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Girls in Detention

Side Event to the 29th Session of the Human Rights Council (18 June 2015)



Brief Report

Organisers:

Defence for Children International (DCI)

Penal Reform International (PRI)

Office of the Special Representative of the United Nations Secretary-General on Violence against Children

Sponsors:

Permanent Mission of Switzerland to the UN

Permanent Mission of Thailand to the UN



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Event Flyer

Girls in Detention

Thursday 18 June 2015, 15:00-17:00, Palais des Nations, Room XXVI

Girls are one of the most vulnerable groups involved in criminal justice systems because of their age, gender and small numbers. Wide gaps exist in our knowledge and understanding of their specific needs in detention and what works for successful rehabilitation and reintegration. At this side-event expert panellists will identify the obstacles and challenges impeding the full realisation of girls' rights in justice systems, and will share ideas on how to better protect girls in detention.

- **Girls involved in the criminal justice system - Preventing violence, stigmatization and deprivation of liberty**
Ann-Kristin Vervik, Office of the UN Special Representative to the Secretary General on Violence against Children
- **Gender sensitive approaches**
Adwoa Kufuor, OHCHR, Women Human Rights and Gender Section
- **The UN Bangkok Rules: a tool for protecting girls in criminal justice systems**
Andrea Huber, Penal Reform International
- **A case from the field**
Vilma Amparo Gomez Pava, Defence for Children International – Colombia





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1. INTRODUCTION

Girls are one of the most vulnerable groups involved in criminal justice systems because of their age, gender and small numbers. The lack of legal protection and access to justice, prevailing social norms, gender-based violence and discrimination contribute to girls' vulnerable situation. Once detained, in many countries girls may find themselves in harsh conditions, in overcrowded cells or in solitary confinement. In some countries, girls may face inhuman sentencing, including flogging, stoning and capital punishment. There are still wide gaps in our knowledge and understanding of offending by girls, of their specific needs whilst in detention, and of what is effective in terms of gender-sensitive and age-appropriate rehabilitation and social reintegration measures. Girls are far from being a homogenous group and their characteristics and needs vary considerably between and within countries. Despite this, we know that many of the issues they face are common across many countries and contexts, and that they are often exposed to particular challenges that are different from those experienced by boys or adult detainees. As noted by numerous reports¹, girls have often experienced past physical, emotional or sexual abuse; and they are at risk of continued violence, including sexual violence, harassment, invasive body searches and humiliating treatment by staff whilst in detention. Furthermore, girls may also be primary carers for children, whether their own or siblings; they have specific health, hygiene and sanitary needs; and they are at a high risk of substance abuse, self-harm, mental health issues, HIV and other sexually transmitted diseases.

2. BACKGROUND

2.1 Defence for Children International (DCI)

Defence for Children International (DCI) is an independent non-governmental organisation that has been promoting and protecting children's human rights on a global, regional, national and local level since its establishment in 1979 (International Year of the Child). The DCI Movement is represented in forty-seven countries worldwide through its national sections and associated members, working on different child rights issue, particularly: justice for children, child labour,

¹ Annual report (2014) of the Special Representative to the Secretary General on Violence against Children (SRSG/VAC) to the Human Rights Council (A/HRC/28/55); "Neglected needs: Girls in the criminal justice system" (2014), Penal Reform International (PRI) and Interagency Panel on Juvenile Justice (IPJJ).



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child trafficking, violence against children and child participation. DCI's work is directed by the guiding principles enshrined in the United Nations Convention on the Rights of the Child (UN CRC), to which DCI was at the forefront of the drafting process and international lobbying efforts for its eventual adoption and ratification.

2.2 Penal Reform International (PRI)

Penal Reform International (PRI) is an independent non-governmental organisation that develops and promotes fair, effective and proportionate responses to criminal justice problems worldwide. PRI promotes alternatives to prison which support the rehabilitation of offenders, and promote the right of detainees to fair and humane treatment. PRI campaigns for the prevention of torture and the abolition of the death penalty, and it works to ensure just and appropriate responses to children and women who come into contact with the law. It currently has programmes in the Middle East and North Africa, Central and Eastern Europe, Central Asia and the South Caucasus, and works with partners in East Africa and South Asia.

