has been looked at as well. Country missions also attend to children's rights; Mr. Kothari has made some submissions to the Committee on the CRC. One such submission concerned Israel and the impact of house confiscations on children. More work should be done to deal with the psychological impact of house confiscations and the impact on children of living in constant insecurity. Mr. Kothari stressed that there needs to be more on remedial measures.

He mentioned six country missions: Palestine, Romania, Peru, Afghanistan and Kenya. The first five reports are available now. Brazil is a possibility in June. The SR works closely with UNICEF on such missions, on issues such as access to water and street children. One of the main findings from the missions is that children's right to adequate housing is widely violated in both the north and south (Ex. large percentage of homeless are children in USA). He will continue to focus on this and his next report will be on homelessness. He encouraged contributions. Another striking finding from the country missions is the devastating impact of poverty, particularly severe for children as they are increasingly vulnerable to diseases and forced to beg on the streets. There are many issues and Mr. Kothari stated that it would be excellent to have substantive support from such a group as the NGO Group for the CRC.

Mr. Kothari said that the recognition of the importance of the right to adequate housing should be stronger in the resolution (sponsored by Germany and Finland). He asked NGOs to encourage delegations for stronger mentions of children, particularly in the work of the treaty bodies. While happy that this right has been mentioned increasingly in NGO alternative reports, he feels that more should be done in the treaty bodies.

In the *Discussion* that followed, Mr. Kothari first mentioned that material could be found on the following website: [www.unhchr.ch/housing](http://www.unhchr.ch/housing). He was particularly interested in NGO contributions on women and housing. An emerging issue, he said, is the link between violence against women and adequate housing. A panel on Friday will deal with this. His work has established the link and he will be looking at what needs to be done in next year's report. Concerning street children, Kothari was asked how he addresses violence against them as an issue, since their own homes are not secure. He responded by saying that the report on women and housing has shown the link to domestic violence. To address this in relation to street children, he would use the same framework. When there are housing problems it is very important that children are given privacy, not the cheap one-room solution. The issue of density is very serious; with 10-12 people in one room the stress on children is tremendous. Unfortunately, this issue is not taken up enough. Mr. Kothari was also asked about his involvement with the UN Study on Violence Against Children and he said that he is in touch with Mr. Pinheiro and will be contributing to the report.

In response to a question regarding future plans, Mr. Kothari said that Iran and Cambodia are possible country missions. He said that it would help to hear from NGOs for contacts and connections with civil society. Also, he stressed that he wants to hear about solutions and best practices, not just violations. Furthermore, perhaps in one year his thematic report could deal with children and housing; they have prepared a questionnaire that could be distributed. He would really encourage NGOs to push the link between children and housing. A representative from Habitat International Coalition suggested seeing the report “Children and the Right to Adequate Housing” ([www.haqcrc.org](http://www.haqcrc.org)) and a brochure on “Understanding Our Right to Adequate Housing in South Asia”. Again, NGOs were encouraged to focus more on this issue and to share testimonies.

The final issue addressed is the discussion was the link between HIV/AIDS, the rising number of orphans and the connection to housing. Mr. Kothari said this issue has come in the mission to Kenya and he referred to an excellent submission from the International Coalition on HIV/AIDS. There will be a chapter in the women and housing report addressing HIV/AIDS, which also raises the issue of families run by orphan children. Child-headed households are another area where children’s rights overlap with the right to adequate housing. Mr. Kothari closed the panel by emphasizing once again the helpfulness of NGO submissions. One problem that constantly comes up deals with “How much can we cover? How much information is available?” They need research and NGO submissions can be very helpful here.

#### **Thursday, 1<sup>st</sup> of April 2004: The Setting the Standard Project on Child Protection and Follow-Up Discussion to Resolution on Trafficking**

*Colin Tucker, Terre des Hommes*, spoke this morning on the “Setting the Standard” project for child protection. Tucker is primarily desk manager for Ethiopia, Egypt, Palestine and responsible for child protection in all countries where Terre des Hommes works. Over the last few years, more and more NGOs and international organizations are becoming interested in and acknowledging the importance of child protection. Many organizations are working to develop policies and procedures on this issue. A group of UK-based NGOs has launched a document (available on the website [www.peopleinaid.org](http://www.peopleinaid.org)) on a common approach to child protection to consolidate what we’ve all done. The document outlines eleven points and makes for an excellent tool on setting standards. As Phase 2 of the project, collaboration between the UK group and the Geneva group will help to develop this approach into a professional trainer’s pack and workshop. NSPCC will project manage the work with the help of a number of organizations. Another aspect of Phase 2 is the “Setting the Standard” newsletter and website ([www.settingthestandard.info](http://www.settingthestandard.info)), which provide an idea of the progress made thus far. Terre des Hommes has taken the standards developed by the project and tried to incorporate them in their own work. Phase 3 will involve looking at specific aspects of empowering children as closure to the project.

In the *Discussion* that followed, Tucker clarified that the project is very general and more based on national organizations. Phase 2 should make the project more international. It can be used for development, field work and protection of children. Tucker was asked if they have had any contact with the public sector in terms of promoting the project. He said that a huge amount of work remains to be in Switzerland; resources just aren’t put into child protection and there a huge areas for improvement in the country. They have not yet marketed the project, but Tucker emphasized that the wider they can take it, the much more effective it can be. First he wants to deal with their own organizations and then look outside. The challenge will be to keep child protection at the top of the agenda; there are so many competing priorities.

*Eylah Kadjar-Hamouda, Coordinator for Terre des Hommes*, spoke next with a follow-up to Lesley Miller’s talk on the resolution on trafficking. Currently, the resolution says “trafficking in girls and women”. This will probably be changed to “trafficking in human beings”. Germany, Costa Rica, Poland, the Philippines and Libya have been active in this resolution. Kadjar-Hamouda highlighted the several important issues. First, trafficking doesn’t only occur for the purposes of sexual exploitation.

Six different reasons have been found by Terre des Hommes. Second, not only girls are affected; boys are also victims, especially with respect to slavery. The resolution should therefore cover “human” trafficking. Finally, the mandate established should not overlap with the work of other Special Rapporteurs (Ex. SR on sale of children). The SR should be asked to consult with NGOs. At present, the problem is the lack of coordination between all international agencies working on trafficking. The SR could and should bring some clarity by consulting with all the organizations running anti-trafficking programs and hopefully give a unified face to this work. Kadjar-Hamouda encouraged those who have good contacts with any governments to raise the trafficking issue with them.

In the *Discussion* that followed, the first issue addressed was the problematic definition of trafficking. Kadjar-Hamouda asserted that the Palermo Protocol should be used. This definition includes the provision that trafficking can occur both across and within borders. It also recognizes different purposes for trafficking outside of sexual exploitation. Furthermore, this definition has been agreed upon by the international community and is the most comprehensive in existence. Nevertheless, the definition is still a big problem. It includes a component of coercion, but Terre des Hommes declares that you cannot consider the same definition of coercion for adults as for children. The problem then is how to define coercion. The resolution should clarify this. Another difficulty is that some countries would term something trafficking what another country would not. There is complex confusion between trafficking and migration. It is difficult to unify the different definitions of governments (Ex. in Albania, family members traffic children to Greece and Greece therefore doesn't necessarily recognize this as trafficking). There are huge complexities concerning trafficking between countries.

Tucker mentioned that trafficking is clearly becoming a more “popular” and “useful” practice. A police office in the UK, for example, was transferred from the Paedophilia department to the trafficking department. Resources are being re-allocated to address the growing issue of trafficking. Interest was expressed in a possible study that shows the importance of trafficking to economies and therefore also shows why governments are hesitant to really take up this issue. At present, it seems no such studies exist. Kadjar-Hamouda said it would be difficult because trafficking is such a hidden issue. Tucker suggested Anti-Slavery International as good source for information.

When asked to name the other purposes found for trafficking, she listed the following: 1) sexual exploitation; 2) labour exploitation; 3) babies for adoption; 4) forced marriage; 5) organ trafficking; and 6) illicit activities and begging.

### **Friday, 2<sup>nd</sup> of April: Violence against girls**

(Joint briefing with Gender/Women's HR Caucus)

**Yakin Ertürk, Special Rapporteur on violence against women**, highlighted some of the main forms of violence against women in the light of the observations made during her mission in Central America (Guatemala and Salvador).

She focused on gender-based violence and mentioned, in some occasions, the additional dimension of age-based violence girls are subjected to. In this respect, she particularly mentioned the lifecycle approach.

She gave special emphasis to trafficking in human beings. According to the SR, gender discrimination is the root of this problem, which also explains the fact that girls and women are more often trafficked than boys and men. In order to fight trafficking in human beings, it is thus fundamental to establish strategies aiming at strengthening gender equality (for example gender reconstruction as a means of changing the patriarchal structures).

Her work in Salvador and Guatemala showed that trafficking in girls and women occurs for many purposes, including work, sexual exploitation and adoption.

- Work: the SR mentioned that, for any kind of work, girls are more often victims of trafficking than boys.
- Sexual exploitation: girls and women do often consent to move to another place (in the country or abroad). They think that they would get a job and have a better future. Once they arrive, they are constrained into sex industry.
- Adoption: Ms Erturk described a growing trend for kidnapping children in order to sell them on the “adoption market”. The fact that the reproductive capacity of women is becoming a business issue is particularly alarming.

During the discussion following her speech, Yakin Ertürk added that the worth of a SR on trafficking is questionable. Instead of putting resources into another study-mechanism, she would rather use them for strategies and mechanisms for the implementation of existing conventions, particularly the [Convention on the Elimination of All Forms of Discrimination against Women](#).

An intervenient said that a joint report on trafficking in girls and women by several existing Special Rapporteurs would be useful for a better understanding of the phenomenon. Miss Erturk agreed on that.

When asked about the links between her mandate and the UN study on violence against children (and the UN Study on Violence Against Women), she recognized that there were no clear lines of collaboration yet.

The SR also explained that today’s globalization comes accompanied by a trend of tribalism and weakening of States, which exposes women (and girls) to a great risk to see their rights violated.

A participant mentioned the possibility to realize a study (by the SR on Violence against women) that would analyse the costs of violence against women. The SR answered that this would in fact be interesting, but that it is very difficult to realize. One would have to know the whole extent of violence against women. Hence, this is very difficult.

### **Monday, 5<sup>th</sup> of April: At What Age? Research on Age-Determined Child Rights**

**Angela Melchior**, researcher for the **Right to Education Project**, was here this morning to present the report for this project, which was created by Katarina Tomaševski, Special Rapporteur on the Right to Education. All of the information concerning the project can be found on the following website: [www.right-to-education.org](http://www.right-to-education.org). A .PDF file of this document is available there and will be distributed for free to all interested parties.

In terms of defining the publication, it is the first attempt to collect different minimum ages and compare them within the context of the right to education. The report looks at age-determined rights with the key issue being the discord or accordance among many different ages (minimum age for leaving school, appearing before court, imprisonment and marriage). Melchior pointed out that the second part of Article 1 of the CRC (concerning attainment of majority) undermines the entire article because it leaves so much room for interpretation. We must look at whether or not the CRC is really is really protecting children under 18. For example, majority is different in different countries and even within one state. In some countries, majority is attained upon marriage, but what then happens to these married children? Are they still protected by the CRC? Furthermore, there is no consistency regarding minimum ages, whether within one indicator or cross-country. Fortunately, states themselves are already realizing that the definition of the child is ambiguous and it is therefore difficult to report on minimum ages. Confusion over the definition can have prejudicial influence on the rights of the child and his/her development. It is precisely this confusion that the report seeks to address. Essentially, the right to education is under threat from early marriage, imprisonment and child labour.

The sources for the report are only state parties' reports to the Committee on the CRC between January of 1997 and January of 2004. They have not used NGO information or the concluding observations of the Committee. Rather, they wanted the most authoritative voice, "straight from the horse's mouth", so to speak. The state parties' reports are useful in this regard because they are self-assessment by the governments themselves. Melchiore hopes that NGOs, civil societies and other concerned parties will hold the governments accountable and address any inconsistencies between what the governments write and what is the reality on the ground. For the next edition, sources will include Committee concluding observations and discussions.

Melchiore stressed that Interpretation is very difficult. She outlined the rules of interpretation used in the report. First, concerning the school-leaving age, they used Article 28 of the CRC, which stipulates that primary education be compulsory but does not give a minimum age. The Committee guidelines, rather, ask countries to establish one. There are at least 25 countries that have non-compulsory education, and an addition 36 who have given either no information or unclear information. Some other states do say that education is compulsory but do not provide an age range for enrolment and leaving. Still others have exceptions and exemptions for education. For this report, the guiding principle was that education is considered compulsory.

