

## HUMAN RIGHTS COUNCIL

Seventh session

Agenda item 3

### **PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT**

#### **Rights of the child†**

#### **Requests for a better protection for children exploited at work and children in conflict with the law**

The Convention on the Rights of the Child has played a positive role in raising awareness among States and peoples. However, this process needs to be further developed and, therefore, the undersigned NGOs wish to call the attention of the Human Rights Council to the promotion and protection of the dignity and rights of children, specially those who have been exploited at work and those in conflict with the law – both situations that are source of grave violations and for which the Council has not taken any proportional measures that respond to the seriousness of these phenomena.

The social teaching of the Catholic Church which the undersigned organizations refer to, “constantly points out the need to respect the dignity of the children which must be legally protected within the juridical systems”... Now, “the situation of a vast number of world’s children is far from being satisfactory, due to the lack of favourable conditions for their integral development despite the existence of a specific international juridical instrument for protecting their rights, an instrument that is binding on practically all members of the international community” and which the Holy See has ratified.‡

Close to the 20th anniversary of the adoption of the Convention on the Rights of the Child and in the year when the international community celebrates the 60th anniversary of the Universal Declaration of Human Rights, it is internationally accepted that children's rights should be enrolled in the universal framework of Human Rights and that they must be promoted, respected and implemented by all the stakeholders, specially by States, which have the primary responsibility to assure their full and effective enjoyment.

The following elements seem to us to be essential in order that children are recognized as fully-fledged human beings:

- the best interest of the child must be in the center of all legislation and all policies related to them, and must be enrolled in the same way in a holistic vision including a moral and spiritual dimension;

- on the basis of the principle of subsidiarity, the central role of the family in the protection, education and accompaniment of children's development, must be privileged, while bestowing adequate means and creating favorable conditions for them to exist and to flourish;

- beyond a legal understanding, it is also necessary to promote a global vision of children, and to ensure that they have an environment where they are well treated so that their personal development is complete and harmonious.

We welcome General Assembly's resolution of November 16th, 2007 A/C.3/62/L.24/Rev.1, when a large majority of countries agreed to the appointment of a Special Representative of the Secretary General of the UN on the violence against children who will present, amongst others things, an annual report to the Human Rights Council. Together with the International Convention on the Rights of the Child and its two Protocols, this new mechanism will complement those established by the Council such as the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, the Special Rapporteur on Trafficking in Persons, especially in Women and Children, the Special Rapporteur on Violence against Women, and the recently created Special Rapporteur on Contemporary Forms of Slavery; each one of them examining the situation of children's rights from the perspective of their own expertise. In addition, the recommendation often raised that the question of children's rights goes across all the topics discussed by the Council and, therefore, it would have to be adequately reflected in the reports of the mandates, is an encouraging sign of the pre-eminence that the promotion and the protection of the dignity and the children's rights should enjoy at the international level.

As we mentioned above, despite existing efforts, some needs and some specific rights of children are not currently taken into account and analyzed by the Council, from a human rights' based approach. The review of several mandates, including those directly related to children's rights, which this organ will carry out in its session of March 2008 is an important opportunity to summarize the results that have been achieved, and at the same time, while trying to avoid the duplication, to improve the protection of children's rights and, if possible, to fill some existing gaps.

With this in mind, the undersigned NGOs would like to offer three specific proposals for consideration at the next session of the Human Rights Council:

**1. To organize a day of discussion on the rights of the child within the Human Rights Council.**

We recommend that each year, during a plenary session, the Human Rights Council dedicates one day of discussion to the question of the integration of children's rights in the UN system and, in particular, in the domain of the human rights. This day should be open to the participation of multiple actors, privilege interactive debate and lead to the adoption of concrete proposals that should be reviewed yearly. If this suggestion were accepted, the Council must nevertheless remain vigilant, in each of its sessions, to violations of children's rights and be able to respond to emergency situations at any time.

**2. The inclusion, in the mandates of the special procedures relating to children, of the question of child labour, its causes and consequences.**

In 2004, the International Labor Office estimated that 218 millions of children from 5 to 14 years old, plus 141 millions of teenagers from 15 to 17 years old were "economically active". 126 millions of them were forced to work in hazardous conditions. The data clearly shows that this situation is not restricted to the developing world and that the economic growth is not enough to address the problem. In addition to this, we note that the nature of the work that children are forced to do, put their health and their development at risk, has a negative impact on their education and exposes them to violence, abuse and to multiple forms of discrimination.

ILO's Conventions, especially No. 29 on Forced Labor, No. 138 on Minimum Age and No. 182 on the Worst Forms of Child Labor are important instruments that contribute to raise awareness and to mobilize, both governments and civil society, around this topic, but the gravity of the violations and the dimensions of this phenomenon require that the Human Rights Council includes the question of child labor within the framework of the mandates of special procedures concerned and that they make regular reports to the Council on this.