2.3 Office of the Special Representative of the United Nations Secretary-General on Violence against Children (O/SRSG/VAC)

The *Special Representative of the Secretary-General on Violence against Children* (SRSG) is a global independent advocate on violence prevention and children's protection from violence. Her mandate is anchored in human rights standards, including the Convention on the Rights of the Child and its Optional Protocols, and criminal justice norms and standards and is framed by the recommendations of the UN Study on Violence against Children. The SRSG promotes advocacy and policy dialogue to keep this topic high in the international agenda, generating visibility and renewed concern at the negative impact of violence on children, and mobilizing support to prevent and combat this child rights violation. The Special Representative acts as a bridge builder and a catalyst of actions by a wide network of partners, within and beyond the UN system - including international and regional organizations, human rights treaty bodies and mechanisms, national governments, independent human rights institutions, civil society organizations, and children and young people themselves. In this overall framework, the SRSG devotes a special attention to the prevention and elimination of violence against girls and boys in criminal and juvenile justice systems and promotes measures to develop child- and gender



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sensitive justice systems guided by the rights of the child and designed to prevent children's detention and prioritize alternative measures to children's deprivation of liberty.

3. OBJECTIVE

The side-event aimed to identify the obstacles and challenges compromising the realization of girls' human rights in criminal justice systems. The speakers and participants shared their thoughts on how to better prevent girls' involvement in the criminal justice system, and how to protect girls from violations of their human rights; how to foster the adoption of gender-responsive policies; establish child-friendly justice systems that are sensitive to girls' particular needs; establish effective complaints mechanisms and remedies accessible to girls; and ultimately ensure that justice systems are accessible and do not discriminate and re-victimize girls.

4. TIMELINE

4.1 Ms. Ann-Kristin Vervik, Office of the Special Representative to the UN Secretary General on Violence against Children (O/SRSG/VAC), affirmed that the protection of girls in detention is a key priority for the O/SRSG/VAC. She presented the result of a recent report indicating that in some countries, girls represent 5-10% of all children in detention. While this is a relatively small proportion of the overall population of detainees, available research indicates that since the 1980s, arrests of boys have decreased, while arrest rates of girls have significantly increased. Ms. Vervik claimed that, around the world, it is imperative that justice systems function to prevent violence and deprivation of liberty of girls, bring perpetrators to justice, and ensure recovery and social reintegration for girls. She made three recommendations:

- ✓ Firstly, the enactment and enforcement of a sound legal framework to ban all forms of violence against children, including when used as a form of discipline, control or sentencing within the criminal justice system; to de-criminalize status offences (such as running away from home and survival behaviors); and to remove any justification that condones or allows violence and gender-based discrimination, including on the grounds of culture, tradition, honor or religion.
- ✓ Secondly, we need to listen to girls and support their empowerment. In order to overcome the fear of reporting cases of violence, safe and confidential mechanisms for



girls must be widely available and easily accessible. They also need to be supported by child- and gender-sensitive standards to ensure the effective participation of girls in relevant judicial and administrative proceedings, and to safeguard their safety, privacy and dignity at all stages.

- ✓ Thirdly, ending impunity and tolerance of violence against girls in society and in the justice system is indispensable. Ms. Vervik recalled that professionals in the justice system are not immune to the values and norms in the societies in which they live. Furthermore, she said ending impunity also requires strong accountability mechanisms in the entire criminal justice system and oversight and inspection in all places of detention.

4.2 Ms. Andrea Huber, Penal Reform International reported that more than 660,000 women and girls are in prison throughout the world. Following the remarks of Ms. Vervik, she mentioned the percentage of convicted girls has increased even more than the rate of convicted female adults, according to “World crime trends and emerging issues and responses in the field of crime prevention and criminal justice” (E/CN.15/2014/5), United Nations Office on Drugs and Crime (UNODC). Her intervention focused on the protection provided to girls in detention by the United Nations Rules for the Treatment of Female Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules). Research indicates that female offenders “are women that have been physically and psychologically abused”, often have drug-dependency issues, have “had little or no support at all during their childhood, adolescence and adulthood”, poor women, women who have experienced family breakdown, stigmatisation, social exclusion, and direct or indirect discrimination. She underlined that all of these elements also apply to girls. To add to these characteristics, for girls their age and their even smaller numbers in the criminal justice system exacerbates their discrimination and vulnerability. For decades the very different characteristics and needs of women and girls in the criminal justice system have been under-researched, under-recognised and unaddressed. The UN Bangkok Rules have therefore been adopted, in December 2010, in order to address this gap and finally provide guidance on establishing gender-sensitive criminal justice systems. Ms. Huber flagged the Rules that have been formulated specifically addressing “juvenile female prisoners”: Rules 36 to 39. These specific Rules emphasize: the need for special protection of girl prisoners; the obligation of equal access to education and vocational training; of access to age- and gender- specific programmes and services; the relevance of health care including regular access to gynaecologists; and the special challenges for pregnant juvenile female prisoners.