Second, concerning employment, they referred to Article 2 Paragraph 2A of the CRC, which requires the establishment of a minimum age or minimum ages. The Committee recommends that state parties should report on this in light of other international obligations and commitments, especially ILO standards, which state that the minimum age should be no less than 15, and in some cases 14. States do in fact report on this. Although there are exceptions to this in terms of light work or hazardous work, for example, the tables in the report mention the general minimum age for full-time child workers and look at how it could impact the right to education.

Third, concerning the minimum age of marriage, this is extremely difficult. The core of the problem is at what age the children become adults and how this impacts their right to education. The impact is even more significant for girls. There are 44 countries in which the minimum age is different for girls and for boys. In addition, there are a lot of exceptions. Generally, states present data on a general minimum age, but also present exemptions such as parental consent, pregnancy, religious norms and permission from different kinds of authority to allow for earlier marriage. The report tries to see if these exceptions are really protective and in the best interests of the child. Surround all this is the lack of consistency between customary law, public law, religious law, etc. Additional research must be carried out and Melchiore hopes the further develop in this direction with the help of NGOs and other agencies. One problem is that the CRC doesn't mention regulations on marriage (There is a convention dealing with the minimum age of marriage that dates back to 1962.).

Fourth, concerning the minimum age for criminal responsibility, they refer to Article 40 Paragraph 3 of the CRC. The Convention doesn't explicitly indicate an age. International standards such as the Beijing Rules say that the age shouldn't be too low and should take into account the capacity of the child to understand what he/she is doing. Some countries use puberty as a criterion. There are often different minimum ages, reflecting the great confusion over this issue. Sometimes states do establish a minimum age but measures in the administration of justice contradict this. The edition of the report plans to look at deprivation of liberty as another important issue.

Melchiore closed by saying that this project is only a starting point, the beginning of a debate. Ultimately, they want to compare the situation on the ground with what states report.

In the *Discussion* that followed, several important comments and suggestions were made. First, Melchiore was encouraged to find proof of birth registration, as this is crucial for the ages examined in the report. Do governments really register their children? Melchiore said that thus far, the states reports do not address this. She and her colleagues had also thought of addressing the age of conscription into the armed forces, which is equal in most countries but not at all reflective of reality.

They have decided to wait to see what happens with the Optional Protocol on this issue. A comment was made regarding the progression of the Committee on the CRC in terms of its standards of reporting and also the contributions on law by UN agencies such as the ILO, which in particular has made a serious investment in reporting to the Committee. Melchiorre was advised to indicate whether education is free or not in each country, but Tomaševski is doing a specific study on this, although it is sometimes addressed in the reports. Finally, Melchiorre remarked that the new edition of the report shows trends in time within 10 countries; the majority maintain the status quo over the years.

### **Tuesday, 6<sup>th</sup> of April: Child participation in the UN study on violence against children by Save the children**

The two panellists were *Eva Ahlen* (Save the children – Sweden) and *Ravi Karkara* (Save the children – Denmark).

**Eva Ahlen** introduced the subject. She firstly talked about the engagement of Save the Children Alliance with the UN Study, which they see as a very important opportunity to address violence against children at all levels. She underlined that, in order to assure a high quality and credibility of the study, particular attention must be given to meaningful and ethical participation of children, so they can freely express their views in all matters.

Then she mentioned the advisory and technical role Save the Children will play (at national, regional and international level) in relation to child participation in the UN Study. She also presented a series of Toolkits (elaborated by Save the Children), “intended to inspire and be of practical help to those involving children in research, consultations and events” relating to the Study. These Toolkits are 1) “So You want to involve Children in Research?” and 2) “so You want to consult with children?”. They are available under <http://www.savethechildren.net/alliance/publications/main.html#rese>.

**Ravi Karkara** explained the concept of the **child participation**. Participation may be defined as a means for children and young people to think for themselves, to express their views effectively and to interact in a positive way with other people. It enables children to take part in the decisions that affect their lives by speaking out, making decisions and acting in a practical way. One must also underline the important role of adults (parents, teachers, development workers, etc) in promoting children’s participation. Then Ravi Karkara explained why child participation is important: First of all, because it is the children’s right and because they want to participate. Further, it increases effectiveness of interventions aimed at improving children’s lives, it is directly beneficial for children involved (e.g. direct improvements of their own lives and life chances), and it makes children feel themselves as active members of the society. He went on mentioning some of the principles of **meaningful participation**, which is characterised by an approach that is: 1) ethical (transparency, honesty and accountability); 2) safe (protection of the children, psychological support, etc.); 3) non-discriminatory and 4) child-friendly.

Ravi Karkara then went on to the “**Introduction of ethical issues relating to children and violence**”. This is about “establishing safe and meaningful environments for the participation of children.” He mentioned some elements that have to be considered in order to do so: ensure an ethical approach, ensuring that children’s participation is relevant and voluntary, ensuring a child friendly and enabling environment, ensuring that participation promotes the safety and protection of children, ensuring that the selection of child participants or representatives is based on principles of democracy and non-discrimination, ensuring follow up and evaluation of any study.

During the discussion, the delegate from the Permanent Mission of Canada mentioned that, despite giving great importance to recommendations of Save the Children, they had some problems in **involving children in researches**. In his answer, Ravi Karkara understood that there was of course not a universal, unique and right way to involve children in researches. However, it is very important

to invest enough time and take care of the involved children in an appropriate way, in order to achieve open and sincere communication with them.

Mr. Karkara also noted that “violence against children includes some very controversial topics and it may not be possible (i.e. acceptable to powerful adults) to investigate them using methods, which are also controversial”. However, child participation can generally be assured in various parts of the research process (fieldwork, writing reports, design of the research, etc.). Further, if we want to integrate children in a research, we have to be aware that girls and boys belonging to different groups can (and will) contribute in a different manner to the various stages of the research process. They can e.g. be advisors, respondents, co-researchers, or development workers.

Finally, Ravi Karkara enumerated the main points that have to be considered about “**ethical issues and practice standards**”, when making children participate: 1) avoiding harm to participants (check the risks), child protection (police checks and identity check), informed consent, confidentiality, inclusive approach, fair return to participation, welfare of research staff and wider accountability.

### **Wednesday, 7<sup>th</sup> of April: “Sexual Exploitation of Children and Children in Armed Conflict”**

**Juan Miguel Petit, Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography**, shared some of the work he is currently engaged in as well as some ideas for the future. Petit has already held this office for 2 ½ years. He has made missions to Paraguay, Brazil, South Africa and France. They are considering missions to Romania, and perhaps Cambodia, Viet Nam, India, Nepal and West Africa. Petit stressed that missions are a big step as part of his mandate and that they only visit 1 to 3 countries per year.

They are presently trying to improve the capacity of his mandate to intervene in urgent situations they learn of in order to act and respond quickly. By way of example, Petit described a current situation in Mozambique. They received a phone call from a Spanish journalist who informed them of the killing of children and trafficking of their organs in Mozambique. Some nuns had discovered the bodies of the children in a field. Petit sent a letter to the Mozambique government and they started research in January. Petit looked on the Internet, only to find that information was very limited – just a few mentions of this in some Spanish newspapers. The people who found the children have been threatened and one Brazilian nun was raped and killed. Now the mandate is trying to get something done. Petit is working with the Mozambique representative here but he is concerned that there is no impact from what has happened. International public opinion lacks awareness of this situation. Petit hopes that we can continue to work together on such issues, find connections and share information. He will try to increase contact with NGOs.

Missions are the more direct part of intervention, but the reality is that they are only 2 persons in his mandate. This year’s report on prevention programs can be used to look at all countries and social involvement at all levels. It could be used to give an impression of the situation worldwide – a panorama, an overview.

Petit pointed out that there are many items that NGOs could bring to the attention of the mandate. The problem however is that there are two very radical positions on the relationship between the mandate and NGOs. One on side, people think that Special Rapporteurs are all-powerful and therefore don’t need NGOs. On the other, people feel that Special Rapporteurs are merely independent people who can do nothing. The reality is that the big human rights organizations and big policies lack a precise idea of what they can actually do with Special Rapporteurs. There are possibilities for collaboration (Ex. sending each other cases and country reports). The ideal is to find a rational point between the two radical viewpoints and to realize that the Special Rapporteurs can do some things, so they will do those things in the best way possible.



One thing they've been talking to the High Commissioner about is the fact there is no one unique corpus of documents. There are over 100 Special Rapporteur reports, yet no quick and easy way to access them, either as a whole or within one mandate. Their documents are not together. They are thinking of making one document to summarize all documents, with more information, links and suggested readings for those who want to know more. Perhaps this could be a joint effort with another UN organization or another Special Rapporteur.

In the *Discussion* that followed, Petit elaborated on the possibilities for collaboration between Special Rapporteurs and NGOs. He said that the Special Rapporteur can send letters to governments as an investigation of NGO interests. What he needs from NGOs is for them to raise a very specific point that should be raised with the government. He urged NGOs to be very clear and specific so that he can then follow-up an NGO report in this way. Someone suggested that the Special Rapporteurs send to NGOs an example of the kind of letter that would be sent to governments. This way, NGOs will know what will be sent and exactly what sort of information the Special Rapporteurs need.

A comment was made regarding the positive and helpful letter sent by the Special Rapporteur at a local level to say that there is some flexibility to what NGOs can bring up to the Special Rapporteur; the mandate isn't always so restricted. Petit remarked that in situations of social risk, these are matters for the mandate. In cases where what is brought up falls outside of the mandate and the staff can't deal with it, they usually try to send it on to more related mandates. It is up to the staff as well as the NGOs to inform the office that these issues also do fall under their mandates. Fortunately, some Special Rapporteurs are very child-aware. From the NGO side, an NGO representative remarked, it's sometimes difficult to get child appeals through.

Petit was asked about his involvement in the follow-up to the Yoko Hama Conference. There are three regional mid-term review processes going on. The first is in Costa Rica; Casa Allianza contacted him and it is almost certain that they will go. In the second two conferences, he will see how he will be involved. South Asia will be held in September (he has received information from Save the Children) and the Middle East should be in December in Morocco.

**Henrik Haggstrom, Programme Officer for the Office of the Special Representative of the Secretary General for Children and Armed Conflict**, discussed the current work and future possibilities of his office. The report this year contains some new things. Previous reports focused on work done in past years and had no focus on thematic issues. The setup this year is an update to last year's reports and deals with several issues, including killing and maiming, sexual exploitation and abduction. They will also attach the list from the Security Council. In the future, they hope to become more thematically focused.

Haggstrom then explained why the Representative himself was unable to attend the briefing. They have faced massive problems in the Security Council with the report regarding the lists of countries that use children in armed conflict. One list includes countries already on the SC's agenda; a second list includes all countries. Great Britain protested this year that they are on the list for Northern Ireland. Great Britain asked for and received a correction that Northern Ireland never was and is not an armed conflict. Russia (with regard to Chechnya) and Burma quickly followed suit. Legal advisors say that the definition of internal armed conflict in the Geneva Convention is so vague that it leaves room for interpretation and therefore they cannot deny these objections. Of course, other countries have followed as well. This has serious repercussions, as these countries will be given a political exception to international humanitarian law. The Special Representative is trying to protest and to minimize the effects. They want a universal language to encompass everyone and France is working on a solution, but at this point none has been found. Until this is solved, it is very difficult to talk about these reports.

In the *Discussion* that followed, a representative from Human Rights Watch said that the NGOs working on the Security Council in New York are very concerned and working on this. A joint NGO letter was sent to the UK government, asking them to consider retracting or another way of reacting.



Haggstrom said his office is pushing that it is not the Secretary General's job to make these determinations over whether something is or isn't an armed conflict.

Haggstrom also focused on some positive issues. For one, they are reviewing the system of monitoring and reporting. They want to be more active in reporting to different areas (the General Assembly, the Security Council and the Commission). Their mandate is for another two years. A UN report is forthcoming on the UN response to children in armed conflict.

Séverine Jacomy closed the briefing by focusing on the possibility for more NGO-Special Representative collaboration. She said it would be good this year for NGOs on children in armed conflict to be in close contact with the Special Representative to figure out how to best deal with this issue. Perhaps a joint statement and further consultations could be considered. We should see how to link up in better ways in the future.