In relation to this, we note with satisfaction that the General Assembly decided to focus section III of the resolution on the rights of the child in its 63rd session in 2008, on "Child labor, with a special emphasis on its causes, including poverty and lack of education". This decision illustrates the urgency of adopting an integrated approach that includes a strong human rights component in order to provide more efficiently and appropriate responses to the forms of exploitation that the working children undergo. In a spirit of coordination and cooperation among the different organs of the United Nations, it appears to us that the contribution made by their working methodology and the approach adopted by the special procedures in carrying out their mandates allow them, not only to provide points of reflection for debating within the General Assembly, but, in the longer term, to oversee the violations and to formulate recommendations and guidelines to address the different forms of exploitation linked to the early insertion of children in the world of work, and to fill the protection gaps that still exist.

### **3. Introduction of a section in the report of the Special Representative on violence against children related to children in conflict with the law.**

We would like to invite the Council to make a clear pronouncement against violations carried out on children in conflict with the law. The consequences that those violations have for them are out of proportion to the kind of offences they commit.

As the Committee of the Rights of the Child has underlined in its General Comment No. 10 (2007) *Children's rights in the juvenile system* " many States parties still have a long way to go in achieving full compliance with CRC, e.g. in the areas of procedural rights, the development and implementation of measures for dealing with children in conflict with the law without resorting to judicial proceedings, and the use of deprivation of liberty only as a measure of last resort". The respect of the child's dignity implies, indeed, that even a detained child must be recognized as a right holder and a person towards whom attention should be paid and adequate formation should be provided.

With this in mind, we propose that the Human Rights Council ask the Special Representative on violence against children to dedicate his first report, or an important section of it, to violence undergone by children in conflict with the law. It is evident that this survey must be done in consultation with governments, national human rights institutions, the Committee of the Rights of the Child, the special procedures related to this question, UNICEF and other UN specialized agencies, as well as NGOs, and to be presented to the Council in 2009. With international legal instruments for the administration of justice and children's rights as a frame of reference, and starting from an assessment of the present situation, the document should notably refer to:

- preventive actions and alternative programs to incarceration including socio-educational measures;

- appropriate measures to protect the rights of children born in prison;
- appropriate measures to protect the rights of children whose parents are in prisons and namely in the case of migrant children;
- appropriate measures to prepare detained children for release from prison;
- measures that have been taken to facilitate basic education and vocational training of children in conflict with the law;
- measures that have been taken to assure the formation of professional staff to prevent abuses being committed, in particular, at the time of being held on remand.

The reflections and proposed suggestions are a result of the needs expressed and the expectations raised by our members present in the field and by the legal, social, educational and pastoral agents with whom they collaborate, through long-term projects in favor of children. The legitimacy of our demand, rooted in the geographical and temporal work with and for children by our respective organizations, impels us to exhort the Human Rights Council to respond promptly to our recommendations.

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This written statement was submitted to the UN in conjunction with the following NGO:

Joint written statement\* submitted by Caritas Internationalis (International Confederation Of Catholic Charities), Franciscans International (FI), New Humanity, non-governmental organizations in general consultative status, International Catholic Child Bureau (ICCB), **Dominicans For Justice And Peace (Order Of Preachers)**, Dominican Leadership Conference (DIC), Pax Romana, Pax Christi International, International Catholic Migration Commission (ICMC), Jesuit Refugee Service (JRS), UNANIMA International Inc., International Kolping Society (IKS), Maryknoll Fathers and Brothers (CMFSA), Maryknoll Sisters of St. Dominic, School Sister of Notre Dame (SSND), Catholic International Education Office (OIEC), International Association of Charities (AIC), International Federation of Catholic Medical Associations (FIAMC), World Union of Catholic Women's Organizations (WUCWO), Congregation of Our Lady of Charity of the Good Shepherd, International Volunteerism Organization For Women, Education And Development – VIDES, International Organization For The Right To Education And Freedom Of Education (OIDEL), Teresian Association, Association Points-Cœur, International Movement of Apostolate in the Independent Social Milieus (MIAMSI), Development Innovations and Networks (IRED), Center for Migration

Studies of New York (CMS), World Organization of Former Pupils of Catholic Education (OMAAEEC), Company of the Daughters of Charity of St. Vincent de Paul, non-governmental organizations in special consultative status, and World Christian Life Community, International Movement Of Apostolate Of Children (MIDADE), Association Catholique Internationale De Services Pour La Jeunesse Feminine (ACISJF), International Public Policy Institute (IPPI), non governmental organizations on the Roster

**Notes:**

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Edmund Rice International, Fondazione Marista per la Solidarietà Internazionale, Congregation of the Christian Instruction of the Brothers of Saint Gabriel, Congregación de las Hijas de Jesus, Figlie di Maria Santissima dell'Orto, Mercedarias Misioneras de Berriz, Religiosas de Maria Inmaculada Misioneras Claretianas, Istituto Figlie di Maria Ausiliatrice, Justice, Peace and Integrity Commission of the General Superiors (USG/UISG), Centre Catholique International de Genève, Institute of the Brothers of the Christian Schools, Réseau Crescendo, Sœurs des Saints Noms de Jésus et de Marie et Vincentian Congregation CM also share the views expressed in this statement.

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Pontifical Council for Justice and Peace.- Compendium of the Social Doctrine of the Church, par 244 and 245. Libreria Editrice Vaticana, Città del Vaticano 2004.

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