



Economic and Social Council

Distr.: General
15 April 2013

English only

Commission on Crime Prevention and Criminal Justice

Twenty-second session

Vienna, 22-26 April 2013

Item 6 of the provisional agenda*

**Use and application of United Nations standards and
norms in crime prevention and criminal justice**

Statement submitted by Friends World Committee for Consultation and Penal Reform International, non-governmental organizations in consultative status with the Economic and Social Council**

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

* E/CN.15/2013/1.

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Statement

The rights of children of imprisoned parents

Penal Reform International and Friends World Committee for Consultation (Quakers) would like to draw the attention of delegates to the United Nations Commission on Crime Prevention and Criminal Justice to the rights of children of imprisoned parents, and would like to highlight recent advances in identifying specific needs and recommended measures.

Children whose parents are detained or imprisoned are an invisible and often highly vulnerable group whose rights and welfare can be gravely affected at every stage of criminal proceedings. This is the case whether they are detained with or separated from their parents.

It is estimated that millions of children worldwide have a parent in prison — tens of thousands are living in prison with their parent, and many times that number are separated from an imprisoned parent. The impact on their rights is manifold, as the Quaker United Nations Office in Geneva has highlighted in its series of reports and as PRI has also stressed in various publications. These children often fall through the cracks created by poor social welfare provision, wholly inadequate protection for children living in prisons — mostly with their mothers — and lack of clarity in law, policy and procedure as to how best to respond to them.

Whether in prison or outside, the children often have to live with the stigma attached to the crime of which their parent is accused, and not enough is done to ensure the best interests of children are taken into account within the judicial process, in particular considering alternatives to custody for parents who are the main or sole caretaker of children.

Friends World Committee for Consultation and Penal Reform International would therefore like to highlight some standards and recommendations recently adopted by States related to the protection of children of imprisoned parents.

Firstly, we would like to flag recommendations issued by the **United Nations Committee on the Rights of the Child**, which resulted from the Day of General Discussion the Committee dedicated to this topic in November 2011 to foster more comprehensive guidance as to states' obligations towards children of incarcerated parents.

In its report on the Day of Discussion, amongst others, the Committee recommends that decisions relating to the accommodation of children in detention with their parent should always be made on an individual basis and with due consideration to the best interests of the children affected. In doing so, factors to consider are the overall conditions of the incarceration context, the age of and possible alternative care for the child and the particular need for parent-child contact during early childhood. Furthermore, it is recommended that such decisions be made with the option for regular judicial review and with full consideration for the best interests of the child. The Human Rights Council resolution on the rights of the child (A/HRC/RES/19/37), adopted without a vote, includes a section on children of incarcerated parents which reinforces a number of the Committee's recommendations.

We would further like to highlight the **resolution on human rights of children of parents sentenced to the death penalty or executed**, adopted by the Human Rights Council on 15 March 2013 (A/HRC/22/L.18), adopted without a vote, which mandates a panel discussion at the 24th session of the Council. The resolution expresses deep concern at the negative impact of imposition and carrying out of the death penalty on the human rights of children of parents sentenced to the death penalty or executed. It calls upon States to provide those children with the protection and assistance they may require, and with access to their parents and to all relevant information about the situation of their parents.

We would also like to recall provisions of the **United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders**, known as the “Bangkok Rules”, which to date constitute the only international guidance available.

For example, the Bangkok Rules stipulate that decisions as to when a child is to be separated from its parent must be based on individual assessments and the best interests of the child (Rule 52) and that children in prison with their parent should never be treated as prisoners (Rule 49). They also clarify that children must be taken into account at all stages of a parent’s contact with the criminal justice system, specifying that women must be allowed as many opportunities as possible to see the children who are imprisoned with them (Rule 50). As the Preliminary Observations to the Bangkok Rules clarify, some of its provisions, including those relating to parental responsibilities, apply equally to male prisoners and offenders who are fathers.

Lastly, we would like to draw attention to the commendable initiative of the **African Committee on the Rights and Welfare of the Child**.

It is significant that Article 30 of the African Charter on the Rights and Welfare of the Child contains provisions of direct relevance to children of imprisoned parents. Like the Bangkok Rules, the Charter requires that non-custodial sentences always be considered first and that alternatives to detention be established and promoted.

To provide more detailed guidance to States for the implementation of the provision, the African Committee has undertaken to draft a General Recommendation on Article 30 of the African Charter on the Rights and Welfare of the Child.

In the light of the emerging guidelines on the rights of children of imprisoned parents, Friends World Committee for Consultation and Penal Reform International call on States to review their national framework and to implement safeguards for the protection of these children.

The organizations also recommend using the opportunity of the review of the Standard Minimum Rules for the Treatment of Prisoners to include safeguards for children of imprisoned parents, based on the Bangkok Rules and the guiding principle of the best interest of the child. We would like to draw attention to the proposal made to this end in the “Essex Paper”, a paper summarising the outcome of a meeting of 30 experts at the University of Essex meeting in October 2012.