### **Tuesday, 13<sup>th</sup> of April 2004: "Why do adolescents volunteer as soldiers?"**

**Rachel Brett, Quakers UN Office**, discussed her recent joint research with the ILO on the issue of why adolescents volunteer as soldiers. The ILO is interested in this issue because they're being asked to do more work on the socio-economic reintegration of child soldiers (in particular in the Great Lakes region of Africa) and also because the ILO has recognized children involved in armed conflict as one of the worst forms of child labour. In areas where the conflicts are not yet resolved, children who were forced into soldiery want to stay out once they have demobilized. On the contrary, for children who volunteered, chances of keeping them out are much lower.

The research was qualitative: in-depth interviews with adolescents (between 13 and 18 years old at the time of volunteering). They defined "volunteer" as neither abducted nor physically forced. Brett pointed out, however, that there is a whole question on how voluntary is voluntary (Ex. "Yes, I volunteered. My friend didn't volunteer, and they shot him in the head."). The book is called Young Soldiers: Why They Choose to Fight. Brett has used the term "young" rather than "child" to stress that you don't talk to these individuals as children; it is a practical approach, rather than a redefinition. They looked at nine situations, including the Democratic Republic of Congo, Sierra Leone, Latin America, Sri Lanka, Pakistan, Afghans in refugee camps in Iran, UK government armed forces and Northern Ireland.

In broad terms, almost identical findings came out from all of these situations. The five key elements are war (the military environment), poverty, education, employment and the family. All of these are of course interlinked. Several interesting things emerged from the research. For one, far too little attention is paid to two issues. First, war itself as a factor is all too often ignored. It creates and exacerbates the other conditions. For these adolescents with no job, no school and no family or negative family conditions, war is an opportunity. Armed groups provide them with a gun, money, etc. Second, the education and employment issue needs more consideration. If adolescents are not in school and not working, they are very vulnerable to being recruited. For many of them, the moment of decision to volunteer was the closure of the schools. Of course, the school can also be a recruiting ground (Ex. in the Democratic Republic of Congo; religious schools in Afghanistan; apartheid system in South Africa passionately talked about in schools; 16-year-olds clearly targeted for recruitment in UK schools).

One section of the book deals specifically with the issue of "Volunteering for what?" Many of these adolescents were under the impression that volunteering would give them access to education, employment, etc. Brett remarked that it is not a valid assumption that these volunteers understand that they will end up killing or being killed. They do not always join because they want to fight.

The most striking new thing that has come out of the research is the role of the family. Many adolescents volunteer because they are running from home or some domestic situation. Especially in a

conflict area, the armed forces are pretty much the only option for these children. There is an equal correlation for girls and boys. This research makes a direct link between violence against children in domestic situations and adolescent volunteering. It also addresses girls who are trying to escape society's more general negative treatment of them. For example, the New People's Army in the Philippines preaches and practices equality for girl and the girls involved speak highly of it. In such cases, the one thing that ultimately stops demobilized girls from going back to the forces is that they don't really like being part of an armed conflict. But here one of the biggest problems for these girls is reintegration. Reintegration into what? The research shows that families can be a recruiting agent as well, especially for boys: they are expected by their fathers, they are expected to follow the tradition, etc. Equally, families can be the decisive factor: the role of the father in saying yes or no to his son's involvement.

Governments can't simply absolve themselves from responsibility. In terms of education, employment and domestic violence, these are government responsibilities. Interestingly, political, religious and ethic factors are not on their own enough to cause a child to volunteer. More often these factors are amplified through the school or family. Revenge, often cited as a reason, is also not a common factor. Poverty is the most easily evident factor, but on its own it is not enough. There are plenty of children in poverty who have not volunteered to join the armed forces.

In terms of recommendations, the book stays at a very general level. The recommendations suggest using the five broad areas (war, poverty, education, employment and family) as a framework for consideration in policies and programs. There will need to be a much more specific analysis in particular situations. The recommendations also address gender stereotyping: girls are routinely overlooked in the demobilization process. They are screened out not assumed to be fighting. Part of this is the military mindset that girls aren't fighters, the assumption that girls are less of a threat, which means that there is much less priority in addressing their problems. One whole chapter of the book compares boys and girls. The international community must plan for girl soldiers. Girls may choose not be part of a public demobilization process for various reasons. The international community should respect this and therefore also provide for programs that reintegrate girls without a public demobilization. Schools in Sierra Leone, for example, offer aid packages to children with a demobilization certificate but those without one are denied the benefits. The book is intended for general readership and will be out in May.

In the *Discussion* that followed, a representative from Save the Children emphasized that prevention needs to be much more than just a campaign but should be a guarantee of children's rights. This requires public policy to address education, employment, family violence, etc. Brett agreed and said that we need to get governments, NGOs and other UN agencies to actually put this into practice. The next step for the book will be to distribute it in other languages and also distribute briefing papers to donor governments to initiate discussions.

### **Monday, 19<sup>th</sup> of April 2004: Final Caucus Meeting**

Essentially, this meeting was a brief summary of the Caucus work at the Commission. Main conclusions were:

- Information and reporting work of the Caucus was well received and perceived as useful;
- Caucus briefings were of very good quality but the level of attendance was not always high;
- The Caucus produced powerful tools (alternative omnibus resolution and comparison between country resolutions and CRC concluding observations) but still relied on individual NGOs to use them proactively – which the Caucus itself cannot do alone.
- More child rights NGO presence/lobbying is needed in addition to individual oral statements and panels, notably during negotiations;

- Caucus briefings must be followed up by concrete commitments by NGOs, especially regarding Special Rapporteurs' requests for increased collaboration; Increased involvement of thematic subgroups of the NGO Group for the CRC would help in that respect;
- Caucus work was carried out by a remarkable team of interns from OMCT, Quakers and World Vision and actively supported by CRIN, which already issued 2 special editions of CRINMAIL focusing on the CHR. The subgroup on the CHR of the NGO Group for the CRC wishes to sincerely thank them.

**NGO GROUP FOR THE CONVENTION ON THE RIGHTS OF THE CHILD  
SUB-GROUP ON THE COMMISSION ON HUMAN RIGHTS**

**? SIDE ENVENTS FOCUSSING ON CHILDREN'S RIGHTS ?**

- ❑ The Security Barrier/Separation Wall in Light of International Human Rights and International Humanitarian Law
- ❑ Children's Rights (Organized by the Coordinating Board of Jewish Organizations)
- ❑ Briefing on Human rights in Democratic Republic of Congo at half-way of the democratic transition (Organized by the FIDH)
- ❑ Health, rights and children: What role for BINGOs and PINGOs? Challenges and promises
- ❑ The Right to Education; Briefing by Katarina Tomasevski
- ❑ Kids behind bars; Juvenile Justice and the situation of child prisoners in Uruguay; with Juan Miguel Petit
- ❑ Right to education (By the International Organization for the Development of Freedom of Education (OIDEI))
- ❑ The Secretary-General's Study on Children and Violence; with Sergio Pinheiro
- ❑ Protecting the rights of children deprived of parental care: the need for standards
- ❑ Prevention Strategies to Address the Sexual Exploitation of Children: Learning From Experience; with Juan Miguel Petit
- ❑ Education for the sake of peace
- ❑ We are Family! Prejudice and Discrimination Against Non-Traditional Families

## Monday, 22<sup>nd</sup> of March 2003: The Security Barrier/Separation Wall In Light of International Law

*Organized by the International Commission of Jurists (ICJ), the International Federation for Human Rights, and Save the Children*

**Moderator Federico Andreu, Senior Legal Advisor, ICJ**, opened the panel by remarking that its title reflects the sensitivity of this issue. She explained that this briefing intended to address legal issues surrounding the barrier/wall.

**Anne Massagee, Legal Researcher for Al Haq**, pointed out that the international community is deeply disturbed, and rightly so, by this construction. She began by citing some statistics regarding the wall. Based on plans issued thus far, the wall will be 700 kilometres long upon completion. With 25 contractors, construction continues every day and 190 kilometres have already been built. The height of the wall depends on whether it is constructed from metal or concrete. In some places, for example, the concrete walls reach 8 meters in height and some parts have razor wire bundles. Concerning the route of the wall, over 40% of the West Bank will be cut off from Palestinians and the area between the wall and the Green Zone has been declared a “closed military zone.” Massagee also described the restrictions associated with the wall. These include the fact that Palestinians may only cross through the gates, which are located infrequently and open at erratic times, and they must have a permit to do so. She also raised the issue of the Israeli settlers, pointing out that under international law, settlers are illegal.

The impact of the wall takes two prominent forms: first, it cuts off 23% of the Palestinian population from their land; second, construction has led to the confiscation of Palestinian land and resources, which will certainly have an impact in the long term. Regarding Israel’s intent for the wall, Al Haq believes there are two dimensions. The first is the annexation of Palestinian land. The second is the protection of illegal Israeli settler populations and their inclusion within these “new” borders, as checkpoints are moved further and further into Israel.

**Marecelo Kohen, Professor at the Graduate Institute of International Studies**, spoke on the applicability of self-determination to the construction of the barrier, focusing on the legal implications. Concerning the legal aspects of self-determination, Kohen pointed out that in contemporary international law this right is applied to all peoples and would therefore be applicable in this situation as well. There is an important territorial dimension to the principle of self-determination. To use UN vocabulary, the wall is being built on occupied Palestinian territory. After a historical briefing on the legal status of this territory, Kohen explained that the Green Line was the only line internationally recognized after the conflict of 1948-9. Although Israel does not recognize its presence as military occupation, the international community has recognized the existence of a Palestinian people and territorial base in the Gaza Strip and West Bank since the end of the 6-Day War (the Oslo Agreement speaks of this). The Palestinian people, therefore, could exercise self-determination.

Building this wall means digressing from the Green Line. Israel makes two arguments: first, that the wall is a security measurement; second, that the West Bank is contested territory. Regarding the first argument, Kohen pointed to the international status of the territory, which is subject to mandate regime. As long as there is no Palestinian state over the remainder of the mandated region, the UN General Assembly will continue to monitor the territory. Regarding the second argument, Kohen argued that it is Palestinian territory under international control, not Israeli territory. Israel has not claimed sovereignty over it and therefore the construction is not being erected on territory belonging to Israel. Furthermore, the international community has recognized the territorial base of the Palestinian people as the West Bank and Gaza Strip (this was voted on by the UNGA and UNSC). The exercise of self-determination requires a territorial base and this wall leaves the Palestinian people unable to use part of their territory. The erection of the barrier, therefore, is counter to the principle of self-determination because it is tantamount to the territorial dismemberment of the Palestinian people.

Kohen agreed with the Israeli claim that the wall is not a border. A border is a boundary between two sovereign states. Israel also claims the wall is a security measure, but Kohen argued that such measures must be taken on one's own territory, not someone else's. He asserted that the Green Line must be respected as it is the only line subject to international agreement. Changes can only occur through international agreement and until then the line must be respected as it is. International law must be the point of departure for settling this conflict. Unfortunately, he explained, we are faced with two main obstacles. First, Israel refuses to respect international law via occupied Palestinian territory; its policy seeks territorial aggrandizement. Second, the use of terrorism as a means for waging political conflict stands in way of peaceful settlement.

**Françoise Hampson, Professor at Essex University and Expert of the UN Commission on the Promotion and Protection of Human Rights**, discussed the barrier in light of human rights and international humanitarian law. Her talk revolved around three questions: 1) Does international humanitarian law in principle prevent the building of any wall in occupied territory? 2) Does international humanitarian law in principle prevent the building of this wall? 3) What do international humanitarian law and human rights law say about the impacts of this construction?

In answer to the first question, Hampson argued that nothing in international law prevents construction of a barrier in principle. She further qualified this by pointing out that while annexation is prohibited, nothing Israel has said or done thus far suggests annexation. She leaves open for future analysis the possibility of covert annexation.

Regarding this barrier in particular, Hampson emphasized the importance of its characteristics (size, location and the possibility to restore original conditions). She focused in particular on Israel's claim that military necessity allows them to build this wall. Human rights law says that Israel is obliged to protect Israelis within its jurisdiction. This begs the question, what about protecting Israelis outside of Israel's jurisdiction, the Israeli settlers? According to the fourth Geneva Convention, an occupier cannot transfer its citizens to occupied territories (Article 49). In order to conform to this article, Israel should thus withdraw financial incentives, security guarantees and voting rights from the settlers in the occupied territories. Israel cannot create a pool of people in occupied territories to justify the protection of this barrier. Israel cannot invoke military necessity for the settlers. Hampson recommended allowing time for the settlers to move.

