

Children's Human Rights Caucus at the 61st Session of the Commission on Human Rights

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

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Foreword

The subgroup for the Commission on Human Rights of the NGO Group for the Convention on the Rights of the Child brings together NGOs willing to promote the rights of the child at the Commission on Human Rights (CHR). In the weeks leading up to the Commission, it was mainly Geneva-based organisations that were involved, but as soon as the session began, many other child rights oriented NGOs and other actors participated to raise and mainstream children's rights within the CHR agenda. The subgroup addresses the specific rights and situations of children worldwide by advocating for the resolutions and by hosting a special interest group called the Children's Human Rights Caucus that serves a range of participants to meet on children's issues throughout the CHR session.

The preparations of this year's session started in January, and in spite of a late start, the subgroup team was able to participate in the negotiations of the *Omnibus resolution on the rights of the child* and the resolution on *Abduction of children in Africa*. It monitored and reported from plenary sessions and side events; organised a series of morning briefings with invited experts; and reported and shared information in English, French and Spanish, before and during the CHR.

I would personally like to thank all the participants at the Children's Human Rights Caucus, and the members of the NGO Group for the Convention on the Rights of the Child, and most especially the team that worked intensively in the preparations, during, and in the aftermath of the 61st session of the Commission on Human Rights: Carlotta Alloero, Karen Oliviera da Costa, Vilhelm Horn af Raintzén, Nathalie Goetschi, Benedicte Kippes and Mariel Kessel. Moreover I would like to express my special appreciation to Veronica Yates and the rest of the staff at CRIN for the hard work with the sub-group webpage, and for the elaboration of newsletters and other information of excellent quality around the CHR.

Thanks to all of you,

Julia Ekstedt

Convener of the Sub-group for the Commission on Human Rights

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Introduction

This year's session of the Commission on Human Rights (CHR) was carried out in light of the discussions around the United Nations reform. **Kofi Annan** addressed the Commission to present some of his plans to reform the Human Rights system. Regarding the CHR, he said "we have reached a point at which the Commission's declining credibility has cast a shadow on the reputation of the UN system as a whole... a Human Rights Council would offer a fresh start". The Council, as he proposes it, would be a standing body that would "be able to meet when necessary... its main task would be to evaluate the fulfillment by all states of all their human rights obligations". In terms of membership, he proposes that they are elected by a two-thirds majority, by the General Assembly (GA), and that those elected should have a solid record of commitment to the highest human rights standards". A special plenary session and several side events focused on the possibility of the CHR to become what Annan envisaged: a Human Rights Council. CONGO (Conference of NGOs accredited at the UN) responded to the demand and held several meetings to discuss strategies and points of departure in the discussions from the NGOs' perspective.

In the beginning of the session of the CHR, it was notable that several country resolutions were put down, and it became uncertain which resolutions were going to be presented under which agenda items.

In general terms when it comes to children's rights, in the plenary and side events, less focus was given to sexual exploitation and child soldiers as in previous years. However more attention was given to trafficking, child pornography on the Internet, children as victims in conflicts and natural disasters and children without parental care. Governments gave consideration to the UN Study on Violence against Children, especially the issues of children in conflict with the law and corporal punishment. The situation of children in the Occupied Palestinian Territories, China and Sudan was raised on several occasions.

1. Plenary Session

With regards to Sudan, the **UN High Commissioner for Human Rights, Louise Arbour**, welcomed the adoption of Security Council (SC) resolution 1593 (2005) referring the situation in Darfur to the Prosecutor of the International Criminal Court (ICC) for being responsible for crimes under international law. She believes that the ICC could be activated immediately and that the court was the best-suited institution for ensuring speedy investigations leading to arrests and demonstrably fair trials.

While children in armed conflicts present a grave concern for the CHR, the conflicts in Sudan but also the Occupied Palestinian Territories (OPT) were mentioned. **Save the Children** called on the CHR's Special Rapporteur on the Situation of Human Rights in the OPTs to insist on State Party monitoring of all children rights in the OPT and to urge the Government of Israel to apply the CRC to Palestinian children.

Emmanuel Akwei Addo, Independent Expert on the Situation of Human Rights in the Sudan, presented his report to the CHR and described the war crimes and the crimes against humanity that are being committed in Darfur by the Janjaweed militia. However, neither he nor the States mentioned the situation of children in Darfur. The vulnerability of children was highlighted by NGOs and other international organisations. Issues of rape, violence, sexual abuse, neglect, abduction, and recruitment were continually raised and seen as problems that obviously need a quick resolution.

A speaker representing several Cuban organisations denounced the **US's policies in Guantanamo Bay**, saying that the US had turned it into a concentration camp. Furthermore, he found it deplorable to have to call for the release of children and youth being held there, in violation of their most basic human rights.

The Special Rapporteur on extra-judicial, summary or arbitrary executions, Philip Alston, presented his report in which the central issue was accountability. He enumerated four principal topics that needed to be addressed: genocide and crimes against humanity; violations of the right to life in armed conflict and internal strife; capital punishment; and violations of the right to life by non-State actors. He also calls on permanent members of the Security Council to pledge themselves not to use the veto in cases involving genocide and large-scale human rights abuses.

Sigma Huda, Special Rapporteur on Trafficking in Persons, Especially in Women and Children (E/CN.4/2005/71), observed that, according to recent data, *"While the majority of victims of trafficking are women and girls trafficked for commercial sexual exploitation, significant numbers of human beings are trafficked for labour exploitation and children are also trafficked for the purpose of international adoption."* She expressed her desire to pay particular attention to connections between trafficking and migrants, between women and children and to the trafficking of orphans.

