

Special Procedures and Violence against Children Briefing Note for the 15th Annual Meeting

I. The UN Study on Violence against Children

The UN General Assembly called for a study on violence against children in 2001 (res. 56/138) acting on the recommendation of the Committee on the Rights of the Child. In February 2003, former Secretary-General Kofi Annan appointed Paulo Sergio Pinheiro as the independent expert to lead a global study on violence against children with the support of the Office of the High Commissioner for Human Rights (OHCHR), the United Nations Children's Fund (UNICEF), and the World Health Organization (WHO).

The Study was prepared through a broad participatory process which included nine regional and several sub-regional consultations, country visits, almost 300 submissions by stake-holders and 140 responses to a questionnaire sent by the Independent Expert. The Study was presented to the 61st session of the General Assembly in October 2006 (A/61/299). It addresses violence in five main settings: in the home and family; in schools and educational settings; in care and justice institutions; in the work-place; and in the community.

The Study shows that violence against children affects every country and cuts across social, cultural, religious and ethnic lines. Violence goes beyond the purely physical: abuse, neglect and exploitation are also forms of violence. The Study highlights how inflicting violence on a child, in whatever form, teaches that child that violence is acceptable and so perpetuates the cycle of violence. Violence further threatens the survival, well-being and future prospects of children as the physical, emotional and psychological scars of violence can have severe implications for a child's development, health and ability to learn. One of the key messages of the Study is that violence can never be justified and must be prevented. The Study contains 12 overarching recommendations, as well as setting specific recommendations.

In October 2007, the Independent Expert presented a progress report (A/62/209) to the General Assembly. According to the report, the study succeeded in globally raising awareness of a problem frequently hidden and in providing a structured framework for action. However, inadequate implementation of legal frameworks, as well as reactive and fragmented efforts, insufficiently funded and focusing narrowly on symptoms and consequences of violence, remained a threat to sustainability and long-term success in the protection of children from violence. The need to invest more on prevention, training, recovery and social reintegration services, as well as to strengthen data collection systems on violence against children were highlighted as priorities in the progress report. The report further stressed that while some progress was evident in areas such as violence in educational settings, trafficking, commercial sexual exploitation and some forms of child labour, little evidence was provided with regard to progress in addressing violence in the home and family, violence related to new technologies, violence in care and justice institutions or violence perpetrated by State agents and gangs.

II. The Special Representative of the Secretary-General on Violence against Children

At its 62nd session, the General-Assembly, acting on the recommendation of the Independent Expert, requested the Secretary-General to appoint Special Representative of the Secretary-General on Violence against Children (GA resolution 62/141).

According to the text of the resolution, the Special Representative (SRSGVAC) will:

- (a) Act as a high-profile and independent global advocate to promote the prevention and elimination of all forms of violence against children in all regions;*
- (b) Promote and support, in cooperation with Member States, the implementation of the recommendations of the United Nations study on violence against children;*
- (c) Identify and share good practices to prevent and respond to violence against children, between States and across regions;*
- (d) Work closely and cooperate fully with relevant **United Nations treaty bodies and mechanisms** within their respective mandates (emphasis added);*
- (e) Also work closely and cooperate with the United Nations system and the existing mandates of United Nations funds and programmes and specialized agencies that have responsibilities in the area of violence against children;*
- (f) Establish a mutually supportive collaboration with civil society, including relevant non-governmental organizations and the private sector, and work to promote the increased involvement of children and young people in initiatives to prevent and respond to violence against children;*

Resolution 62/141 further “*Invites* all relevant international and regional human rights mechanisms, as appropriate, including relevant treaty bodies, in particular the Committee on the Rights of the Child and **special procedures**, to consider how most effectively to use their respective mandates to contribute to the elimination of violence against children” (emphasis added).

It also “*Urges* Governments and requests the specialized agencies, relevant United Nations organs that work in the area of violence against children and regional, intergovernmental and civil society organizations, including non-governmental organizations, **as well as relevant United Nations mechanisms** and treaty bodies, including the Committee on the Rights of the Child, to cooperate with the Special Representative and to provide information, where appropriate, on the measures adopted to ensure and respect the rights of children to be protected from violence” (emphasis added).

III. Special Procedures and Violence against Children

As recognized by the Study itself and as highlighted in the resolution establishing the mandate of the SRSGVAC, special procedures, through their work, can make an important contribution to efforts to address violence against children.

What Issues?

Violence against children, in its different manifestations, is an obvious subject of concern for some thematic mandates, such as for example the Special Rapporteur on the Sale of Children, Child Pornography and Children Prostitution and the Special Rapporteur on trafficking in persons, especially women and children.

Other mandates, such as the Special Rapporteur on Violence against Women, the Special Rapporteur on the right to education and the newly established Special Rapporteur on contemporary forms of

slavery, for the nature of the subjects they cover are well placed to address violence against children. Just to give some – non-exhaustive- examples, issues such as female genital mutilation, forced marriages, son preference, sexual harassment and abuse of girls in different settings, fall, inter alia, under the mandate of the Special Rapporteur on Violence against Women. Issues such as violence in schools and other educational settings– be it bullying, corporal punishment, sexual harassment or sexual violence - and its impact on education, fall, inter alia, under the mandate of the Special Rapporteur on the Right to Education. All problematic related to worst forms of child labour, including bonded labour, exploitation in prostitution and pornography and more in general slavery-like practices affecting children, are naturally covered by the Special Rapporteur on contemporary forms of slavery.