Concerning the impact of the barrier, Hampson remarked that the impact is felt on three levels. First, restrictions of movement keep Palestinians from territory on which they depend and the barrier as proposed makes it very difficult for people to go west. Second, medical services, education and labour are all impaired. Third, the issue of passes and permits is particularly significant. Hampson stressed the importance of considering what actually happens in practice and also emphasized the requirements of proportionality. In closing, she said that if the only problem is the impact of the barrier, then all Israel has to do is modify the effects. Also, if Israel cannot claim military necessity for settlers, then the routing must be affected so that it protects only those within Israel's jurisdiction.

**Janet Symes, Program Coordinator in the Occupied Palestinian Territories, Save the Children UK**, came to the panel with field experience and described a report completed by the Save the Children. Speaking within the framework of the Convention on the Rights of the Child, the report concerns how the wall has impacted children and their human rights. The work in the report was carried out in the past few months in communities where the wall is in operation. A great deal of the work involved children directly: drama workshops, picture drawing, discussion, etc. According to the findings, the building of the wall is in contravention of the following rights of the child: Article 14, Article 28, Article 24 and Article 2.

Regarding the right to education, children and teachers have difficulty reaching schools and are forced to cross through the wall or move to other communities. Many teachers have to take a long route and are often turned back by soldiers guarding the gates or find the gates closed. Children face the same problems. In some areas, children as young as 12 are required to have a permit. The children say they

are losing their schools, they are delayed, they can't concentrate, their teachers are tired and soldiers have even come into their classrooms. The violation of the right to health is particularly concerning. The wall prevents people from getting to hospitals and clinics. Children fear losing their homes, their livelihood. They say the farmers can't work on the land; it is destroying their lives. The right to protection is also threatened by the barrier. 92 % of the children feel less secure. Many directly experience danger in the form of threats by the soldiers. They see the wall as an obstruction, a "prison". They drew pictures of watchtowers, fences and intimidation by the soldiers. These children are separated from their families, their land and their friends.

Restrictions to freedom of movement have had very significant and disturbing effects. Before the construction of the barrier, most of the production of these communities was sold into neighbouring Israeli markets, thereby allowing for some interaction between Palestinians and Israelis. Now the children don't have this interaction and this is causing increased prejudice and misunderstanding. The children feel despised and mistrustful. Levels of hatred are increasing and children talk more and more of the need to fight back, increasingly using violence to resolve conflicts.

Symes closed her talk with some messages from the children themselves. "To our parents: Stay on the land and continue to struggle for us." "To Sharon: The wall must come down." "To Bush: Please uproot the wall. We hope for help from the States." "Peace be upon you... The wall leads to a dead end."

In the *Discussion* that followed, mention of children included concern about the rights of Israeli children, who seem to have been ignored in the Save the Children report. Symes responded by clarifying that the report focused on areas where the wall is operating. Furthermore, she remarked that there is already a clear children's law in Israel, and this not so in Palestinian territories so as an international organization, Save the Children is mandated to work on this issue.

#### **Thursday, 25<sup>th</sup> of March 2004: Children's Rights**

*Organized by the Coordinating Board of Jewish Organizations*

**Mr David Matas from B'nai b'rith Canada**<sup>74</sup> chaired the panel. He condemned the use of children for suicide bombing attacks and said it was a current problem and thus a significant children's rights issue. He illustrated this declaration, mentioning several cases of 11 to 16 year-old Palestinian boys who tried to enter Israel wearing "explosive belts". Although Israeli soldiers managed to hinder most of them, some could cross the boarder and provoked violent explosions. The speaker then went on reminding us that the Convention on the Rights of the Child (CRC) has been signed by every country but USA and Somalia. Further, he commented several CRC articles, including Art. 3, 19, 20, 29.2 and 32 (you find the CRC under: <http://www.unhcr.ch/html/menu2/6/crc/treaties/crc.htm>). His comments may be summed up as follows:

- As violence still existent on large scale al over the world, it must be prohibited in all State institutions and services, as well as in medias, schools, child's literature, etc.
- We all must be aware of child exploitation, which can even be perpetrated by persons in charge of the care of children. It is important to make sure that (especially these) persons can

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<sup>74</sup> As stated on their website, "B'nai Brith Canada brings Jewish men and women together in fellowship to serve the Jewish community through combating anti-Semitism, bigotry and racism in Canada and abroad, through carrying out and supporting activities which ensure the security and survival of the State of Israel and Jewish communities worldwide, through various volunteer activities, cultivation of leadership, charitable work, advocacy, and through government relations. B'nai Brith has been active in Canada since 1875. On behalf of its members, B'nai Brith is Canadian Jewry's major advocacy organization, committed to the basic principle of "People helping people".

not manipulate children for ideological purposes and further use them as soldiers or “living bombs”. Such manipulation of children can, according to Mr. Matas, be seen as a kind of propaganda.

- Both public and private schools should respect children’s rights.
- Children's mental, moral, spiritual and social development needs to be protected.
- Children are a vulnerable group of the population and have always been abused. That fore, society has to establish mechanisms that prevent ill-treatment of children and guarantee them remedies and recovery if prevention fails.
- Finally, concerning the resolution currently under negotiation, he urged for a language that clearly prohibits statements according to which children may arm themselves. He also explained that adults are the responsible of such situations (in which children are armed) and that they must be punished for it.

### **Monday, 29<sup>th</sup> of March 2004: Briefing on Human rights in Democratic Republic of Congo at half-way of the democratic transition**

*Organized by the FIDH*

The President of the Group Lotus (Kisangani – DRC), Mr Dismas Kitenge Senga, mentioned that some armed groups still use child soldiers, even if many of them have put their arms down in the recent past. The panellist said that their exact number is not known, but that they could be around 30,000.

He added that there is a lack of means to act for the rehabilitation of former child soldiers. The armed groups – who now represent the political authority in the country - agreed on the principle of rehabilitation, given that the international community would provide financial means for it. According to the panellist, this attitude proofs the absence of political will to really tackle the problem.

The report handed out during the conference outlines that numerous young girls have been raped during the conflict. Local NGOs report a high number of traumatised children, rescued from killings or witnesses of a relative's public rape. Moreover, civil war had terrible impacts on children's right to education (collapse of the educational system) and to health, especially in relation to vaccination.

### **Tuesday, 30<sup>th</sup> of March 2004, 1-3 pm: Health, rights and children : What role for BINGOs<sup>75</sup> and PINGOs<sup>76</sup>? Challenges and promises**

Panel Statements:

- **Regina Keith (Health Policy Adviser, Save the Children, UK)**

Ms Keith asked whether the present approach to children's health is centred on the interests of human beings or private businesses. She said that health is an inherit human right, which also includes social health and is not simply a "decease specific approach." This is because children also suffer psychically from poverty, conflict, HIV and the absence of political commitment. Ms Keith questioned whether the achievement of global targets reflects children's actual health. In contrast to World Bank reports, she suggested that national economic growth does not lead to greater health due to continued poverty for the poorest. She therefore called for a greater focus on people’s actual needs rather than overall national economies. She stated that she does not believe in Joint Public Private Initiatives (JPPIs). Ms Keith then contrasted BINGOs who focus on profit, while PINGOs that protect public interests. She

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<sup>75</sup> Business Interest Non-Governmental Organisations

<sup>76</sup> Public Interest Non-Governmental Organisations



said that PINGOs should control any project with BINGOs and regretted that JPPIs are often donor lead, which also limits their scope. In addition, she questioned whether JPPIs are monitored properly. Although institutions have been created to improve health standards, Ms Keith questioned whether children have benefited from them and did not believe international JPPIs can raise funding. However, she said that many national JPPIs have had positive results. Ms Keith also asked, "why we don't have an outcry when 10 million children die every year" as in contrast to public outcry over terrorism. She said that the WHO needs to examine the role of JPPIs and called on the Commission to pass a resolution on children's right to health. Ms Keith gave examples of deteriorating health standards in Sri Lanka and Africa before stating that investment is needed in more health workers. She concluded with a number of quotes made by children on health care inequality.

- **Florence Kuteesa (Director of Budget, Ministry of Finance, Uganda)**

Ms Kuteesa said her country has recognised a link between the public and private sectors, as people favour cooperate involvement. She mentioned the right to access medical care and explained that 88 of 1000 infants die in Uganda each year (122 ten years ago). However, there has been an increase in malnutrition and only half of Uganda has access to clean water. She also listed other concerns such as Uganda's facility rate, only 25% of the population use contraceptives and transmission of HIV from mother to child. In addition, many mothers die from HIV resulting in parentless children. Ms Kuteesa explained that her government works closely with medical PINGOs. However, she also praised traditional healers, while outlining a national action plan for children. She stressed the need for regulations of PINGOs as well as the relationship with between governments and BINGOs. However, she believed this should be achieved by volunteer initiatives. She said that Uganda has abolished user fees in health care and is giving tax reductions to health related products. She also said that her government is training health care workers in children's health and the use of drugs in addition to financial support for PINGOs. She recognised that affordability is a problem, but disputed calls that the public sector cannot provide effective health care. Finally, Ms Kuteesa called for more political will in addition to ratifying conventions.

- **Judith Oulton (CEO, International Council of Nurses)**

Ms Oulton said that her organisation has had positive experiences with cooperate partnerships. Following an introducing of the ICN, she stressed the importance for access to water and health care. She said that privatisation without regulation leads to a derogation of health care, especially for children. Governments are now encouraging private initiative, because they cannot fund health care alone and in order to avoid a fragmentation of services. Ms Oulton listed three initiatives by her organisation:

- (1) The ICN Mobile Library aims to provide information to frontline nurses. Companies only get their name on the truck, but have not received anything else in return.
- (2) A partnership in Zambia between professional nurses, BINGOs and the public to break transmission of HIV from mother to child.
- (3) The International Network for Providing Safe Water to Households, which is a partnership between water companies and health organisations aiming at providing safe water, as up to 80% of children's deceases are caused by unsafe water.

Ms Oulton stressed that ICN will not compromise on its aim of improving public health and emphasised that all partnerships take time and should be reviewed regularly.

- **Paul Hunt (UN Special Rapporteur on the Right to Health)**

Mr Hunt believed that focus on children's rights has increased in the Commission in recent years. He believed there are four key questions in the relationship between international law and BBPs (a term he favoured over JPPIs):

- (1) Does BBPs realise human rights for impoverished people?
- (2) Or does BBPs distort such rights?

- (3) Does BBPs support or hinder sustainable health in developing countries?
- (4) And finally, how can all parties be held accountable for their conduct?

Mr Hunt stressed that governments have a primary responsibility to protect human rights under international law and states must ensure that BBPs do not violate human rights. Mr Hunt said BBPs must follow the best interests of the child and emphasized that the right to health can only be facilitated by welfare services, which might be hindered by BBPs. Such aims include reducing child/infant mortality, the need for a national public health strategy and expanding public services rather than spending resources on global campaigns. He concluded by asking how BBPs can be held accountable.

Discussion:

- **The first questioner** asked for the panel's view on alternative medicine in China with regards to Falun Gong. **The second questioner** asked Ms Keith whether private companies should be allowed to participate in decision-making and asked the panel to define its understanding of PINGOs and BINGOs. **The third questioner** stressed that her organisation tried to combine its business products with public needs. She asked how suspicion against business associations can be decreased through fair regulations. **The fourth questioner** asked if Uganda has undertaken an assessment of JPPIs' impact. **The final questioner** asked whether the panel believed that there is a contradiction between national and international measures.
- **Ms Keith** said that more assessable indicators are needed on JPPIs' impact on decision-making. She suggested that a list of criteria should be identified and called on international organisations to act. She stressed article 4 of the Convention and called on states to face responsibility, as BINGOs presently have more influence than PINGOs.
- **Ms Oulton** believed there was a role for BINGOs in health care, but that PINGOs had a responsibility to be open about who funds them. She recommended that a common contentious should be found between PINGOs and BINGOs.
- **Ms Kuteesa** said that PINGOs in Uganda are already a part of the decision-making process. Uganda has agreements with PINGOs to deliver primary health care in areas of where government agencies are not present. Ms Kuteesa said that a study had been undertaken into government funding of PINGO, but did not explain what the study found. She said that focus should be on causes of diseases rather than eradicating symptoms.
- **Mr Hunt** stressed the need for assessment of JPPIs' impact on society.

