

State Violence Against Children

Committee on the Rights of the Child Day of General Discussion

Dear Friends,

The Committee on the Rights of the Child has decided to devote its next day of general discussion to the theme of State violence against children. This issue has been divided into two sub-themes; mistreatment, abuse and neglect of children in the care of the State and violence against children in the context of law and order concerns. The meeting will take place at the Palais Wilson in Geneva, Switzerland, on **Friday 22 September 2000**. Please find attached the outline for the meeting that was adopted by the Committee on the Rights of the Child.

The meeting is open to the public and representatives of UN programs and agencies, NGOs, governments and other interested individuals and organizations are welcome to attend. Following brief presentations of the two sub-themes in plenary, an open debate in working groups will be held in order to prepare recommendations on measures which should be taken to reduce and prevent state violence against children. Please note that the working group on children in the care of the State will be held exclusively in English.

NGOs are invited to submit written contributions to the Office of the High Commissioner as soon as possible, and before **25 August 2000**. Although documents may be submitted in English, French or Spanish, they will not be translated into the other languages. If possible, documents should be sent electronically or submitted on a computer diskette. Oral contributions from NGOs are also welcome during the day itself but should be limited to interventions in the debate rather than formal statements.

As the meeting is open to the public, written invitations will not be issued by the United Nations or the NGO Group for the Convention on the Rights of the Child. For security reasons and due to limited space, attendance at the meeting requires advance registration. To register, please send your name, organization and contact details to the Office of the High Commissioner by **6 September 2000**. Please note that there is no funding available for travel expenses either from the United Nations or the NGO Group for the Convention on the Rights of the Child.

For registration and to submit written contributions, please contact:

Committee on the Rights of the Child - Secretariat
Office of the High Commissioner for Human Rights-UNOG
CH-1211 Geneva 10 - Switzerland
E-mail <mbustelo.hchr@unog.ch> or <pdavid.hchr@unog.ch>

Copies of written contributions should also be sent to the NGO Group for the Convention on the Rights of the Child (dci-ngo.group@pingnet.ch).

Please do not hesitate to contact me should you have any questions or require any additional information.

Best Regards,

Laura Theytaz-Bergman
CRC/NGO Liaison Officer
NGO Group for the Convention on the Rights of the Child
P.O. Box 88
1211 Geneva 20
Switzerland
Tel: +41-22-740-4730
Fax: +41-22-740-1145
email: dcj-ngo.group@pingnet.ch

State Violence Against Children

Introduction

In accordance with rule 75 of its “Provisional Rules of Procedure”, the Committee on the Rights of the Child has decided to devote periodically one day of general discussion to a specific article of the Convention or to a child rights theme.

The Committee believes that there is a need to increase further the attention given to violations of the right of children to be protected from all forms of torture, mistreatment and abuse. At its 23rd session, in January 2000, the Committee on the Rights of the Child decided to devote two annual days of general discussion (in September 2000 and September 2001) to the theme of Violence Against Children.

The purpose of the general discussions is to foster a deeper understanding of the contents and implications of the Convention as they relate to specific topics. The discussions are public. Government representatives, United Nations human rights mechanisms, as well as UN bodies and specialized agencies, non-governmental organizations, and individual experts are invited to take part.

Background

The Committee has already held several discussion days on issues of relevance to this topic, including:

- in 1992 on children in armed conflict,
- in 1993 on economic exploitation of children,
- in 1994 on the role of the family in the promotion of the rights of the child,
- in 1995 on the administration of juvenile justice.

The Committee decided to divide the additional discussion of this topic into two different sessions, in order to permit more in-depth analysis. This division does not imply any conceptual distinction and should not be seen as negating the many aspects shared by all forms of violence exerted against children, and in particular the fact that the root causes of such violence are often the same wherever it is exerted. In order to have time for more detailed consideration, the Committee decided to focus the discussion of Violence Against Children in 2000 on State violence suffered by children living in institutions managed, licensed or supervised by the State, and in the context of “law and public order” concerns. In 2001, the focus will be on the problems of violence suffered by children in schools and within the family.

Theme for the Discussion Day on 22 September 2000: State Violence Against Children

The Committee will explore the different aspects of the violence suffered by children at the hands of the State during its day of general discussion in September 2000. The Convention on the Rights of the Child (in particular arts. 37 and 40 and art. 19, but taking also into account the general principles contained in arts. 2, 3, 6 and 12) establishes high standards for the

protection of children against violence. Additional international instruments offer detailed guidance on the implementation of such provisions of the Convention. Yet, too often, children in the most vulnerable circumstances are the victims of unjustifiable violence at the hands of State officials.