Juan Miguel Petit, Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography focused his address to the CHR on child pornography on the Internet. His report was based on information received from governments, international organisations, and NGOs in 51 countries. He said that, *"the Internet created unprecedented opportunities and hosts an alarming quantity of child pornographic materials. Despite this, many countries still do not have legislation on this matter and this exposes children to the risk of abuse."* Additionally he highlighted the necessity to protect all children under the age of 18 and he recommended that all states that have not yet done so, should ratify the Optional Protocol on the sale of children, child prostitution and child pornography. He talked about the role of credit card companies and the enormous power they have in this matter. Only with their cooperation will it be possible to stop the business of online child pornography: credit card companies have to make all possible efforts to avoid accepting payment from those using websites for child pornographic materials.

Paulo Sérgio Pinheiro, Independent Expert leading the Secretary-General's Study on Violence against Children, urged Governments to contribute to the study by filling in the questionnaire that were sent to them. Moreover, he stressed the importance of, and encouraged, the participation of children and young people in the process to gather adequate information and recommendations to the problem of violence. In addition, Mr. Pinheiro recognised the important role of the Committee on the Rights of the Child and NGOs and international organisations. In 2004, he visited Guatemala, El Salvador and Honduras with the purpose of collecting information on the situation of children and adolescents in conflict with the law. His discussion with them led him to realise that overlapping experiences of deprivation of rights usually marked their lives. In summary, he thanked those who gave financial contributions and he encouraged other States to follow their lead.

Many observer states focused on the problem of children affected by armed conflicts and children's health. Unfortunately, numerous delegates only cited their

government's national programmes, and the efforts to promote children's rights in their respective countries. Malnutrition, malaria and HIV/AIDS dominated the discussions on health. **The Open Society Institute** pointed out the fact that no matter where they live, children infected, or otherwise affected by HIV/AIDS, are among the most vulnerable of all young people. In addition to serious health concerns, they face HIV/AIDS-related stigma and discrimination that frequently limit their ability to be educated or exercise other basic rights enjoyed by their parents.

Jean Ziegler, Special Rapporteur on the Right to Food, emphasised that, despite the promises made by governments at the World Food Summits held in 1996 and 2002, as well as the promises contained in the Millennium Development Goals, hunger continues to increase every year since 1996. He highlighted a number of situations that represented violations of the right to food and mentioned the situation in Iraq where the acute malnutrition amongst children under the age of five has almost doubled as a result of the war. More than a quarter of Iraqi children are suffering from chronic undernourishment (they were 3 per cent before the US intervention) and mortality levels are increasing because of food and health problems. He also mentioned the Palestinian Occupied Territories, where malnutrition of children under five is increasing, leading to possible disabilities.

Sheikha Hessa Khalifa bin Ahmed al-Thani, Special Rapporteur on Disabilities for the Commission for Social Development, noted that only 2 per cent of disabled children in the developing world receive an education. Ms. Ahmed al-Thani said that issues relating to women and children generally do not include those who have disabilities. She brought attention to the need to develop the full rights of persons with disabilities.

Many speakers expressed their concern for Education, and **Vernon Munoz Villalobos, Special Rapporteur on the Rights to Education** presented alarming figures of the state of education in the world and some possible responses to improve the right to education for all. (see section on morning briefings). He stressed the need for education to move towards human rights. Education is not a business, but a right. Too many countries still charge fees for primary education. He noted progress made by some countries such as Afghanistan, Malawi and Uganda. He further emphasised that attention be given to avoid discrimination against indigenous and other minority groups in education provision. Finally, he recommended that efforts be made by the World Bank, UNDP, UNESCO and UNICEF to work hand in hand to guarantee this right. **UNESCO** mentioned that the inequalities in the education of girls and boys have to be eradicated and underlined that they aim to ensure education is for all, and end all forms of discrimination in education.

Rodolfo Stavenhagen, Special Rapporteur on Human Rights and Fundamental Freedoms of Indigenous People, focused his presentation on education. According to him, education is an essential tool for indigenous people to avoid exclusion and discrimination, and to exert other rights. He mentioned that the quality of educational services for indigenous people is always inferior, and stressed the importance of improving the quality of education, respecting cultural diversity and native languages, and in consequence to allocate more money to programmes that promote cultural diversity. He explained that the model of intercultural and bilingual education is superior to a model of assimilation, and that countries need support in professional training. He also mentioned that in spite of legislative measures and institutional reforms, there is often a gap between these measures and reality. The representative for **UNESCO** pointed out many measures undertaken in order to promote the right to

education, especially addressing children. Among them are: (1) Supporting national capacities and monitoring the compliance of normative instruments; (2) Working closely with the OHCHR, especially in the framework of the World Programme for Human Rights Education, which focuses on primary and secondary school systems; (3) Incentives for States to implement a 'Plan of Action', that develops two complementary notions of education: (a) 'Human rights through education', where all components and processes of learning are conducive to the learning of human rights; and (b) 'Human rights in education', ensuring respect of human rights of all actors.

Paul Hunt, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, presented his report that examines the right to health of people with mental disabilities. In his report, he pointed out that more than 40 per cent of countries have no mental health policy, and over 90 per cent have no mental health policy that includes children and adolescents.

UNAIDS underlined that 1/6 of children in the African countries where HIV/AIDS is most widely spread, will be orphans because of AIDS. They highlighted the importance of having access to medicine and healthcare, as well as providing assistance to vulnerable groups such as women and girls. They also mentioned the importance of education to stop the spreading of HIV/AIDS.

The **International Alliance of Women** emphasised that the unbalance of health research funding – 90 per cent of the total health research funding covers only ten per cent of the disease burden of the world population – has an important impact on areas affecting children; there is for instance no, or inadequate, research to establish appropriate dosage of anti-retroviral drugs treatment for HIV-infected infants nor on growing new forms of child malnutrition and obesity caused by modern diets, to name only a few.