### **Tuesday, 30<sup>th</sup> of March 2004, 2-3 pm: The Right to Education**

Briefing by Katarina Tomasevski, Special Rapporteur on the Right to Education (E/CN.4/2004/45 and Add. 1 and 2).

(For the Internet link and supplementary information, see report from the plenary session of 30<sup>th</sup> March.)

The **general situation** of education is tragic. In the Special Rapporteur's (SR) view, education must be free, compulsory and accessible for all children. However, not even **primary education** is free in more than 90 countries of the world. In this respect, one can identify an important gap between rich and the poor countries: e.g., while OECD countries guarantee a free and compulsory education for at least 9 years, only 3 African countries provide free primary education.

This situation is not due to the lack of international legal instruments, but to the lack of political determination to implement them. The ILO Convention on child labour from 1921, which says that primary education must be free, proves that.

Dialogue with the World Bank is not always easy, partly because it does not recognise access to education as a human right. However, in recent years, its view on education has changed and it is now in favour of free primary education. In this regard, it agreed to carry out a study in the countries it is working (115), in order to know if primary education for children is free. In 87% of the concerned countries it is not, which is a violation of the constitution in 2/3 of the evaluated countries.

Concerning **secondary and university education**, the situation is even worse: they are becoming traded services in most of the countries.

She further highlighted another important shortcoming: the lack of international instruments protecting **teachers**. Although it is obvious that education can only be assured if there are sufficient teachers, they are not mentioned in any convention or resolution. Given the dangerous situation they are often facing, it should be a matter of high priority (for the UNHRC) to establish a mechanism that would assert **teacher's right to be protected** (and to form trade unions, etc). The situation in Colombia, where 3 teachers - most of them women - are killed every month, proves the necessity of such a tool.

A particularly important aspect of education is **sexual education**, as especially girls are at the risk of grave discrimination if they do not receive sexual education. In many countries they can e.g. be expelled from school if they get pregnant. They are also exposed to a higher risk of sexual exploitation and harassment if no sexual education is provided.

The approach to sexual education at school depends very much on the country. One can distinguish 3 categories of countries: Sexual education

- 1) is prohibited (in around 1/3 of the countries);
- 2) is provided, but only in a biological and demographical way (in around 1/3 of the countries);
- 3) is given by educators especially trained (in around 1/3 of the countries).

The SR explained that most of the States not providing sexual education believe children would abuse from this kind of knowledge. It is thus crucial to raise awareness that children who learn about sexuality are less vulnerable to sexual abuse and harassment, other forms of discrimination as well as to diseases.

Finally, Katarina Tomasevski named 4 key-points for analysing the quality of an education system. (She also referred to the countries she had visited (China and Colombia) since the last UNCHR).

1) Availability: It has to be noted that both countries spend more in military purposes than in education, which obviously harms to the availability of education.

2) Accessibility: According to official Chinese statistics, 92 % of the children benefit from primary education. Colombia only had statistics from 1993 available. However, both countries do not include internal migrants and internally displaced persons (they are millions!) in their statistics. These statistics are thus not an effective means to really assess accessibility to education. The SR went as far as to state that statistics on education are useless because they can easily be adapted to one's will.

3) Acceptability: In order to consider whether the *content* of an educational program is acceptable, one has to identify its aim. Sometimes, education can even become a *violation* of human rights. This occurs e.g. when it is used to oppress minorities such as indigenous people. Education then constitutes a means to deny a person's (or group's) identity, history, etc. In her report, the SR states that it is thus

of utmost importance to look at education through a “human rights lens” (see para. 43) and to ask, when it can become a violation of the right to be different (see para. 46).

4) Adaptability: We have the duty to ask “what” kind of knowledge is provided through education? It is essential to adopt education to the specific needs a community, or a part of it, may have. Girls, e.g. require special educational measures that address the problem of sexual abuse, forced marriage or teenage pregnancy, which – by the way – is growing in China as well as in Colombia. Another example is the high level of “graduate unemployment” in China which raises the question to know if people receive the kind of education they really need.

Lastly, the SR highlighted the situation of **children in armed conflicts**. In such situations, priority is given to “vital” rights such as the right to food, water and medicines. Education, although it is fundamental for the elimination and prevention of armed conflicts in the long run, is not considered as “vital” and does that therefore not receive the required attention. This attitude must be reconsidered and the right to education must be put on the same level as the others. One can not separate civil and political rights from economic, social and cultural rights. Full enjoyment of civil and political rights is only possible if people are aware of them, which means that people must receive education, including human rights education.

#### **Monday, 5<sup>th</sup> of April (11 am – 1pm): "Kids behind bars"**

*Organized by the by the Subgroup on Juvenile Justice NGO Group for the CRC*

**André Dunant, juvenile justice consultant.** He has visited children deprived of their liberty in 48 countries.

**Nigel Cantwell, child protection consultant and founder of DCI,** spoke on the basic principles of juvenile justice before and after the minimum age of criminal responsibility. His main point was that the minimum age of criminal responsibility is not particularly important as a determinant of whether or not kids will be put behind bars. Cantwell pointed out that there is an understanding that those under the minimum age will not be at risk to be deprived of liberty, while those above are particularly vulnerable. He believes this can be questioned; the minimum age doesn't constitute a borderline between being tried as a juvenile and being tried as an adult, or between being detained and not being detained. The juvenile justice system is there for those accused of having infringed penal law. The system is there to ensure due process. In dealing with these children, the principles of juvenile justice say that children wherever possible should be dealt with outside of this system and only detained as a last resort and for a minimum amount of time. Furthermore, the measures taken to respond to a child's infringement should be positive and foster a process of personal development and education.

We find that above the minimum age, children are deprived of their liberty in a repressive manner. Under the minimum age, which varies from 6 to 18, there is a feeling that we should promote “the higher, the better” because this will ensure better protection of child rights. Cantwell would question this assertion. The first and most important problem is that when you raise the age, you're not letting children do what they want without consequences; administrative decisions for the deprivation of liberty are made with no judicial review because children fall under the minimum age. Secondly, children under the minimum age are deprived of liberty because of status infringements, because they're migrants, asylum-seekers, separated minors, children remanded in custody or children on the street.

Cantwell closed with the following two points. First, the minimum age for criminal responsibility – above or below – is not an indication of whether or not children will be deprived of their liberty. And second, on a more personal level, bars not only keep children in, but also keep others out and we need to address this.

**Eric Sottas, co-founder and current director of OMCT**, spoke next on OMCT's fact-finding mission to Uruguay, "Children Deprived of their Liberty in Uruguay: With or Without Rights?" He began by thanking the authority in Uruguay for granting them access to all of the centres they asked to visit. The mission was to analyse the current situation of juvenile justice in Uruguay. Between 1972 and 1985, there was a large-scale use of torture. Since 1985, there has been a process of democratisation to change the legal framework of the country. In 2002, Uruguay experienced one of the worst financial crises, most difficult in terms of resources for the state.

Uruguay has ratified most important conventions. Concerning the Convention Against Torture, one point needs to be addressed: Uruguayan legislation's definition of torture doesn't correspond to the definition in Article 1 of the Convention. Uruguay is currently in the process of ratifying the Optional Protocol, but it lacks the mechanisms. At present, the Children's Code of 1934 is the main legal instrument on children's rights in Uruguay and appears to be in direct contradiction with the CRC on certain issues, including juvenile justice. There is currently a project to establish a new code. The most worry issues include the question of education, child labour and the fact that deprivation of liberty is not presented as a measure of last resort.

Concerning the administration of juvenile justice, there are two types of offences: penal offences and status offences. Mainly, crimes committed by children are crimes against property. There are very few cases of homicide or sexual offences. Generally, children are detained for several hours, and then transferred to an admission centre. The age of criminal responsibility is set at 18 but this doesn't mean the children's situation is the best. Measures are not given with a time frame; the judge decides to send the child to the centre, but doesn't determine the length of detention. Children are therefore not sure of when they'll be able to leave. Disciplinary measures in these centres can interfere with the evaluation of the length of detention. The average duration of detention is about one year.

Sottas closed with two recommendations: 1) Children should be followed by the same defence lawyer from the beginning. 2) Alternative measures to imprisonment must be developed.

**Rachel Taylor, Quaker UN Office**, followed with a presentation of the "Women in Prison" report. Worldwide, an increasing number of women are being imprisoned. One important aspect affected by this is family relations, and children in particular. Many of these imprisoned women are likely to have children under the age of 18 (this is also true of men, but to a much lesser degree). The practical and psychological effect this has on children is significant. Children are either separated from their mothers or, if very young, enter the prison with their mothers.

Children separated from their mothers must find another carer and most often they end up in state care. The repercussions are considerable. Many of them risk becoming involved in criminal activity themselves. Once the mother is released, she can face many difficulties in reuniting with her children. Many mothers lose their homes and must regain them before the social services will return their children. Unfortunately, it is very difficult to get the state-funded housing without proof of caring for children. This can happen even after a very short time. As they have lost their children and their homes, such circumstances leave these mothers with very few options; they might return to criminal activity, return to an abusive partner, etc.

In the second instance, where children go in to prison with their mothers, their ages range from 6 months to 6 years, depending on the country. In reality, this is rarely possible; there aren't many places that can accommodate mothers with very young children. There aren't enough studies on the developmental effects on children confined in prison at early years. Due to limited places, women may be forced to choose which child should go in with her and which will remain outside. Women who become pregnant by prison staff, whether through a consensual act or through rape, may be forced to give up the child (to the state, through forced abortion, etc). The conditions for women with babies in prison vary depending on the country. Other issues to consider are the question of supplies, conditions and educational facilities. If educated outside of the prison, many children risk stigmatisation. If

educated within the prison, they suffer from a lack of stimulation. In some places, the lack of day-care in prison denies women access to certain programs (Ex. employment activities).

A third problem addressed by Taylor before she closed was the problem of women imprisoned abroad. Where will the children of these women go? Unfortunately, this problem is not sufficiently addressed.

**Annemieke Wolthuis, DCI Netherlands**, gave a presentation of the “Kids Behind Bars” study. She outlined the results of this 2002/2003 study on children in conflict with the law. The aims of the study were to get an update on the current situation, raise more attention to this problem, bring to light the conditions for children behind bars and investigate existing monitoring systems. The study employs several definitions. Children, for example, are defined in terms of Article 1 of the CRC as persons under the age of 18. Youths are defined as between 15 and 18 years old. “Behind Bars” refers to all institutions where children are deprived of their liberty. Almost all of the articles of the CRC apply to the subject of kids behind bars: Articles 2, 3, 6, 12, and specifically 37, 39 and 40, which stipulate detention as a measure of last resort, only for short periods and only special situations. Wolthuis stressed the importance of the Havana Rules to give important standards. Worldwide, she remarked, we see a lot of violations of these standards.

A wide variety of countries were examined in this study, 22 in total. The main challenges faced include 1) a lack of data, as the doors to this issue are often tightly closed, 2) it was not easy to get funds, 3) finding national NGOs with whom to collaborate proved difficult and 4) access to institutions was limited.

The main findings were as follows: 1) There are an estimated one million children behind bars worldwide for many reasons; 2) Conditions behind bars are deplorable; 3) The political climate in many of these countries makes it difficult to address the issue. Kids behind bars are not a priority issue for many governments.

The study makes several recommendations: 1) Reduce the number of children to 25% in 5 years and 50% in the next 10 years; 2) Recognition for these children is necessary; 3) Stimulate the full implementation of international standards. Not all Wolthuis’s comments were negative. She suggested visiting the website [www.younginprison.nl](http://www.younginprison.nl) for information on good national initiatives in the field of juvenile justice.

Finally, Wolthuis outlined four actions they would like to take: 1) No children under 15 years old should be in prison; 2) Governments should seek alternative measures such as restorative justice; 3) Prevention should be emphasized; 4) Improve conditions within prisons. The commitment is there for an international campaign on the international goals put forward in the study. Their global campaign will be launched in October. Wolthuis wants us all to work together on a clear strategy.

