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ORAL STATEMENT

Human Rights Council
Nineteenth Session
27th February – 23rd March 2012

Panel: Annual full-day meeting on the rights of the child (res. 16/12) – Children deprived of their liberty

Mr. President,

The International Juvenile Justice Observatory, the Open Society Justice Initiative and Penal Reform International would like to raise two key issues.

Firstly the issue of juveniles in pretrial detention. Globally, an estimated 1/3 of juveniles have not yet been tried and in many countries this figure is much higher – in the most extreme cases reaching over 90%. Frequently the length of pretrial detention also extends over months and even years impacting significantly on the social and mental development of juveniles.

The second issue relates to an increasing prevalence of mental health problems amongst juveniles who come into contact with the criminal justice system. Research shows that one-half to two-thirds of youth in detention centres suffer from mental health problems – this is far higher than among the general prison population.

The issue of mental disabilities is central to the question of criminal responsibility. In theory, defendants found to be mentally unstable, cannot be convicted of a crime. However, due to inadequate screening and a failure to provide and utilize effective diversion and treatment programmes, responses have in general been punitive rather than therapeutic. The problem is exacerbated by an arbitrary recourse to pretrial detention and limited specialized personnel at the pretrial stage.

Mr. President,

In the face of international standards safeguarding the rights of children and juveniles, the lack of adequate treatment and accurate strategies and policies in this area is unacceptable.

We urge the UN agencies to put these issues on their agenda and agree on minimum standards.

Among other measures, we highly recommend to UN member states:

- To ensure that diversion and alternatives to pretrial detention for juveniles are the norm and where detention is unavoidable that the conditions are adapted to the needs of the juvenile;
- To take effective measures to promptly screen and assess mental health problems upon arrest in order to prevent the entry of juveniles into the justice system;
- To use 'diversion' wherever possible, including family therapy and other community-based interventions; and
- To set adequate training standards for all those who come in contact with juveniles suffering from mental health problems.

At the international level, we recommend:

- that UN bodies working in the field of children's rights, juvenile justice and health issue a global report on mental health and juveniles in contact with the criminal justice system; and
- that the UN Special Rapporteur on Violence against Children and the UN Special Rapporteur on Torture take the situation of pretrial detention and juveniles with mental health problems into consideration when dealing with justice systems and the deprivation of liberty.

Thank you Mr. President.

International Juvenile Justice Observatory (IJJO)
Open Society Justice Initiative, Global Campaign for Pretrial Justice
Penal Reform International (PRI)