Under agenda item **13, Rights of the Child**, the CHR also heard from Representatives of countries and inter-governmental organisations who spoke about their efforts to promote and protect children's rights. National delegations outlined their policies to ensure the promotion and protection of children's rights, problems affecting children in their countries and efforts to overcome them. Problems mentioned included physical violence, sexual exploitation, trafficking of children, child conscription, and child labour. The effects of terrorism and occupation and how they violated human rights of children were also raised, as were the challenges posed to children and adolescents by HIV/AIDS. Some speakers noted the vulnerability of specific groups of children, especially migrant children, indigenous children, refugee children, and children from religious and ethnic minorities.

In conclusion, while the CHR focused much attention on the UN reform, children's rights were mentioned under most items discussed by the CHR during the 61st Session. Through the work of child-friendly governments, NGOs and international organisations, who tirelessly persist in raising issues relating to children, the CHR was replete with evidence that a change needs to be made in order to create a world better suited to its children.

The following sections will deal with the resolutions and side events that address children's rights at the 61st session of the CHR. For additional and complete information, see www.crin.org/chr.

2. Resolutions

Omnibus Resolution on the Rights of the Child: This year's resolution on the rights of the child was sponsored by Luxembourg as president for the EU group and, as usual, by Uruguay for the Latin American and the Caribbean group (GRULAC). There were disagreements on the text between the two groups resulting in a delay in the date for the presentation of a first official draft, and subsequently a delay in opening negotiations. The subgroup was given the opportunity to comment and give input on the first draft and during the various stages of drafting, both to GRULAC and EU. This was done, on the one hand by the elaboration and dissemination of an alternative resolution, but also by directly submitting and discussing text proposals to the EU and GRULAC representatives.

The resolution is more or less based on the same structure as last year's resolution and in spite of attempts to shorten it, it has remained quite extensive in length. The draft that finally was presented by EU and GRULAC and opened up for negotiations the 15th of April, just two days before voting, consisted of a total of 35 paragraphs, consisting of the following:

- Preamble (PP1-PP12);
- I Implementation of the convention on the rights of the child and other instruments, with 9 paragraphs
- II Protecting and promoting the rights of the child and non-discrimination against children, including children in particularly difficult situations
 - Subparagraphs: non discrimination; freedom from violence; identity, family relations and birth registration; poverty; health; education; the girl child; children in particularly situations; children alleged to have or recognised as having infringed penal law; child labour; recovery and social reintegration
- III Prevention and eradication of the sale of children, child prostitution and child pornography
- IV section (protection of children affected by armed conflict); V section (follow-up)

Many state representatives attended the negotiations, but unfortunately because of the late date, few NGOs were present to give final inputs. Canada, speaking on behalf of Canada, New Zealand, Norway and Switzerland, mentioned that although they were supportive of the draft resolution, it was still too long, where repetition of old language was not conducive to the promotion of the rights of the child. Furthermore, they regretted that the draft had been circulated too late for review and suggestions by states outside of the EU and GRULAC. They added that co-operation and transparency were very important on all draft resolutions, particularly this one as it attracts so much support from many delegations and expressed the need to consider new and critical issues to be included in the text. The articles that were objects of longer discussion were:

- **paragraph 11** (non discrimination) – Egypt, Mexico, Russian Federation and Chairs (EU, GRULAC) discussed the possibility to add references to refugee children, which was welcomed.
- **paragraph 12** (freedom from violence) – Australia, Switzerland, Egypt, UK and Chairs debated the reference "**welcomes the progress report...and looks forward to the submission of the final report at the 62nd session to the Commission**". At the end, the chairs accepted to change it to "**take notes with appreciation of ...and request the submission...**".

- **paragraph 16, a)** (identity, family relations and birth registration) – Australia, Quakers, Holy See, Norway (with similar position to Australia, but different reason), Switzerland, Egypt, UK and Chairs debated the reference "*at minimal cost*". In the end, the Chairs decided to not change it.
- **paragraph 22** (children in particularly vulnerable situations) – After interventions from Egypt, Switzerland, South Africa, Australia, Romania, UK that would have completely changed the original structure, the Chairs claimed the final text will be similar to last year's text.
- paragraph 31** (4° section – protection of children affected by armed conflict) – Norway, Switzerland, Egypt and Chairs. Discussions concerned the report of the Special Representative of the Secretary General for Children and Armed Conflict.
- **paragraph 34, c)** (4° section – protection of children affected by armed conflict) – concerning "*code of conduct*" made by Quakers, Uruguay, Egypt, Norway, Holy See, Romania, South Africa, Mexico and Chairs.

Before the Commission voted on this resolution, the US proposed amendments to the Preambular paragraph one and operative paragraph two that recognise the importance of the Convention on the Rights of the Child (CRC); to the operative paragraph seven recognising the contribution of the International Criminal Court in defending the rights of children victims of serious crimes, and ending impunity. Its final suggestion was to operative paragraphs 16 (d) and (f) that addresses the rights of the child to maintain contact with their parents residing in different states, including in the case of illegal adoption. The proposal was rejected by a vote of 51 against, 1 in favour (US) and one abstention (Pakistan).

The co-sponsors rejected the proposed US amendments, as they would undermine the CRC, (and its Optional Protocols), which has been ratified by 192 states and provides for a comprehensive normative standard for children's rights. The amendments were rejected by a vote of 51 against, 1 in favour (US) and one abstention (Pakistan).

The US said that while they respect the interests of other nations in promoting the rights of the child and were committed to making it a part of their foreign policy, however, they were concerned about conflicts between the parents' authority and the law of the states. They also disagree with the amount of child participation requested by the resolution. They cannot accept that the CRC must be the standard and noted that other international instruments address some issues in a better fashion. The US expressed their desire to see a more transparent process resulting in a shorter resolution.

Finally, the Omnibus Resolution was voted and adopted by 52 votes in favour, 1 against (US) and 0 abstentions.