Among the *Interventions and Discussion* that followed, the representative from Uruguay was first to respond. He welcomed the report and emphasized that Uruguay is committed to reporting on child rights. He also stressed that changing the new spirit in Uruguay is difficult due to the country’s present socio-economic situation. He said that Uruguay needs the support and cooperation of the international community at large, and international NGOs in particular. Sottas responded to this statement, saying that a subject of great concern is the disparity between different centres (conditions, resources, etc.) in Uruguay. It is absolutely necessary to provide more financial resources and even philosophical instruction regarding so-called educational detention. He said he understands the difficulty of convincing the government to make this problem a priority. The Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, Juan Miguel Petit, who happens to be from Uruguay and be involved there in the justice field, said that he found OMCT’s work excellent and brave, as it looked at all faces of the problem. He felt the document could work as a catalyst against the political blockade to the issues.

Wolthuis was asked to elaborate on the concept of restorative justice. She replied that the main idea was to focus on the harm done by an offence and how to restore it by giving responsibility back to the people. Restorative justice can take the form of family group conferences or victim/offender mediation, where the offender meets with the victim or the victim's family members and a mediator to come up with a solution to the problem raised. It can be used instead of a trial, or before, during and after a trial, or within prison. In New Zealand, for example, the full youth system is based on restorative justice.

In response to a question on monitoring, Taylor remarked that it is extremely difficult to get information on women and their children in prison. Unfortunately, you can't even get to the issue of monitoring because you don't even know what to monitor – governments and institutions simply don't have the records or information. Cantwell elaborated on this, saying that the monitoring of and access to closed facilities is often looked at as a potential conflict situation. He said that this is not always the case if you go in there with the idea that staff and directors are potential allies. You can give them tremendous support and get support from them for the cause. A representative from Nepal, particularly concerned about the situation in her country of prisoners who had been juveniles at the time of the crime and were mistreated during pre-trial detention, stressed the importance of also having a strong monitoring component on pre-trial detention, where conditions are often worse than in prisons.

Wolthuis was asked if her study examined Sudan. Sudan was not a part of this study, she replied, although other studies have addressed this country and it will be addressed more in the future. When asked about the most common shared problems between developed and developing countries in terms of kids behind bars, she said that the biggest commonality was the lack of sufficient attention for this group of children. Cantwell added that an addition problem across the board was that most kids in detention are detained before trial and we must start looking at this very carefully. Dunant disagreed, saying that most children should be in pre-trial detention for the purposes of penal inquiry only. This pre-trial detention should only last for a few hours, maybe a few days and a few weeks at the absolute maximum, whereupon the kids should be released. Prison for juveniles should not exist, he said.

Beata Karpinska, DCI Netherlands, made a comment on the importance of public opinion regarding children behind bars. She said that public opinion in most countries reflects a lack of awareness of this issue and a main interest in keeping the streets clean. Publicity, therefore, must be given to this issue. DCI is thus carefully considering what banner, picture or logo will be given to the report "Kids Behind Bars". She stressed that the public must be reminded that children include teenagers. Governments, she said, are interested in talking about these children but not willing to give publicity because their own policies have caused the situation.

Dunant closed the panel by remarking that all around the world, most of the children deprived of their liberty should not be there. So many rules are not respected. It is not enough to free the children. We must affect the judicial system itself.

### **Monday, 5<sup>th</sup> April (1-3 pm): Right to education**

*By the International Organization for the Development of Freedom of Education (OIDEF)*

**Mr. P. Meyer-Bisch and Ms V. Lietchi (OIDEF)** presented a project they are currently working on in Burkina Faso. Its aim is to measure the effectiveness of the right to education in the country. To do so, OIDEF has elaborated a comprehensive framework of indicators, which demonstrate the degree of Availability, Accessibility, Aceptability and Adaptability (4-A paradigm, cf. Report from the panel on Tuesday, 30 March 2004: The Right to Education; info sheet n°4; the SR developed this during her intervention) of education in a country. It is important to note that these 4 As are interrelated and interdependent. Their (in)existence is of course also related to other fundamental human rights, including the right to health, food, etc. (A child affected by diseases or malnutrition is more likely not to go to school than other children)

Another key point of the projects is the following: often individuals are merely considered as the beneficiaries of rights, including the right to education. It is, however, of utmost importance to recognize that they are also the subjects of these rights. So, if we want the right to education to become effective, the education system must be comprehensive for people and it must be compatible – or even integrated into – their culture and habits. Only then, people can really participate in the system.

Concerning Burkina Faso, the project showed that people do not benefit from the right to education, 75 to 85 % of the population being illiterate. That includes many adults, but also adolescents and children who are already too old to be registered in public schools (one has to register until the age of 12). Those children do not have the possibility anymore to go official schools and must turn themselves towards the informal education sector, such as non-state schools or alphabetisation centres. The informal education sector has thus an important role to play and a big responsibility. It has thus to be promoted.

Finally, in order to ensure the implementation of the right to education, one must first analyze the reasons why a given system does not function well. Hence as the example of Burkina Faso shows it, the reason is not the lack of resources, but much more the lack of interconnection and interaction of already existent resources. (A very simplified example: having a teacher, a student and a book does not assure a good education. The interaction of these elements will decide if the student learns something useful or not.)

There already exists resources that must thus be “freed”. This, however, which can only be done if one has the required information. (Therefore the importance of studies such as the one carried out by OIDEL)

*We suggest that persons interested in the right to education visit OIDEL’s web page, as it provides some very useful working material and a comprehensive description of the project. The link is: [www.oidel.ch](http://www.oidel.ch)*

### **Tuesday, 6<sup>th</sup> of April (1-3 pm): “The Secretary-General’s Study on Children and Violence”**

*By UNICEF, WHO, OHCHR and the NGO Advisory Panel to the Secretary General’s Study on Children and Violence*

**Melanie Gow, World Vision International** chaired the meeting. Panellists were Professor Paulo Sergio Pinheiro, Amaya Gillespie, and four members of the NGO Advisory Panel, two of whom are **under-18 representatives**.

**Paolo Pinheiro, Independent Expert directing the Secretary-General’s Study on Children and Violence**, thanked the NGO Advisory Panel and other agencies for enthusiastically supporting this study. He said he would speak on his recent work in Latin America to give some reflections, which apply to some other regions as well.

Respect for children’s rights is a fundamental element of democracies today. There is symmetry between the protection of children’s rights and democracy. No government in Latin America is competent or capable to acceptable implement children’s rights. Pinheiro is very worried about their inability to protect the civil, economic, political and other rights of children. Most Latin American societies are unable to address the issues of youth gangs – the “maras”, for example. One regional office that participated in a recent meeting with Pinheiro approved a law in parliament that sanctions sentences between three and six years for being a member of such gangs. The same sentencing exists for graffiti. The law will be applied to every child over 12 years old. Judges will not be allowed to apply other sanctions. ‘Why does this happen?’ is a question that civil societies and political parties



must ask. It is very difficult for political campaigns in Latin America to even mention human rights; candidates risk being accused of complicity with the criminals. In the region, juvenile offenders probably don't even notice that their countries are no longer under authoritative regimes. Democratically elected leaders are unable to fully protect the rights of children. Torture, for example, is still widely used in many institutions.

Pinheiro pointed out, however, that the picture is not always negative. While the study should provide a clear reflection of reality, it should also give hope and show the resilience of children. It should not only be depressive, but positive as well. The study will have a regional approach and when they go to these regions they will show the reality of the situation, but will also ask: Why is there this terrible asymmetry between democracy and children's rights?

**Amaya Gillespie, Director of the Secretariat for the Study**, gave a quick overview of the study. First she outlined four important objectives. 1) The study aims to describe the situation of kids in relation to violence, especially where conditions are invisible and controversial. 2) They hope the study will promote responses (Ex. in terms of improving schools, controlling police behavior, creating more child-friendly families, etc.). 3) The study should also promote action in terms of gathering and sharing information and networking (NGOs, UN, etc.) and also in terms of large-scale responses. They want to convince people that we can do something; we can change the situation. 4) Advocacy will also be an important aspect of the study.

Gillespie then spoke about the scope of the study. First, one clear area is that they will try not to duplicate other studies, particularly the study of children in armed conflict, the Graca Machel Study. They will remain flexible, though. Secondly, the study is a drawing together of existing research. They do, however, encourage and hope for new research within their constituencies and from friends of the study. Thirdly, the study is guided by international standards, particularly the CRC, and they underline the participation of children in particular.

In terms of what they can produce and report, Gillespie said that a very brief (less than 20 pages) report will go to the Secretary General and later a larger report will be circulated. The study should bring about other products as well (tools, tool kits, workshops, books, etc.). The Final Report will use a settings approach: 1) violence in the family; 2) violence in the school; and 3) violence in the community, which includes institutions, streets, government instruments and the media. It is a truly global study, looking at how we are doing in terms of violence against children in the world.

There are three main agencies with broad responsibility for the study: OHCHR, WHO and UNICEF. Other partners include NGOs and broader UN agencies, which are important in certain aspects (Ex. ILO). Gillespie emphasized that the participation of children is also absolutely integral to the study.

Processes already underway include regional consultations, which would rely on strong national and sub-national levels. In addition, they hope to strengthen and broaden other responses. The final report should be a milestone; they are looking at it with a long-term view. Also, a broad questionnaire has been sent to all states. The questionnaire is very open and they hope this will stimulate action on the part of governments and that NGOs will work with governments to find information, bring people together and find solutions. Finally, Gillespie said that the study should be very open to other kinds of reports and relevant information (Ex. audits of legal instruments and regional consultations). Quantitative, qualitative and other kinds of information can be used.

*Paul*, an under-18 representative from the National Anti-Poverty Commission in the Philippines, discussed the situation of violence against children in his country, first pointing out that children there are in extreme poverty situations and often lack awareness of their rights. In the Philippines, there are several aspects to violence against children: 1) malnutrition, a hidden form of violence and a silent killer; 2) very poor families don't register their children; 3) domestic violence, sexual exploitation and abuse and crowded living where the girl child risks becoming a sexual slave to the father; 4) lack of education because poor families cannot afford it; 5) verbal abuse, bullying and discrimination in

schools by peers and teachers; 6) child labour; 7) child trafficking; 8) street children; and 9) children in conflict with the law. Although there may be legislation regarding children's rights, the country simply lacks the facilities to properly protect these children.

On a more positive note, Paul noted areas where children are participating in social reform in the Philippines. The National Children's Coalition has three main agendas: 1) participation, 2) child labour and 3) Peace and Order. The National Anti-Poverty Commission also focuses on several important issues including quality education, quality health services, children in armed conflict and child participation.

Paul is a former child scavenger. He closed with a very positive message: Child participation in social reform and governance can be a reality, as his experience in the Philippines demonstrates.

The next panellist, a lawyer by trade and the **founding director of CRADLE**, has done extensive work on violence against children in Kenya, focusing in particular on violence against the girl child. She informed us that 10,000 children die daily worldwide from violence in any form, and we don't even stop to think about it. One in five children in the UK, for example, die from domestic violence, yet our world keeps turning and it seems this problem is all too often ignored. Although there is an emerging national and international trend of children's voices being heard, the attitude of ignorance and complacency is still difficult to overcome. The challenges are many. For one, we don't want our privacy invaded. Religious reasons also play a role, as some violence is seemingly justified by religious writings or traditions. Furthermore, legislation that protects privacy doesn't allow us to get into our own homes and see what we are doing in our families. In Kenya, for example, parents have a right to discipline their own children and feel the government has no right to tell them what to do.

This speaker focused in particular on hidden violence in the home. 95% of the cases that come to her organization have to do with the sexual abuse of children (Ex. incest). Other issues include psychological abuse, the discrimination of children born out of wedlock and the worrying trend in Africa of the link between and HIV/AIDS. The age of the children being sexually abused is falling. She cited one case of a 2-year-old girl who had been abused and then strangled. The abusers sometimes use condoms because they know the investigations are neither thorough nor advanced. This kind of abuse is perpetuated by the erroneous beliefs that sex with a virgin cures AIDS or that young girls are less vulnerable to HIV/AIDS. Currently, many of these issues are in the draft constitution of Kenya and they hope for a light at the end of the tunnel.

Next to speak was a representative from *Yemen*. He hoped that the study will take into consideration the cultural diversity and dignity of each child. He remarked that the study could serve to put pressure on other studies to become more public and could integrate a coordinated unified plan of action. He provided several disturbing statistics reflecting the increase of violence against children, with certain groups of children a greater risk (Ex. children with disabilities). There is an emerging hope that the study will focus on these problems and at the same time remain optimistic, hopeful and produce solutions. The most positive and hopeful aspect of the study is the participation of the children themselves.