The Convention on the Rights of the Child enshrines the principle that it is parents and guardians who bear the primary duty and responsibility for the upbringing of children, with the necessary support of the State (articles 5 and 18 of the Convention). In addition, article 20 of the Convention clearly states that Aa child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to **special protection** and assistance provided by the State. Unfortunately, it is often children deprived of family protection who are the most common victims of the worst forms of mistreatment and abuse, and too often such abuse takes place either at the hands of State agents or is made possible by their approval, tolerance or neglect. Thus, the Committee would like to study in detail the violence suffered by particularly vulnerable groups of children who are temporarily or permanently deprived of a family environment, which renders them more vulnerable to abuse while increasing the obligation of the State to offer special protection.

Sub-Themes for Working Group Discussions

The division of this issue into two sub-themes for in-depth working group discussion will unavoidable lead to a certain amount of overlap between the different working group sessions, while other relevant issues may receive less attention. In particular, the Committee is aware that issues such as the impact of armed conflict on children, or the treatment of refugee and asylum-seeking children, have not been included. The Committee accepts their relevance to the discussion of State violence against children, but considers that such issues have already been the focus of the attention during previous Committee discussion days. They are also themes that receive specialized attention from other UN bodies and mechanisms, while the sub-themes chosen have received less sustained attention from a child rights perspective in the context of UN human rights activities. The working groups will concentrate on the following issues:

1) Mistreatment, abuse and neglect of children in the care of the State

The State has a particular obligation to protect from all forms of abuse those children deprived of a family environment which have been entrusted to its care (CRC art. 20). This duty of special protection extends to children who have been placed for adoption or in foster care. However, the State can most easily take direct action to prevent violence against children placed in institutions which are managed by the State, either directly (public institutions) or through licensing and supervision systems (private institutions).

Violence committed against children living in institutions because of separation from parents for the protection of their best interests (CRC art. 9) - or placed in institutions by their own families because of disability (CRC art. 23) - is thus particularly unacceptable. Children are entitled to live in institutions that meet minimum standards of safety, health, number and suitability of staff and competent supervision (CRC art.3.3). They have the right to be protected from high and unjustified mortality rates (CRC art. 6). They are entitled to State protection from all forms of abuse by those who have them in their care (CRC art. 19.1) and to live in conditions which ensure their dignity, promote self-reliance and facilitate active

However, the Committee wants to explore broader aspects of these themes, and **the key objectives of the meeting will be:**

1. To present, analyse and discuss the nature, extent, causes and consequences of violence against children as described above.
2. To present and discuss policies and programmes (including legislative and other measures) at the national and international level to prevent and reduce these types of violence against children and to treat and rehabilitate victims of such violence.
3. And, in particular, to present recommendations focusing on concrete measures which should and could be taken by States Parties to the CRC to reduce and prevent violence against children in these circumstances.

Particular attention will be paid under all these aspects to the position and special vulnerability of girls, of children belonging to ethnic minorities and indigenous peoples, and of socio-economically marginalised children.

Participation in the Day of General Discussion

UN programs and agencies are always invited to participate in the days of general discussion organized by the Committee on the Rights of the Child. Governments are also invited to attend and encouraged to participate actively. The meeting will be open to the public, with information on participation distributed to UN programs and agencies, NGOs and other interested individuals and organizations.

The meeting will be held during the 25th session of the Committee, at the Office of the High Commissioner for Human Rights (Palais Wilson, Geneva) on Friday, 22 September 2000.

The Committee on the Rights of the Child invites written contributions on the issues and topics mentioned, within the framework outlined above. Contributions should be sent before 25 August 2000 (if possible in electronic version) to:

Secretariat, Committee on the Rights of the Child
Office of the High Commissioner for Human Rights, UNOG-OHCHR
CH-1211 Geneva 10
Switzerland
e-mail <mbustelo.hchr@unog.ch> or <p david.hchr@unog.ch>

For security reasons and due to limited space, participation in the meeting will require registration. Participants should send their full name, organization, and contact details (preferably by e-mail), before 6 September 2000, to the address above.

participation in the community (CRC art. 23.1).

2) Violence against children in the context of "law and public order" concerns

The Convention on the Rights of the Child excludes the imposition of capital punishment or life imprisonment sentences for offences committed by those under eighteen years (CRC art. 37.a); yet problems of imposition of such sentences persist in some States which have ratified the Convention.