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Finally, Ms. Huber noted that the Bangkok Rules call for a gender-sensitive approach, including for non-custodial alternatives to imprisonment, health-care, safety and security and rehabilitation measures. The necessity of such an approach and its effectiveness has been demonstrated in pilot projects and studies. In conclusion, she stressed the relevance of a gender-sensitive approach, as a means to finally end discrimination of girls because as a minority in the justice system they are too often “marginalised in the crowd”.

4.3 Ms. Adwoa Kufuor, Office of the High Commissioner for Human Rights (OHCHR), recalled that the human rights of children, including girls, are protected under international and regional human rights instruments that have been ratified by most States, as well as declarations, resolutions, and general comments by treaty bodies. The global legal framework includes amongst others, the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Convention on the Rights of the Child (CRC) and its optional protocol; and Convention on the Rights of Persons with Disabilities (CRPD). Moreover, the 1977 Additional Protocols to the Geneva Convention require States to take legislative or other measures to ensure that any child under 15 years of age who is arrested, detained or interned for reasons relating to conflict enjoys the special protection provided by international humanitarian law.

Poverty, persisting discriminatory laws, lack of enjoyment of economic, social and cultural rights and related obstacles in accessing justice increase the likelihood of girls being detained. Girls also suffer disproportionately when deprived of their liberty outside formal detention facilities, for instance in situations of debt bondage and forced domestic labour.

On the causes of girls’ detention, the OHCHR advocates for removal of discriminatory interpretation and implementation of provisions of laws including so called “moral offences”, such as adultery or extramarital sex, or for violations of dress codes, or witchcraft. Many women and girls are in prison because of discriminatory criminal laws. For instance, laws criminalizing adultery are often disproportionately applied against women, a topic which the United Nations Working Group on Discrimination against Women raised in their annual report (A/HRC/29/40) to the Human Rights Council. Sex workers are another particularly marginalized group at risk of higher rates of incarceration because of laws criminalizing their work. In some countries, total



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bans and criminal penalties for undergoing abortion have resulted in women and adolescent girls being imprisoned.

4.4 Ms. Vilma Gomez Pava, Defence for Children International (DCI) – Colombia presented the specific situation of girls in detention in Colombia. She explained there were 25 Specialized Attention Centers (CAE) for Juvenile Offenders [11 for girls, 14 for boys], 26 Preventive Detention Centers (CIPA) [8 for girls, 18 for boys] and specified that Bogotá and Cali concentrate 45% of girls in detention. She reminded that according to the United Nations Convention on the Rights of the Child (UNCRC), juvenile justice systems are to be “educational, specific and differentiated” from the adults system. In Colombia, there are judicial sentences of minimum 2 to maximum 8 years for juvenile offenders, without possibility of reduction in cases of murder, kidnapping, extortion and aggravated offenses against freedom, integrity and sexual formation.

Ms. Gomez Pava presented a personal case of a girl named Karla, who was sexually abused by her step-father until the age of twelve. Karla left “home” ending up in prostitution and the consumption of psycho-active substances. Her behavior became violent and she was involved with the justice system on several occasions. Now, at 17 years of age, she has attempted suicide on several occasions, taking to self-harassment by cutting her arms. While deprived of liberty, Karla did not receive appropriate medical assistance.

A second case was then presented, concerning an indigenous teenager victim of illegal recruitment by an armed group who ended up in a specialized center for juvenile offenders. Legally, in Colombia, indigenous people enjoy a special legal status that permits a community based reintegration process. In this case, the special status for indigenous people was not observed. Disaggregated data based on field situations are necessary to contribute and cooperate with the governments in improving public policies that effectively guarantee human rights for girls involved in the justice system.

The “Global Study on Children Deprived of Liberty”, launched by DCI in March 2014 with a UN resolution adopted in December of the same year, will gather and analyze data on children in detention, taking into account the gender perspective and ensuring human rights are effectively implemented.