*Brit*, the second under-18 representative, is a member of Students Against Violence Everywhere, a worldwide organization sponsored by Chevrolet after the shootings in Columbine. Brit told us that 80% of high school shootings happen because the students wanted revenge for being bullied or abused. One third of high school relationships are considered abusive, yet dating violence is often ignored. Violence happens to everyone, everyone, regardless of race, class, gender, nationality, etc. Brit raised several issues, among them gangs, the correlation between increasing drug use and violence, domestic violence, hate crimes against minorities, violence in supposedly safe and normal situations and everyday violence such as gossip, verbal abuse and bullying. She asserted that youth and adults must be educated on abuse and youth violence. The issue of youth violence should and will be raised globally through this study. In closing, Brit stressed that it is absolutely necessary to involve children in raising this issue.

Several questions and issues were raised in the *Discussion* that followed. In response to a question regarding the timeframe for the staff of the study to be in place, Gillespie answered that they are currently recruiting and by June 1<sup>st</sup> the secretariat should be fully functioning. A suggestion was made to conduct a study of violence against women and children in China, as this is a serious issue especially in detention centers. Another suggestion was for the study to address the discrepancy between international standards and local legislation.

The under-18 representatives were asked what they would like to see as the outcome(s) for the study. Brit said she hope the study would bring notoriety to the fact that children are affected daily by violence and that different programs would become available. Paul named one wish: No more violence against children.

Repeated comments reflected concern as to whether or not the study would address the situation of children affected by armed conflict. Pinheiro answered that while refugee children and IDPs will be considered, his staff simply will not have the capacity to deal with these questions. This is a Secretary-General Study and there is another Special Representative in charge of children in armed conflict. The farthest they will go is to look at armed children in organized crime. Pinheiro emphasized that specific situations of children in armed conflict are not under the umbrella of the Secretary-General's Study. A representative from the Coalition Against the Involvement of Boys, Girls and Youth to the Armed Conflict in Columbia remarked that they have found a strong relationship between child soldiers and juvenile justice in terms of youth gangs. Pinheiro responded by saying that while the connection is interesting, they will only deal with one end: the youth gangs.

A great deal of correlation has been found between violence against women and violence against children and concern was expressed as to whether or not the study would address the sexual exploitation, the root causes of violence, and the question of masculinity in particular. A suggestion was made to work with men and boys on this issue. Gillespie answered that root causes (Ex. poverty, malnutrition, lack of good family structures, social conditions, etc.) are very important, but the study also has a vast responsibility to come up with ideas for responding. She sees this as the really big challenge. Pinheiro said that they have established contact with the Special Rapporteur on Violence Against Women, and they are very open to cooperation. The work of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography will also be part of the report, but they will not do what he is doing. Many aspects of sexual violence will be included in the study.

A representative from UNICEF was particularly glad to hear that children with disabilities would be included in the study. She wanted to hear more about how children in institutions would be addressed. Pinheiro replied by clarifying that the study will address issues in so-called hidden places of violence: schools, streets, law and order, centers hosting refugees (Roma, indigenous children, etc.) and asylum seekers. A lot of attention will be given to these areas.

In response to a question on impunity, Pinheiro answered that legislation and international law are important tools for mobilization on the issue of violence against children. The study must assimilate plans of action and it is very important to hold accountable those who make the laws.

There was some concern that the study is not going to the General Assembly but first the Commission on Human Rights. Participants wanted to know how we could ensure that the study goes to the highest possible level. Pinheiro and Gillespie both answered that the GA will be the main target. This will not be a problem, Pinheiro said. Gillespie stressed that the advocacy will have to be broad and clever. A wide variety of strategies should and will be used.

**Wednesday, 7<sup>th</sup> of April: "Protecting the rights of children deprived of parental care: The need for standards"**

By UNICEF

The first participant of the meeting was **Ms Nevena Vuckovic, member of the Committee on the Rights of the Child**. She recalled that the Committee gives primary importance to the family, which is the ideal environment for children. For the Committee, the term “family” has to be defined in a broad sense and includes the development of one-parental families, recomposed families, etc. She then enumerated several factors to the infringements of children’s rights such as poverty, criminality, armed conflict, natural disasters, situations of children in the street, child labor, child prostitution and child soldiers. She added that since some of these situations are illegal, they cannot be monitored and that is why we need more instruments to prevent them. She also mentioned that a high concern of the Committee is the return of children who have been placed in institutions in their family. She further underlined the differences the Committee makes when formulating general comments on a situation in a country, giving examples of Germany and Indonesia. Finally, she called for 1) a better application of the Convention, 2) upon all government sectors to apply adequate policies, 3) changing attitude of all professional working with children through appropriate training.

The second panellist was **Mr Ashot Yesayan, first Deputy Minister of Labor and Social Affairs of Armenia**. He mainly focussed on the situation of children in institutions and described recent national initiatives in favor of children’s rights, such as a National Plan of Action on the Rights of the Child, governmental subsidies for families with a child in need of care, laws on adoption of a child, on street children and on juvenile justice. He also underlined the difficulty to find resources to finance this kind of projects.

The next speaker was a **delegate from Save the Children – Norway**. She raised the need for alternative solutions to “classical” care institutions, underlining the importance not to separate children from families. She also briefly presented the book “Whose Children” (by David Tolfree) on the protection of children separated from their families, emphasizing emergency situations. (This book may be available on the Save the Children website)

The last participants were **two delegates from the International Social Service**. They focused on children in out-of-home care, because their parents cannot look after them. They particularly explained different practices of care situations, which can be under-resourced (foster care, residential care) or unprotected (informal care, private residential facilities, child-headed households). The speakers then underlined special issues being of particular concern for out-of-home care, such as cross-border movement, HIV/AIDS, emergency situations or the situation of children deprived of their liberty. They finally recall the need for developing appropriate international standards for the protection of children without parental care.

#### **Thursday, 8<sup>th</sup> of April 2004: "Prevention Strategies to Address the Sexual Exploitation of Children: Learning From Experience"**

*Organized by the Subgroup on the Sexual Exploitation of Children, NGO Group for the CRC*

**Juan Miguel Petit, Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography**, was the first panellist to speak. He said that prevention can be used with different meanings. In the wider sense, we are always doing prevention, even when speaking with someone who has already committed or been the victim of some offense. In a stricter sense, prevention means doing things to avoid danger and can sometimes take the form of direct medical attention. Prevention in the form of social policy – from private and public sectors – strives to keep dangerous things from happening to the people with whom you’re working. Currently, there is new wave talk of prevention as the only way of intervention.

Petit finds it useful to see something from different angles. There are a number of institutions with technologies of social intervention and psychology that are going to continue to exist, and unless we

work with them directly, they will become infirmaries for the people inside. Prevention essentially tries to work before damage is installed. In Latin America, two extreme situations exist. First, there are some states that could become welfare states and that have institutions for children. In these cases, a problem arises and the state responds. For example, if a child falls sick s/he is sent to the hospital. If a child is raped, s/he is sent to an institution. If a child is handicapped, s/he is sent to an institution for the handicapped. Then, there are other states that have no money, no policy and no infrastructure to respond to such problems. The problems therefore simply remain on the streets and are only solved locally, by the neighbourhoods, for example, because there is no articulated response from the state.

In the last 15-20 years, there has been a large movement in the mobilization of civil society and efforts from different states to reform their models of intervention and prevention. This movement provides alternatives to possibilities of state and public policies. The implementation of more preventative methods has become more accessible and practical. For example, it has become easier for neighbourhoods to create self-made institutions, places where mothers can leave their children while working. Primary attention in health is another key area for prevention. For example, pamphlets are distributed in schools on healthy eating, etc. The same is applied to social intervention.

Petit asked the question, “What does the word ‘prevention’ really mean?” In terms of his mandate, the work is always based on previous experience. It is a big challenge to focus on the really preventative area, to try to catch the problems before they develop and to determine the degree of different interventions. This is an enormous change of focus and requires new ways of thinking and new policies. The ease with which these changes can be implemented will depend on the social protection system in each situation. For example, in some third world countries, there is a large population of unemployed, un-enrolled, poor students. If you have social educators when you see these problems, you can think of new, different policies and programs to work with them. When you see the different interventions of these social educators, you can develop those alternatives (Ex. creating a coffee shop run by social educators in a rough neighbourhood). There are other countries, unfortunately, where you don’t even know if there are any social educators and you must gather them together yourself.

Prevention need to develop creative and normative programs and policies to reach deep into places of reference – families, schools, neighbourhoods, streets, etc. For many children affected by problems of sexual exploitation, the distance between the place of the problem and the possibility for a solution is enormous. They must have a place nearby to go to or at least some social activity that would allow for the detection of a problem (Ex. teachers could notice). Also, prevention should make use of the resources that a society already has (Ex. youth football clubs as social networks). We should also find other possibilities for responses and offer things that are attractive to the children. Combine school with soccer training, for example. In working with child prostitutes, who saw their work as a unique means to have money and a role in society, a modelling school was created with the message: “Your body is wonderful, your body is YOUR body, but use it in a different way.” We must think of realistic and interesting programs that will involve children.

Good results come from programs that are attractive, colourful and delightful to children. Programs must not be boring or solely academic, but very connected to what happens in the streets. Give the children the power and responsibility to use their own leadership skills in pro-social, positive ways. Prevention should shift from the reactive to the proactive.

Petit’s Report: ECN4/2004/9

**Margaret McCallin, International Catholic Child Bureau**, discussed her work on the Child Right’s Project. In this project, they wanted to look at certain prevention programs in different regions (including Nepal and Cambodia) to examine their success and continue discussions on case studies. The project provides an overview of different programs with different groups of children, focusing on the right to happiness and programs implemented directly to prevent sexual exploitation. Three issues of importance in these programs include the importance of child participation, the family and the development of an environment for prevention.

Only certain children in certain situations will become involved in activities of sexual exploitation. Poverty is the main factor, but certain groups that are discriminated against also become particularly vulnerable (Ex. the caste system as a factor). Culture is another factor (Ex. the caste system, sex tourism, marginalized children). McCallin pointed out that it is very hard for communities to talk about children's rights when their own general human rights are being violated.

Programs are implemented following the work of local NGOs. Studies and action work is done with recognition of the work at the local level; partnership is key. The concept of resilience also guides their work. They want to promote the capacity of people to do well in adverse situations. In terms of implementing programs in the communities, there are often many levels of bureaucracy to go through. They hold lots of discussion groups so the community and local networks understand their work in a larger context. Efforts are focused on cooperation and strengthening community structures. Some programs focus on protection and enable the community to understand the problems and protect their children. McCallin emphasized that this activity should be seen as a continuous process.

She then described the children's responses. Their understanding of children's rights was remarkable, informed by their own reflections on their experiences. They bring enormous insight into the program. These children empathize with other children. They are able to identify risks and problem situations. They can also identify ways to respond. Many of them have very little confidence that adults will help them. They would rather work together with other children. They are becoming increasingly aware that they do have rights. According to the children, what we have to do involves the following: improved legislation and its application with reference to abusive practices; more education and dialogue on children's rights, including their activities to help their families understanding of children's rights; assistance to disadvantaged families to educate their children; advocacy and awareness campaigns; and enabling children and young people to organize groups and associations where they can share their problems and experiences and based on their experiences of abuse and exploitation, articulate their own responses to the situation.

Participation is a developing process, a learning experience in the exercise of rights. There must be two-way communication and awareness of age and education so children can set the pace. We must make an enormous effort to see it from the children's perspective. According to children, poverty and lack of love prevents parents from protecting their children. Children want programs to improve their parents' confidence. Children think that their parents want the programs to give them something. Therefore, parents must actually be brought in and involved in the programs in order for them to understand children's rights and talk to children about them. Adults do need assistance to understand children's rights. We need to help them to understand the benefits. It is also important to involve parents with children other than their own.

There are several factors that can prevent families from protecting and promoting children's rights. At the structural level, these include the political situation and the weakness of the civil society. Policies may not be designed to assist vulnerable families. The attitude of society may be to ignore problems. Social and cultural factors also exist. In situations of extreme poverty, people see little value in participating in a children's rights program. At the individual level, factors include hopelessness, lack of education and the desire to preserve family privacy and autonomy.

Factors enabling families to promote and protect children's rights include the following: effective application of child protection laws; emergence of local NGOs; education and sensitization on children's rights an accompaniment from state and private organizations; civil society involvement; state services to benefit families at risk; free education; access to health facilities; employment for parents; saving schemes and loans; and dialogue between children and adults.