Some positive developments to this year's resolution:

- The CHR addresses **commitments to agreements**, and not only ratification (PP 5).
- The CHR recognises formally **children as rights holders**, and thereof the mainstreaming of a rights based approach (PP 9).
- The CHR paid attention to **violence in schools** (OP 15 a & b) and also it devoted more paragraphs to the issue of **inter-country adoption** (OP 16 g, h, i and j). Furthermore, the CHR recognises "the need for **guidelines** for the protection and alternative care of children without parental care" (OP 17).

- It is recognised that children and adolescents must exercise their **right to express their views freely** (OP 20 (f)).
- The Commission devotes a paragraph to **children affected by natural disasters** who need to access basic social services (OP 31).
- Concerning the protection of children affected by armed conflicts, the Commission calls on states to take **effective preventive measures** against sexual exploitation (OP 38 d); secondly, it pays particular attention to **education** as a way to prevent recruitment and use of children in armed conflicts (OP 38 b). Finally, it asks for **code of conducts addressing the issue of sexual exploitation and abuse of children** as measure of protecting children in activities involving them in conflict and post-conflict situations (OP 39 c).

Some negative developments:

- The NGO proposal to **develop juvenile justice systems and special procedures** in line with all relevant international standards was not accepted.
- The NGO proposal for **education** to be an integral part of the process of demobilisation, effective disarmament, rehabilitation, physical and psychological recovery and reintegration into society for children involved in armed conflicts has not been deleted(not sure what this refers to?).
- This year's resolution does not mention the **role of the Red Cross** in the protection of children affected by armed conflict. Also, it does not contain the paragraph in which the commission calls upon states to **end the recruitment of children and their use in armed conflicts contrary to international law**, recalling obligations assumed under the Optional Protocol to the CRC 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) (OP 42 a).
- The issues of **children belonging to minorities and indigenous children** have not received enough attention, despite proposals of NGOs ("To not deny children belonging to religious or linguistic minorities or persons of indigenous origin the right to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language").
- **The NGO proposal to cooperate fully with the Special Procedures** was not taken on.
- The issue of taking **measures concerning child abuse or victims of exploitation** in order to facilitate their participation in the development of strategies to help them has been deleted.

Resolution on the Abduction of Children in Africa: For the third consecutive year, the Commission adopted a resolution on the Abduction of Children in Africa (2005/44). The first time it was tabled, it was a resolution on "Abduction of children in northern Uganda",. In 2003, the Africa Group decided to broaden this resolution to address abduction throughout the continent.

The NGOs involved in the drafting of the resolution, which are members of the subgroup on children in armed conflict, specifically, World Vision International and the Quakers, enjoyed a close working relationship with the Africa Group in the elaboration of a draft text. The NGOs were asked to establish and propose a definition of abduction that was then used in the drafting process. The resolution condemns the practice of abduction of children for various purposes, among other things, the involvement in armed forces or armed groups, the participation in hostilities, sexual exploitation and forced labour. It also condemns the abduction of children from camps of refugees and internally displaced persons by armed forces and armed groups, and the subjection of children to participation in

fighting, torture, killing and rape as victims and as perpetrators.

There was an emphasis this year on the necessity of incorporating strong operative language in the text in order to provide for meaningful follow-up and implementation. [IS IN PARAGRAPHS BELOW]. The resolution consists of 17 operative paragraphs and is based on last year's text with a few significant improvements. [Repetition]

The Commission demanded the immediate demobilisation and disarmament, reintegration and, where applicable, repatriation of all child soldiers, particularly girls, who have been recruited or used in armed conflicts in contravention of international law. It called for the immediate and unconditional release and safe return of all abducted children to their families, extended families and communities and called on extra measures to protect refugee children and internally displaced children, particularly girls, from being abducted; and to take adequate measures to prevent the abduction and recruitment of children by armed forces and armed groups and their participation in hostilities.

It called on all African States to integrate the rights of the child into all peace processes, peace agreements and post-conflict recovery and reconstruction phases; and called upon all Member States to put an end to impunity and to take appropriate steps to identify those responsible for child abductions in Africa and bring them to justice. The Commission requested the OHCHR, working with Member States, the ILO, UNICEF, and other relevant United Nations agencies, international organisations and NGOs, to undertake a comprehensive assessment of the situation of abduction of children throughout Africa through the organisation of sub-regional consultations. NGOs must now consider how they can support the OHCHR to make this request become a reality. The attempts by NGOs to persuade the drafters to include a definition of "abduction" in the resolution failed. The resolution was adopted as amended without a vote.

Other resolutions

Preparations during the months leading up to the session, , the subgroup on the Commission on Human Rights wished to undertake a mapping of the different members and subgroups' involvement with the CHR, with the aim of coordinating and dividing the work. However, very few members responded to (in total 4) and therefore these efforts were not coordinated within the subgroup. Some of the thematic subgroups had contact with and lobbied sponsoring governments regarding thematic resolutions, the most active ones were the subgroup on children in armed conflict and the subgroup on violence, but also to some extent, the subgroup on health, education and children with disabilities.

Further details, including the text of the resolution and the alternative resolution prepared by the subgroup for the CHR, are available at: www.crin.org/chr

3. Morning briefings

The morning briefings brought together many participants at the CHR, and gave NGOs the possibility to dialogue with government delegations and invited experts. Both thematic and geographic issues were on the agenda such as the right to education, forced migration and trafficking of children, violence against children including the issue of torture, abduction of children, corporal punishment and children in conflict with the law. The Occupied Palestinian Territories, Latin America, Africa and South Asia were given special emphasis during different thematic discussions. Both resolutions under Agenda Item 13 on Children's Rights were discussed during these briefings.