At all stages of the juvenile justice process, children who are alleged to have committed offences are entitled to be treated in a manner consistent with the promotion of the child's sense of dignity and worth (CRC art. 40.1). Children have the right to be protected from all forms of torture, cruel, inhuman or degrading treatment or punishment (CRC art. 37.a) and any other form of abuse (CRC art. 19). Protection from violence should also cover violent treatment allowed under domestic law (e.g. flogging as a penalty, violent disciplinary measures, etc). The right of children to be protected from such violence must extend to their contacts with police officers, as well as to custodial institutions and any other place of detention, or to children participating in any diversionary programme or subject to alternative measures.

Street children have been among the most vulnerable victims of the most extreme forms of violence, including extra-judicial or summary execution, in many countries. Such violence too often takes place at the hands of agents of the State, or at least with their encouragement or tolerance. Homeless children are particularly vulnerable to such violence, though children working in the streets are at great risk even if they are still living with their families. Violence against this group of children represents a particularly egregious violation of their rights (CRC arts. 6 and 37), as it follows upon the failure of the State to offer protection and care to children whose rights are already under attack. Children living and/or working in the street are often deprived of a family environment (CRC art. 20). They are often the subject of unacceptable economic exploitation (CRC art. 32) and abuse (CRC art. 19), including sexual abuse and exploitation (CRC art. 34). In addition, many of these children are also in need of special protection against use and involvement in production and trafficking of narcotic drugs and psychotropic substances (CRC art. 33).

Approach and Objectives for the Discussion Day

The subject of "State Violence against Children" is one of particular relevance to a number of other UN human rights mechanisms. One objective of the discussion will be to facilitate the exchange of information, and of the experience accumulated by different mechanisms in identifying the most productive approaches to the prevention and monitoring of human rights violations of this type.

The discussion may include issues such as the definitions of torture or abuse within the meanings of article 37(a) and article 19(1) of the Convention, or the position and roles of the perpetrators of violence and abuse and the legal approach to punishment and prosecution of violations. For example, both working groups will be expected to identify forms of violence allowed by domestic legislation and norms (and the resulting need for legislative reform) as well as violence applied in violation of existing domestic rules.



UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

Téléfax: (41-22)-917 9006
Télégrammes: UNATIONS, GENEVE
Téléc: 41 29 62
Téléphone: (41-22)-917 9148
Internet: www.unhchr.ch
E-mail: jphilpot.hchr@unog.ch

Address:
Palais des Nations
CH-1211 GENEVE 10

REFERENCE: G/SO 214(69-8)/JP

9 June 2000

Dear Sir or Madam,

I am writing to you in my capacity as United Nations Special Rapporteur of the Commission on Human Rights on the Sale of children, child prostitution and child pornography, as mandated by Commission on Human Rights resolution 1990/68, and most recently renewed by resolution 1998/76.

In my work, I have learnt of many initiatives which the private sector has taken to protect children from exploitation. I have talked to members of various Chambers of Commerce and business leaders in different parts of the world who have expressed a real willingness to advocate for children. I consider it to be of immense importance to learn more about the possibilities of engaging the private sector further in this regard, and to provide this information to the international community through my reports to the UN Commission on Human Rights and the UN General Assembly.

I would like to request your assistance in providing me with any information you may have regarding initiatives that your organisation, working in conjunction with the private sector, has taken, or any knowledge of such measures that have been taken by others, which have as their goal the improvement of the lives of children. In particular I am looking for initiatives that could be proposed and replicated in other parts of the world. For example, some of the initiatives that I have heard about include:

- companies providing on-site day care facilities, so that working mothers can have their children close at hand;
- initiating local programmes with the main goal being to benefit children, for example, by providing lights around parks in which children can play safely in the evenings;
- providing scholarships or apprenticeship programmes for out-of-school children;
- raising awareness amongst business partners that being socially responsible is good for business.

may involve sexual exploitation of children.

- ensuring that employed children (any individual under the age of 18) are not at risk of sexual exploitation by their supervisors.

Any information that you can provide will be of great assistance and will be reflected in my forthcoming reports. I would appreciate receiving your reply at your earliest possible convenience, and at the latest by November 2000, through the Office of the High Commissioner for Human Rights, United Nations Office at Geneva, CH-1211 Geneva 10 Switzerland (attention Ms. J. Philpot, fax 41-22 917 9006, e mail jphilpot.hchr@unog.ch).

I would be most grateful if you would distribute this message and request for information amongst your members.

Yours sincerely,

Ofelia Calcetas-Santos
Special Rapporteur on the Sale of children,
child prostitution and child pornography