5. OPEN DEBATE

➤ **In terms of legislation, how do governments choose the age in penal justice?**

Ms. Amparo Gomez Pava stressed that the age of legal responsibility, to be in contact with the law, is 14. Ms. Vervik said the minimum age of criminal responsibility is a major debate worldwide. The offences discussed during the panel (being engaged in prostitution, drinking alcohol, running away and being homeless) should not be regarded as offences. Ms. Vervik asserted that criminalization and deprivation of liberty for such behaviours is not in line with international standards and cannot be the solution. Furthermore, without proper treatment, girls who are detained while suffering mental health issues will only feel worse as they will find themselves far from their family. According to Ms. Kufuor, the UNCRC is clear when it mentions anybody under the age of 18 is a child. However, in practice, criminalization varies from country to country, and we observe a gender dimension in law which tends to target girls disproportionately. This is often due to judges, who are not specifically trained on juvenile justice, and sometimes make certain assumptions with prejudices against girls.

➤ **What about girls in detention who are pregnant or have children?**

Ms. Huber said detention is dangerous for girls who are pregnant and constitutes a direct threat to the life of their child. As women offenders generally face worse stigmatization than men offenders, the situation only deteriorates in the case of women also being pregnant.

➤ **Concerning the rehabilitation of girls in society, do you think parents and families play different roles if the child offender is a girl or a boy?**

According to Ms. Vervik, there is lack of concrete examples of successful rehabilitation of girls. This is partly due to a widespread lack of such programs, but it is also due to a lack of documentation and sharing of existing programs. She mentioned the work being carried out by PRI on how local communities can assist the rehabilitation of girls. She underlined the efforts of Canada and Scotland in terms of rehabilitation. Aberdeen (Scotland) offers an example of good practice as the city developed modules to encourage children from age 9 to 17 to set goals that can enable them to improve their lives. For girls, an additional module is aimed at boosting their self-esteem and to reflect on limitations that are preventing them from living the life they want to live.

➤ **Do you think there are differences in the treatments of girls and boys in detention?**



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Ms. Huber noted in many places of detention, regardless of the gender, boys and girls are vulnerable and have difficulties making complaints. However, in detention, girls are more susceptible to sexual abuse than boys and struggle to defend themselves. Ms. Gomez Pava said one of the major issues to reveal the scale of the situation is the collection of data in the field. She expressed her deep concern on the threats that prevent boys and girls to have access to justice.

DCI - Belgium reported on their research project focusing on the monitoring and evaluation of detention centers in 14 countries across Europe. The project looks at the complaints' mechanisms for child detainees. DCI - Belgium is now drafting the practical guide 'Children Behind Bars' that will also consider the gender perspective. Ms. Kufuor noted that different barriers and threats of reprisals limit girls to come forward and proclaim their human rights. In this regard, she underlined that international conventions are very clear: complaint procedures should always be guaranteed, regardless of gender.

DCI-Costa Rica made a comment on exploitative situations of girls in detention. DCI-Costa Rica emphasized a dichotomy: in Costa-Rica, girls who are detained have the right of conjugal visits from their partners. However, on the opposite, girls deprived of liberty are often sexually abused or exploited. Ms. Huber confirmed that some girls have to prostitute themselves in order to have the same human rights as men prisoners. She added it is crazy and insane the kind of fantasy we find in exploitative situations and violations of human rights. For her, one challenge is to fight against blackmail by prison staff directed to girls and women.

As final remarks, Ms. Gomez Pava said there is hope in the good practices of rehabilitation. There are cases of indigenous women and girls who managed to reintegrate into their respective communities in Colombia, and we observe a harmonization in the types of behavior.

Ms. Donati (OHCHR) concluded with the key message that we have already some knowledge on the issues affecting girls in detention and the situation they face, but we need to know more. There are research gaps on the challenges they face, and their specific needs. We are also talking about good practices that are not documented, and it is a real pity because such practices could be instrumental and inspiration to other countries.



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6. MORE INFORMATION

- ✓ Defence for Children International: <http://www.defenceforchildren.org/>
- ✓ Defensa de Niñas y Niños Internacional DNI-Colombia: deicolombia@outlook.com
- ✓ Global Study on Children Deprived of Liberty: www.childrendeprivedofliberty.info
- ✓ Penal Reform International (PRI): <http://www.penalreform.org/>
- ✓ United Nations Special Representative of the Secretary-General on Violence Against Children: <https://srsg.violenceagainstchildren.org/>
- ✓ Office of the High Commissioner for Human Rights, women's rights & gender equality: <http://www.ohchr.org/EN/Issues/Women/WRGS/Pages/WRGSIndex.aspx>
- ✓ The Sexual Abuse to Prison Pipeline: The Girls' Story (Georgetown University Law Center report): http://rights4girls.org/wp-content/uploads/r4g/2015/02/2015_COP_sexual-abuse_layout_web-1.pdf