During the session on the **Omnibus resolution** on the rights of the child NGO representatives and others were given the opportunity to give suggestions to the text of the resolution with the sponsors of the resolution; Luxemburg, represented by **Elaine Ryan** and **Elsa Kuntzinger**. However, they did not want to change much and the participants were not able to get very much information on the developments of this year's text beforehand. They were negotiating with GRULAC to get a final common draft that should be presented to the remaining regional groups. Luxembourg wanted to shorten the text, build on previous resolutions, but keep the operational parts of the text, and also keep the centrality of the CRC. Some of the key comments from NGOs were that special emphasis should be given to very young children who are in prison with their mothers, as it is an issue that concerns most countries, but few apply the CRC to these children. With regards to education and education systems, it was noted that in some countries these fall under specific traditions or cultures, and these should therefore be preserved and be given a mention in the resolution. With regards to disability, there was a request that a mention be given to the draft Convention on Disability, including a reference to the negotiations of this Convention. Concerns were also expressed with regards to the fact that there was no mention of indigenous children or other minority groups in the text.

Jean-Paul Pascal, delegate from **Congo Brazzaville**, was invited as representative from the Africa group leading the drafting of the resolution on the **Abduction of Children in Africa**. Jennifer **Philpot-Nissen**, **World Vision International** and co-convenor of the subgroup on children in armed conflicts presented the background up to date of the resolution and, expressed her gratitude to the great collaboration with the Africa group to improve this year's text, and to make it more operative. The subgroup had been asked to elaborate a definition of abduction. (see section on resolutions). A representative from the US delegation expressed their reluctance to supporting a resolution that would allocate additional resources to the OHCHR.

The issue of **Children's situation in the Occupied Palestinian Territories** was presented by **Eva Låftman**, Save the Children Sweden (eva.laftman@rb.se) and **Janet Symes**, Save the Children UK (janet_scpal@palnet.com). Ms Låftman presented two publications made with Palestinian children victims of house demolitions and who have been imprisoned. Children are extremely affected by house demolitions. The possibilities for rehabilitation are very poor and many children are left without any help, which makes this problem even worse. Save the Children Sweden is in close contact with Swedish authorities and assists the Swedish Foreign Minister in how to address this topic and gives advice in the elaboration in her speeches. Ms. Symes focused on the violation of the right to protection, which concerns both Palestinian and Israeli children. She explained that pressing issues are:

- *The policy of closure and curfew that imposed on Palestinians.* The issue of closure is divided into two parts, external closure and internal closure. The external closure concerns all Palestinians who are not able to enter Israel. The internal closure concerns roadblocks and checkpoints inside Palestinian territories. Freedom of movement is restricted for Palestinians inside Palestinian territories and the right to access to health and education is restricted.
- *The issue of child detainees.* She explained that Save the Children is cooperating with legal Palestinian organisations to help children released from prison to overcome the inhuman treatment that they have suffered. These children are often detained for having been suspected or seen throwing stones at Israeli forces. The allegations are often very vague, and the children are not afforded the right to protection since they are prosecuted under military law, which enables the Israeli forces to imprison

children from the age of 12.

The Special Rapporteur on the Right to Education, Vernor Muñoz Villalobos presented the issue of the right to education and described the link between the right to education and children's rights in general. He emphasises the following issues:

1. *Aims of education*: Education relates to every child. It develops skills for life, builds capacities and is enjoyed as a right (it should not be a process of suffering). The right to education is not just about schooling, but also about a quality of knowledge and the process of learning. Hence, the right to education should be moved towards human rights.
2. *Access to education*: As explained in the General Comment 13 on the Right to Education of the Committee on Economic, Social and Cultural Rights (E/C.12/1999/10, 8 December 1999), exclusion remains an important issue. Thirty-two forms of exclusions have been identified by the Committee on the Rights of the Child, which can, in turn, be divided into three categories: Exclusion due to political, economic, or social and cultural reasons.
3. *Quality*: The quality of education needs to be measured. Human rights is not a subject of the curriculum, there is a need to move towards a human rights based education.
4. *Participation*: It is the right of every child to be asked their opinion in every aspect that concerns them; this is both a right and a condition for human rights learning and for developing citizenship. Participation should be in school life, in school processes, and in local and national events.
5. *Diversity*: Homogeneity is impossible: one vision is no longer the aim of education, there are many groups interacting, and boys and girls should be given the opportunity to get in touch with cultures different from their own. There is a need to foster an intercultural approach to education.
6. *Best interest*: referring to the specific and the individual necessities of every child. Education should be child-centered, where the child is not just a subject that needs to be protected, but the child as human being. Special consideration should be given to child migrants, children with disabilities, other minority groups and the girl child.
7. *Monitoring necessities to improve public policies*: One step for this is to develop indicators related to education and the right to education, particularly qualitative ones. We need to monitor accountability and justiciability at national and international levels.

The Special Rapporteur urged NGOs and others to write to him about their concerns, experiences, ideas, etc. contact: vmunoz@dhr.go.cr, or vernormu@yahoo.es

At another morning briefing **violations of children's rights in Latin America** were brought up in light of two separate issues: forced migration and corporal punishment. **Ms. Stella Maris Margetic, Human Rights Advocate**, presented her research made at the Colombian-Ecuadorian border about Colombian children in Ecuador and expressed the need for international attention to be given to the problem for Colombian children migrating into Ecuador. These children who have been forced to flee the violence in their country live without any recognition and therefore protection. She said that little is being done and added that neither the Colombian nor the Ecuadorian Government are addressing the issue. The former has in place a repatriation programme but since the situation in Colombia is not substantively improving, this is of little or no assistance. The latter tends to treat it as an internal social problem and does not address the violation of these boys and girls' rights.