While these are the obvious examples, there are issues of relevance under virtually all mandates: violence in care and justice institutions by staff and peers as a form of control or punishment or in the guise of treatment (torture, health, violence against women); death sentence for children (summary executions); corporal punishment in sentencing or as legal disciplinary measures (torture, health); self harm or suicidal behaviour in care and justice institutions (health); neglect in care institutions (health, torture); police brutality against street children or in the context of large-scale detention of supposed gang members and lack of access to justice (torture, arbitrary detention, independence of judges and lawyers, disappearances); violence against refugee or displaced children (IDPs + relevant thematic mandate, ex. torture, summary executions, violence against women, etc); the disappearance of children from IDP/refugee reception facilities or the abduction of children for trafficking, removal of organs, adoption (IDPs, disappearances, sale of children, trafficking); the heightened risk of violence for children in the care of family members other than the parents or the mother (migrants, disappearances, IDPs); food insecurity and violence against children (food); homelessness and its consequences on violence against children and the relation between adequate housing and violence against children in the home and the community (housing); the situation of children human rights defenders and of human rights defenders dealing with violence against children (human rights defenders); the special vulnerability of indigenous children to discrimination and violence at home, in schools, in the community, in the work-place; and in care and justice institutions (indigenous + relevant mandate ex. slavery, violence against women, torture, etc.); poverty as a risk factor for violence in the home and family (extreme poverty).

The geographic mandates can cover all different manifestations of violence against children with specific focus on different thematic issues depending on the context.

What is the situation at present?

40 country visits reports and 40 annual/thematic reports presented in the period 2007/2008 by 22 thematic mandate-holders were reviewed to have an indication of the present state of art concerning the integration of a child rights perspective into the work of non-child specific special procedures. The findings of this exercise encompass the violence dimension.

Some special procedures have addressed issues related to violence against children in their reports. Both the Special Rapporteur on torture and the Special Rapporteur on violence against women have tackled female genital mutilation; the Special Rapporteur on torture addressed corporal punishment and children in pre-trial detention and non-penal institutions; the Special Rapporteur on migrants devoted one thematic report to unaccompanied children; the Special Representative on IDPs touched upon issues such as displacement and recruitment by armed groups or displacement and sexual exploitation; the Special Rapporteur on adequate housing touched upon the vulnerability of children in the context of evictions, and so on.

These are encouraging examples, however standards vary depending on mandate, type of reports, country visited and other circumstances. With a few exceptions, there is also no consistency within the same mandate with regard to the approach towards children. Often only incidental reference is made to children's rights in connection with the situation of women or other so-called "vulnerable groups". Not always there are specific recommendations in the reports concerning children and little information is available concerning the situation of the girl child, a part obviously from the reports of the Special Rapporteur on violence against women and other few examples. Country visits reports show that few mandate holders include interviews or interaction with children in the agenda of their missions. A very few mandates refer to child specific legislations or to specific national mechanisms for the protection of children's rights.

How can special procedures' work on violence against children be strengthened

Below are a number of concrete suggestions to help strengthen special procedures' work in the area of violence against children. There are also indications of the support that OHCHR, through the Focal Point on the Follow-up to the Study, can provide.

Annual/Thematic reports

Special Procedures may consider devoting thematic reports to specific manifestations of violence against children or to violence in specific contexts/circumstances or against specific groups. In general terms when preparing thematic reports and gathering information through questionnaires or interviews it is suggested that child-focused questions be included. OHCHR can assist in identifying areas of concern or in need for further study/analysis, in soliciting and gathering information from relevant partners, as well as in analyzing it.

Country visits

In order to trigger contribution focusing on children's rights and on violence against children, OHCHR provides a monthly update of scheduled visits to NGOs and UN agencies that are members of the inter-agency group on violence against children and of the NGO sub-group on violence against children. OHCHR has in some cases provided specific information and suggestions on issues to be raised. It is in general suggested that child-rights NGOs are consulted in advance of country visits and given the possibility to provide suggestions as to places to be visited, issues to be raised etc. The main child rights NGOs based in Geneva can provide contacts and suggests meetings with partners at the national level.

Also, it is suggested that meetings are scheduled with child-rights NGOs during the missions. Whenever feasible, consultations with children and young people could be included to provide an opportunity for the issues that are important to them to be heard. Child consultations can further be organized in occasion of the visit. OHCHR, in cooperation with NGOs that have extensive expertise in the area of child participation, can assist in this endeavour.

Visits to places where children are held, or interviews with children could also be foreseen during country visits. This could include: places where children are deprived of liberty, in the context of judicial proceedings (independence of judges and lawyers, torture, arbitrary detention, education, food, health, etc), administrative detention (migrants, trafficking, arbitrary detention, education, food, health,

etc), or for the purpose of treatment (health, torture); schools (education, food); work places where children are typically employed (migrants, slavery, trafficking).

Cooperation with the Committee on the Rights of the Child and other treaty bodies

More regular exchanges and interaction with the Committee on the Rights of the Child could also be facilitated as an important means to promote greater attention to children's rights and violence against children under specific mandates. Greater interaction and cooperation between special procedures and the Committee on the Rights of the Child as well as other treaty bodies – such as the Committee on the Elimination of Discrimination against Women, the Committee on Migrant Workers, the soon to be established Committee on the Rights of Persons with Disabilities and the Committee on Enforced or Involuntary Disappearances - would also assist in promoting a more coherent and consistent approach towards the eradication of violence against children. Reference, as appropriate, to the Committee on the Rights of the Child and other treaty bodies' relevant general comments and jurisprudence in special procedures reports would also strengthen their recommendations.

In all these endeavours, cooperation with the Office of the SRSGVAC will be an essential element. OHCHR, through the Focal Point for the Follow-up to the SG Study on Violence against Children, is available to facilitate coordination and cooperation with the Office of the SRSGVAC, as well as with all other relevant partners and stakeholders.