McCallin stressed that we need to move out to the wider environment: through coalitions with other NGOs, reaching out and involving the wider community and using the media. Children with these experiences are already marginalized and continue to move along the margin, going through different

increasing situations of risk. McCallin mentioned two key issues that prevent the implementation of prevention programs: 1) the lack of political will on the part of the government and 2) the lack of capacity.

McCallin concluded by saying that no matter how hard NGOs work against the issue of sexual exploitation, we can't stop it. A tremendous effort is required on the part of those who can change the institutions. At governmental and international levels, we need to implement legislation to change the institutions, to police the situation and to involve the international community to a greater degree.

In the *Discussion* that followed, Petit was asked how his opinions are received by governments and he feels about government responses. Petit replied that we cannot separate children's rights from human rights in general. It is not good to just focus on the specific center of one's mandate. Three levels are linked: general human rights, children's rights and the specific issue of the mandate. He has made four country missions and two fact presentations to the assembly, where he spoke, as he always tries to, of democracy. A democratic framework is always basic. The quality of government responses has a great deal to do with the quality of the democratic culture in that country. Personal factors also play a role. Sometimes he receives very polite responses from the worst places, even in democracies where the situation isn't so good. Petit closed by saying that any kind of outside screening or reporting must be deep, courageous and respectful.

### **Wednesday, 14<sup>th</sup> of April 2004: "Education for the sake of peace"**

*Organized by the Special Committee of NGOs on Human Rights of the Conference of NGOs in consultative status with the United Nations and the International Council of Jewish Women*

**Peter Prove, President of the Special Committee of NGOs on Human Rights**, Geneva, introduced the panel by remarking that we hear many stories of tragedy surrounding the Israeli/Palestinian conflict. This panel, however, presents a story of hope. The Middle East Children's Association (MECA) is the only Israeli/Palestinian organization in the region dedicated entirely to children, teachers, curricula and educational institutions. MECA's objectives include bringing together Israeli and Palestinian faculty and other efforts to promote and enable exchange and participation between the two communities. Concrete measures on the ground can and are being made.

**Dr. Ghassan Abdullah, Co-director of MECA**, said that this panel was very unique for him and for the organization because the time is not to be used to talk about terrible things, but rather to show the other face of the coin. The possibility is there for Palestinians and Israelis to live in peace.

**Ms. Adina Shapiro, Co-director of MECA**, asserted that any sustainable peace process requires a significant investment in education. MECA's goals include (1) to help children learn about the human face of the "other side", (2) to learn from children about their experiences, reality and needs and (3) to provide the next generation with the skills necessary for this complex reality. The only way to address children is to go through the teachers, schools, principals and parents through the MECA facilitators (15 Palestinians, 15 Israelis). The initiative must be a joint Palestinian and Israeli effort. On every level of the organization, they must work together.

Abdullah acknowledged that the organization has faced and continues to face many challenges. Now, they have approximately 450 teachers from the disadvantaged areas of both Israel and Palestine. The goal is not to convince the convinced, but to reach those teachers farther out and provide an opportunity for dialogue.

MECA facilitators work within 15 subject groups. The His-Story Group is working to look at both the Israeli and the Palestinian narrative, but also third narrative on the possibility to live together in peace. An Oral History project is focusing on actual cooperation between the two peoples before 1948. Another His-Story project involves current textbooks. They are trying to write enrichment material.

Unfortunately, part of the problem is that of images: none of them dare to ask themselves “Who is this partner?” MECA, therefore, works to build face-to-face dialogue to promote better understanding of the fears and dreams of both sides. They are exchanging experiences.

One of the main difficulties for MECA is finding places for meetings. During the deteriorating situation between Israel and Palestine, bi-national meetings are no longer taking place as often as before this most recent intifada.

Adina explained that the difficulties faced by MECA occur on two levels. The first level is that of conceptual challenges: How can we continue to work towards peace when people continue to suffer? They speak of peace and non-violence at the same time that a fence is being built and bloodshed continues. Working together contradicts the concept of building a wall and this leads to internal paradoxes. They want teachers to be in tune with the reality but also to promote and lead to a new reality of hope, a different future. The second level is that of strategic challenges: How can we create joint cooperation when circumstances are far from equal? The reality for each side is different. This starts with finding a place to meet. It is very difficult to find a place that people can have access to. Life conditions are very different: Israelis don’t understand the physical, occupied reality of Palestinians; Palestinians don’t understand the psychological suffering of Israelis. Both sides are suffering, but in different ways.

Abdullah remarked that the wall is a strong indicator that diplomacy has failed. It is and will be a source of continuous enmity between sides. Both sides will suffer from this wall. The wall will not end terror. What we need to build are bridges of trust, hope and dialogue. Despite the deteriorating situation, MECA uses faxes to exchange ideas. At one point, they turned to holding annual meetings abroad, which is easier than meeting at home. Then they discovered a place that both sides have access to with no need for permits: a building in Area C.

If we talk about peace, Abdullah stressed, we must start with education. Education must be in the political peace agreements. None of the existing agreements touch the issue of education. They are shocked that these politicians do not consider the role of education. Abdullah says this is because they are afraid to have democratic education in their areas. If we talk about peace, he said, we must start with children: How can I make this child tolerant in the future? In response to this question, MECA created an “educational annex” to be considered in any future negotiations.

Adina provided a brief outline of the annex. An education annex should include and address the content of the education. Governments should take responsibility to train teachers for the new reality of the agreement. They should address the issue, assessment and analysis of textbooks. Informal education should be included. Responsibilities should be clarified. Mechanisms of implementation should be addressed. The following issues remain unresolved: (1) Who would be involved in the steering committee for this annex? (2) Is there interdependence between the two states in terms of implementation? (3) Who is to determine inadequate steps? What are the incentives or penalties involved? Who will oversee this?

In the *Discussion* that followed, Prove asked all participants to consider what makes this initiative successful in this context. He remarked that this initiative is a response to a personal and professional need on the part of teachers. The type of objectives and expectations described by MECA’s co-directors can help to integrate an element of reflecting the experience of the other. This represents a challenge to an otherwise unbalanced story approach.

*Question:* Where can the NGO community as a whole be of help MECA to move into a hopeful direction? *Answer:* The NGO community can help in two areas: first, through general support and second, through practical support. In the first area, MECA can learn from other NGOs doing similar things and these organizations can give MECA moral support. In the second area, MECA is always looking for places, organizations, universities, etc. that can host their meetings. This will become



increasingly important because MECA is a growing organization and they are thinking about building an international advisory committee.

*Question:* Within the subject areas, there was no specific mention of religious education. Would it be possible to create a bridge between secular and religious education? *Answer:* MECA does have religious teachers. MECA is not ignoring religion. For example, they have cultural exchanges with religious feasts from each religion. They believe in practicing and promoting religious tolerance in building peace. There is a constant need to always be balancing and making choices. Religion is an integral part of the organization.

*Question:* Is MECA networking with other organizations (Ex. a Swedish organization “Abraham’s Children”)? *Answer:* Yes, MECA is networking and is open and ready to expand its cooperative operations.

*Question:* Is MECA in touch with other similar experiments in Israel (programs that bring children from different faiths together)? *Answer:* MECA is completely different from those programs that work in Israel. MECA works with Israelis from Israel and Palestinians from the occupied territories. There is no equivalent organization to MECA.

*Comment:* Books are very important. An evaluation of textbooks is absolutely important. We must bring in people and teachers who are altruistic. We need to more understanding, cooperation and solidarity. *Response:* For MECA, equality and solidarity are not only slogans but a way of life.

*Question:* Have teachers been giving feedback and what is the result of this feedback? Are children put in conflict when the values they are being taught by teachers conflict with what they learn from their parents at home? *Answer:* It is very important for MECA to work with teachers on how they evaluate their own work. They want teachers to learn from their experiences as well. One of the biggest challenges for MECA is to look at themselves very critically in the classroom. Values are changeable.

Documents distributed: MECA Brochure “Education for the Sake of Peace”; MECA Draft “Compulsory Education Annex”; and MECA handout (outline of organization’s goals, methods, future plans, etc.).

### **Monday, 19<sup>th</sup> of April 2004: Panel: “We are Family! Prejudice and Discrimination Against Non-Traditional Families”**

*Organized by the International Research Centre on Social Minorities and the International Service for Human Rights*

**Ms. Kim Vance, Arc International (Canada)** stated that its organisation seeks to advance the rights of lesbian, gay, bisexual and transgender people and their families. As a lesbian and the mother of a 2-year old, Vance was thrilled to moderate this discussion. She said that it is important to frame the discussion of these rights within the family.

**Mr. Jaap Doek, Chairman of the UN Committee on the Rights of the Child,** spoke first on alternative families and the CRC. Of all the international treaties, family is most important in the CRC. The CRC does not define “family environment” but it is clear that parents are important and first in the role of creating family environment. The CRC does not define “parents” as strictly biological. Although it is likely that alternative and normal family environment were meant to speak about heterosexual parents, they have recognized that single parents, foster parents and homosexual foster parents can provide the family environment described in the CRC. It is very difficult, if not impossible, to say that heterosexual parents are necessarily better than others. There is no data to indicate that heterosexual foster parents do better than homosexual foster parents. Data seems to

suggest that sexual orientation is not a factor in determining the quality of family environment for the child.

**Miss Eleanor Whittle**, aged 11, shared her own experience in a non-traditional family. She lives in the north of England with her 9-year old brother and twin 7-year old sisters. She has a big family. They also live with two friends of her parents, Alex and John, who do “parenty” things with the children, but are more than uncles. It is difficult to describe them. Her father is a transsexual man. This doesn’t bother her, except when people make insensitive jokes. There are many different kinds of families. It is not common for a family to include a mom, a dad and two kids. She spoke today to make sure that everyone knows there are different kinds of families. She said it was important to work with schools to get rid of all the insults regarding gays, lesbians and transsexuals. Eleanor closed by saying, “We are an ordinary family, but there aren’t any words to describe us.”

**Mr. Stephen Whittle, Eleanor’s father and Co-President of Press for Change (UK)**, focused on the legal aspects of this issue. He said that the legal assumptions surrounding the concept of a family are very pressing to non-traditional families. The gaps in family law are gaping for alternative families. Laws all favour the monogamous, heterosexual couple. The paramount welfare of children remains of utmost importance in family law. Yet how can a child’s family be respected if that family cannot exist? Existing legal framework is simply too restrictive for alternative families, sometimes denying children parents when these children clearly recognize certain loving adults as their parents.

**Ms. Dorothy Aken’ova, International Centre for Reproductive Health and Sexual Rights (Nigeria)**, addressed negotiations within the UN on diverse forms of family. She raised several provocative questions. Where does the idea of a traditional family come from? Nigeria has numerous family models: polygamous, female-headed, extended, boy-wives, girl-husbands, child-headed, monogamous heterosexual families with or without children, etc. So we must therefore consider whose interests are really represented at these negotiations. Whose traditional family model is represented? Under human rights law, all families should be protected. Why are UN members afraid of real families, of real people? There is not only one profile for a family. How do we respond? We must find the means to hold our countries accountable to the standards to which they’ve adhered so that they truly represent us. We must continue national and international-level advocacy for all members of all families.

**Mr. Guido Meurers, KLECKS (Germany)**, was there with his husband Thomas. They have been together for 12 years and have adopted their nephew Christian as a child. The only experienced discrimination when they adopted Christian and therefore created KLECKS for gay, lesbian, bisexual and transsexual parents, to give parents and children a chance to exchange their experiences. Meurers asserted that the rights of children from families like his are different from other children and this discrimination should be addressed in future legislation in Germany.

**Mr. Christian Meurers**, aged 15, shared his experiences of living with Guido and Thomas. He has lived with them for 5 years. His mother was unable to take care of him but initially he didn’t want to live with a gay couple. At first he was embarrassed and hid his family from others. Then gradually he realized that his family was no different: he felt loves, secure and he was given rules and regulations. There was hardly any difference other than having two fathers. He wishes people would change how they feel about gay families and their children because these families are great and wonderful and this should be shared and translated into legislation in Germany.

Documents distributed:

IRCSM informational handout

International Research Centre on Social Minorities

P.O. Box 5614 - CH 1211 Geneva 11 Switzerland

Email: [ircsm@msn.com](mailto:ircsm@msn.com)

International Gay and Lesbian Human Rights Commission brochure

[www.iglhrc.org](http://www.iglhrc.org) - Email: [iglhrc@iglhrc.org](mailto:iglhrc@iglhrc.org)