Concerning the issue of **corporal punishment**, **Sofia Nordenmark from the**

Andean Commission of Jurists (CAJ) presented a study carried out in collaboration with Save the Children Sweden on corporal punishment of children in Latin America. It reviews Latin American and Caribbean countries' legislations on corporal punishment within the family and against children in detention. No Latin American country has yet prohibited corporal punishment. Only Brazil and Costa Rica are working towards abolishing corporal punishment against children but it is still being discussed in their parliaments. She stressed that corporal punishment is socially accepted in the region; cases do not get reported nor are the practices denounced. The Andean Commission of Jurists demands the prohibition of corporal punishment in schools including a procedure for sanctions. Ms. Nordenmark added that the issue of juvenile justice is another grave problem especially for children in marginalised areas; a topic that is much discussed in the regional contribution to the UN Study on Violence against. Information on corporal punishment in Latin America can be found on: www.scslat.org.

Related to this, **Manuel Nowak, Special Rapporteur on Torture**, was invited to talk about Children's rights and torture. He explained that he would be happy to get a request from the commission to undertake a global study on corporal punishment, which he sees as part of his mandate. Generally, he cooperates with local NGOs to get information on violations against the protection of children from torture and he underlined that he is interested in broadening the definition of torture, and mentioned that children who are in prison with their parents could be an area to include. However, he mentioned that he has received little information on this topic so far, and therefore hopes this is an indication that it is not common. There was also a mention of children who have been left behind when their parents have been imprisoned or killed because of their practise of Falun Gong. Mr. Nowak explained that this issue will be high on his agenda when he visits China.

Mr Novak needs well documented, specific cases in order to investigate them deeply and present them to the governments and if he receives detailed information of violations of children's right to protection from torture, he would gladly send these allegations under his mandate to the concerned governments. For any information, questions or comments use the model questionnaire for making allegations available on the website of the Special Rapporteur at: www.ohchr.org/english/issues/torture/_rapporteur/model.htm, or contact Safir Syed, on ssyed@ohchr.org.

The issue of **trafficking** was presented by **Sigma Huda, Special Rapporteur on Trafficking of persons, especially women and children**. She explained that she has to cover a very wide mandate since trafficking can be defined in many different ways. She will try to cover all those definitions and aspects of trafficking and she pointed out her interest on the issue of trafficking across borders in the name of adoption, prostitution and sexual exploitation. Children in difficult conditions such as conflicts, natural disasters are particularly vulnerable to such trafficking. She gives much recognition to child rights organisations in the combat of trafficking for adoption. She confirmed that she will write a report on violence against children and welcomes information on this issue. In a discussion on the natural disaster in Asia, Ms. Huda was asked if she had an idea of how guiding principles for the protection of children could look like. She thinks that such guidelines are vital and that she will help and support any organization willing to elaborate them. As a long-term policy to avoid trafficking in children, the Special Rapporteur sees the establishment of programmes, e.g education programmes, and fostering families. She added that instead of international adoption, it was preferable to sponsor a child that lives with one of the family relatives and if this is not possible to leave the child in its natural environment. She hopes to visit Nigeria, Latin America and also Asia, especially Korea, Japan

and if possible China in coming missions. To conclude she welcomed the participants to review the web page on her mandate: www.ohchr.org/english/issues/trafficking/index.htm for information on upcoming missions. In that way NGO's to submit information and reports on specific issues. NGOs input is vital, whether for cases of individual complaints, or general issues to highlight useful information or data, contact Veronica Birga: vbirga@ohchr.org.

The members of NGO Advisory Panel for the UN study on Violence against Children explained that an objective of their meeting, parallel to the CHR, was to find key issues and key recommendations that the independent experts should cover. Examples of these issues are violence in pre-trial detention, violence in juvenile detention centres, violence of parents, and corporal punishment. The following problems and responses had been identified:

Problems: 1. The failure of care and protection systems is bringing children in conflict with the law. 2. A majority of children in the juvenile system do not belong there. 3. Children face a high risk of being subjected to violence in every part of the justice system. 4. There is a mis-use and over-use against children in the justice system. 5. The impunity and violence in the justice system increases violence against children.

Responses: 1. Prevent children from getting in conflict with the law in the first place. 2. Decriminalise antisocial and survival behaviour. 3. Ensure that every nation has a separate child friendly justice system. 4. Diversion should be seen as a first response in justice systems. 5. Ensure the accountability of perpetrators of violence against children.

It was mentioned that it is extremely important to make sure that the actions taken by governments are followed up. A way to do this is to emphasise that the investments made by governments to prevent children from getting in conflict with the law in protection and prevention, are much more cost effective than not taking these measures in the long run. It was also mentioned that there is currently no good reporting system to monitor children in juvenile justice systems. Systematic reports from governments are needed containing information on complaints made by children.

Jaap E Doek, chair of the Committee on the Rights of the Child gave an update about the work of the CRC and an outline of upcoming projects. In terms of general highlights, four new members were elected in February, there are now new periodic guidelines for reporting, and the GA has allowed the CRC to spend more money on the two chambers examining state reports, which will begin in January. There are some General Comments being drafted, including: separated and unaccompanied children, in collaboration with the High Commission for Refugees, early childhood development and Indigenous children.

Regional workshops for follow up to the CRC have taken place, with the first one in Damascus and the second one in Bangkok. The aim is to look at some of the most important issues affecting children in the region. The next one will take place in Buenos Aires, and will include 11 countries. Participants include 3 government representatives, 2 NGO workers, and 1 member of a national human rights institution from each participating country.

In terms of guidelines for reporting: the CRC is trying to encourage States Parties to reduce the size of their periodic reports, and focus on follow up to recommendations. They will also be asked to give action points and reasons for non-action, and explain what challenges remain. They must also provide statistical data, linked to follow up to UNGASS. Many countries do not have

statistics, but they must in order to assess progress and evaluate their programmes.

4. Side events

This year's session was no exception when it came to the large amount of side events. Some events had to be cancelled because of a lack of available rooms and last minute upcoming strategy meetings on the UN reform, that made the attention from the participants weak and the efforts to put them up not worth it. Following is a summary of the major events regarding child rights, some have already been mentioned in the introduction.

The Right to Education: A side event on the right to education was held, with the Special Rapporteur on the Right to Education, Vernon Muñoz Villalobos (organised by OHCHR). The SR was appointed last August, therefore during this briefing he spoke above of all about its new mandate. Two main points for the new SR: "education must move towards human rights" and education must be considered not as a service but as a right. A theme which the SR is very keen on is the right to education of young girls and he will develop it in the near future, but right now he is preparing 5 projects on which he invited suggestions or recommendations. These include: 1) justiciability of the right to education; 2) introduction of the right to education in class' activities; 3) the right to education of migrant people; 4) the right to education of people with different capacities; 5) information collection in order to protect the right to education of teenage mothers and pregnant girls.

Juvenile Justice, "the unwanted child of state responsibility": This event was organized by the Advisory Panel to the UN Study on Violence Against Children and the Subgroup on Juvenile Justice, NGO Group for the CRC. Jo Becker, Human Rights Watch, who chaired this meeting, explained that children affected by this issue are the most disadvantaged of all and the media gives a negative view of the issue, so in terms of reform and advocacy, it is a very challenging issue to work on. As Professor Pinheiro added, confronting public opinion is a huge task. In Latin America for instance, public opinion is supportive of repressive measures against children. "People support treating children as criminals, because it's easy to build institutions and put kids in them. Repressive governments have widespread support for such policies", he added. But as Sedffrey Candelaria, Ateneo Human Rights Centre, Philippines, explained the problem will not disappear. He emphasised that it is governments' responsibilities and obligations, in fact, to deal with this issue, and hence to allocate money to it. It is therefore essential to get governments to understand that they need to work on long-term solutions and to invest in this.

As Bernard Boeton, of International Federation Terres des Hommes, explained, "we have to work on public opinion. Public opinion is worried about security and terrorism, so that is where government funding is going, and governments are surfing on public opinion". To find constructive solutions, you need to engage everyone, children have to be able to participate, because change will not happen without their will, but you also need to bring to the table all those that come into contact with children affected by the juvenile justice system, including police officers and judges.

Bruce Abramson, Juvenile Justice Consultant, explained that it is a structural problem that needs structural solutions: we need to change attitudes and use society's resources, we need to instill the concept that humane justice systems must be built into comprehensive international levels (such as Millennium

Development Goals). Penal law must be built into long-term plans for development.

Virginia Morrillo from DCI Costa Rica, mentioned that in Latin America members of gangs or “maras” are common victims of violence, detention and imprisonment in many big cities. Authorities tend to see them as problems to exclude and punish, rather than to see the violation of their rights to access to justice, freedom, organisation etc. Women and adolescent mothers in prison was mentioned as a specifically y vulnerable group to a non-rights based judiciary system.

Children and violence – Breaking the walls of silence: Chairing this event, Deputy High Commissioner for Human Rights, Mehr Khan, highlighted the importance of this study and the difficulty in gathering statistics as much of the violence that affects children happens behind closed doors, for instance, in the family, in schools, the community and in institutions. She welcomed the positive input that States had provided with 97 [updated as of end of May] governments having so far submitted their questionnaire to the Independent Expert. Professor Paolo Sergio Pinheiro, the Independent Expert for the Study, reiterated the importance of NGO participation in this study. What is vital for this study is to create dialogue, to break the walls of silence and to avoid coming up with oceans of recommendations. What this report must achieve is a set of focused recommendations that can be implemented, with mechanisms for follow-up. The fact that so many countries have responded so far, is a sign that they are ready to enter into dialogue and recognise that children have rights. “Children are not mini people with mini rights. But as long as they are seen as half citizens, their rights will keep being violated”, he said. In this context, one problem that needs to be addressed is the fact that reasonable use of violence against children is still acceptable. Participation of children in this process is of course essential.

Ravi Karkara, presently seconded from Save the Children to the Secretariat of the study to coordinate child participation, explained how children’s voices can make a difference. To ensure positive participation, some key aspects and techniques have been developed. First of all, child protection policies must be in place when involving children. Secondly, there must be accountability, there has to be concrete steps that can be taken for a follow-up process. Thirdly, non-discrimination is critical, as violence affects boys and girls differently, but also very young children, disabled children and other groups. Activities are being prepared to involve children in the upcoming regional consultations. More information is available at www.crin.org/violence (NGO site) and www.violencestudy.org (Official Study site).

Trafficking, Migration and Human Rights: This parallel event sponsored by OHCHR, the Interagency Contact Group (IGO) on Human Trafficking and Migrant Smuggling (Geneva), did not focus on children, but mentioned children among the most affected victims. Sigma Huda, Special Rapporteur on trafficking in persons, especially women and children, stressed the link between migration and trafficking. She explained that trafficking takes advantages of those wishing to migrate but who are in vulnerable positions. She added that the majority of trafficking victims are women and minors. Jean Miguel Petit, Special Rapporteur on the sale of children, child prostitution and child pornography, explained that the programmes to prevent and to aid the victims are not always effective to combat trafficking, because they are often inflexible, compared to the traffickers who are generally pro active. In general, this side event looked always to effectively fight trafficking: taking away the market for it, addressing the causes leading to poverty, providing possibilities for education and work in their home countries. Ms. Huda concluded that the fight against trafficking can be

accomplished by one country unilaterally. Programmes must be international or regional, and countries have to cooperate.

Sexual exploitation of children - Child Pornography on the Internet: In this side event, Jean Miguel Petit, Special Rapporteur on the sale of children, child prostitution and child pornography, underlined the great increase of cybernetic crime and mentioned some ideas to eliminate these crimes. He highlighted the importance of cooperation between NGOs, national level institutions and organisations and the private sector. He emphasised the fact that pressure should be put on companies to stop benefiting from the enormous amount of money that circulates via the Internet. He insisted that only with the private sector's cooperation will be possible to identify perpetrators of child pornography. There was also a brief discussion about the problem of identifying victims.

Child Labour: A side event was organised by the International Institute for Non-Aligned Studies, the World Federation of Trade Unions and the Organisation of African Trade Union Unity. The panellists claimed that in spite of the 15 years with the CRC, there were no real reform for the implementation of it, and there are still many children working and enduring exploitation around the world. The event was an opportunity to highlight the situation in different parts of the world. The Organisation of African Trade Union Unity presented the situation in Africa, where many children work because parents do not have enough money and cannot afford school fees. The problem of child soldiers and the risks of girls' exploitation were evoked. The situation of Asia was also stressed. The problem of child labour is linked to the great disparities between classes, the unbalanced distribution of wealth and the existence of very poor families.

The World Court Advisory Opinion on the construction of a wall in the occupied Palestinian Territory: legality and realitie: This side event organised by the International Commission of Jurists, the International Federation for Human Rights, Al Haq and Save the Children, included panelists Abi Saab, John Dugard, Special Rapporteur on the Occupied Palestinian Territories and Pr. de Schutter. It stressed the impact of the wall on the situation of Palestinian people. It seems that the situation in the OPT and the impact of the wall on the children has not changed much since last year when a similar side event was organised. Mr. Dugard, stressed that the main purpose of the wall was not to achieve security but to include new Israeli settlements and to make Palestinians leave the closed zone around the wall. According to the fourth Geneva Convention, an occupier cannot transfer its citizens to occupied territories (Article 49). This means that the inclusion of Israeli settlements is a clear violation of humanitarian law. He gave some examples concerning the impact of the wall on the human rights situation in the OPT and particularly in the closed zone (buffer zone) and the West Bank:

1. Restrictions of movement: the route of the barrier makes it difficult for Palestinians to access their agricultural land, medical services and working place;
2. The wall has serious implications for school children since they very often have to cross the wall to go to school;
3. The construction of the wall has serious implications on the humanitarian and human rights situation in generak in the OPT and the international community should react strongly.

Janet Symes, Programme Coordinator in the OPT for Save the Children UK, focused on the violations of children's rights caused by the wall. She noted that Israel is responsible for implementing the CRC and other international human rights instruments, in the OPT. With this as background she stressed the importance of two issues:

1. the right to education (article 28): many children live on one side of the wall and the school is located on the other side. Children and teachers have difficulties in reaching their schools and are forced to cross checkpoints or move. 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 and they feel generally less secure. She quoted a child describing the day-to-day reality they face: "They shout at us, aim their weapons at our face". 2. The right to health: The wall prevents people from getting to hospitals and clinics. Frequently, health care services are on the other side of the wall or very far away. This is of course very serious in urgent situations.

Global Progress to End All Corporal Punishment: This event organised by OMCT, emphasised some of the recent trends in the EU, whereby the European Commission has proclaimed the EU as a "corporal punishment free zone". Paolo Sergio Pinheiro, independent expert, gave the participants an overview of the legal progress to end corporal punishment and expressed the importance to include the issue on legal reform in the UN Study on Violence. Jaap E Doek, Chair of the Committee on the Rights of the Child, talked about the Committee's firm position on seeing corporal punishment as one expression of violence against children. He and Ms. Vandekerckhove, from the Children's Rights Commission for the Flemish Community, gave examples of developments in Holland and Belgium. She believes that campaigns to change public opinion, parallel to legal reforms, are two important strategies to end corporal punishment. Peter Newell gave an overview of the problems of the social and legal acceptance of corporal punishment, and as Mr. Pinheiro stressed, children are the only human beings not being legally protected from violence. Mr. Newell explained the complexity of individual complaints systems for children, and gave examples of the positive sides of a collective complaint system as the one established in the European Committee on Social Rights, Article 17. The protection of children that have been victims of corporal punishment is a fundamental issue.

Children persecuted by political regimes: China and Falun Gong practitioners. This meeting, organised by Interfaith International, focused on violations of the rights of children involved in Falun Gong (FG) practice in China. The president of the Global Mission to Rescue Persecuted Falun Gong Practitioners (GMR) explained how the Chinese Communist party began a persecution campaign against FG in July 1999. According to sources from China, at least 2.500 practitioners have been tortured to death over the last five years. Increasingly, it is the children who are bearing the brunt of this persecution.

As many parents have been killed or imprisoned, children are abandoned in mental hospitals and in orphanages, and most are denied any government assistance. For fear of government reprisals, relatives of these children often refuse to help them. A victim of this persecution who spoke about his personal case also attended the meeting.

Other issues:

During several occasions some experienced CHR participants, such as Rachel Brett, Quaker UN office, and Peter Prove, Lutheran World Federation, arranged a meeting called "The hitchhikers guide to the CHR". This was a very popular session where newcomers or more experienced CHR participants were given the opportunity to review advocacy strategies, practical matters and other issues to make the CHR session useful.

CONGO, the Conference of NGOs in Consultative Relationship with the UN, organised a side event to give an update on the Millennium+5 Summit to be held in New York on 14-16 September 2005, and to look at the current review process of the MDGs and human rights framework of the UN reform. This was an opportunity for NGOs to speak out and identify key issues they want to see addressed at the Summit. Ideas and proposals given by NGOs and civil society will be compiled into a report to be delivered by ECOSOC at the Summit.

Feedback and information is welcome on the following:

- What priority areas concerning the human rights global agenda do you consider most important for States to address at the Millennium Review Summit?
- How can NGOs help develop a strong unified voice for civil society while conserving its tremendous diversity?
- How can NGOs strengthen and coordinate their advocacy efforts and how can they bring the MDG agenda to different regions to get people's concerns heard?

Contact CONGO with your comments at: congo@ngocongo.org, visit: www.ngocongo.org

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