



**United Nations Secretary-General's
Study on Violence Against Children**

Notes for oral presentation by the
Independent Expert, Mr Paulo Sérgio Pinheiro,
to the DCI Conference: “Children Behind Bars”

Bethlehem, Palestine
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Ladies and Gentlemen, Representatives from the Civil Society.

Good Morning,

It is a great honor for me to participate in this conference and to visit Palestine for the first time. First of all, I must thank Defense for Children International for inviting me to give these opening remarks and for organizing together with partners this very timely and particularly relevant conference. DCI is -an important partner for the development of the UN Secretary-General's Study on violence against Children, which I have the privilege to lead. I am sure that the reflection that will be developed in the next three days will be really useful for all those who work with children rights as will certainly contribute to the Study.

As you are probably aware, yesterday I was participating in the Middle East and North Africa Regional Consultation for the Study on Violence against Children in Cairo. This consultation was part of the nine meetings that are being promoted all over the world to gather regional inputs and recommendations to the Study on Violence against Children.

-I consider the Regional Consultations and the field visits to be very critical to the Study and I therefore welcome this opportunity to be with you. -Being in the field and talking to those who work to implement the various strategies targeting violence against children allows me to build a more concrete understanding of the challenges for all those who work to prevent and stop violence against children in the various regions of the world.

Ladies and Gentlemen:

Violence against children in conflict with the law is a - central topic for the UN SG Study on violence against children. Children in conflict with the law- -are a group that according to the international standards should be object of special assistance and attention in order to promote their rehabilitation and reintegration to the society. These children are -very vulnerable groups to -various forms of violence. Children can be behind bars for some days, months or even years, but, as a expert consultation associated with the study concluded recently: "it is very easy to predict that in every situation, children face a relatively high risk of violence at almost every stage of contact with the juvenile justice system".

A publication from DCI - accurately -depicts the difficult situation of those who come to deal with the juvenile justice system as the "unwanted child" of state responsibilities. This - makes -it even harder -to promote strategies to assure a juvenile justice system that is guided in accordance with the minimal human rights standards and the principles of the CRC. We are here dealing with a sort of unpopular part of Children rights. If in some cases there might be a low interest on the situation of children in conflict with the law, in others there is a clear and open rejection vis-à-vis this group.

In some regions, the growing concerns about increasing violence are being used as an excuse to promote repressive strategies against children and young people that not only absolutely contradict the international human rights standards, but also can

aggravate the current situation. “Public frustration with crime, fear of the recent rise in youth violence in all continents and the racial characteristics of violent young offenders fuel the desire “to get tough” and provide political impetus to prosecute larger number of youths as adults”¹. Stigmatized and feared, youth and teenagers in conflict with the law have difficulties reintegrating in the society and may be subject to degrading treatment by State authorities and institutions.

Latin America faces today one of the more complicated situations regarding this growing stigma about young and poor people and frustration with the juvenile and justice system. Last year, between mid-November and December I did a joint field trip with the IACHR and UNICEF TACRO to El Salvador, Guatemala and Honduras. The visit was aimed at gathering information on the situation of the maras or pandillas, local gangs that by the past years have been object of extremely repressive policies. The stigma created around those youth groups due to the recurrent media coverage and the increasing level of violence in Central American impoverished urban areas led to broad popular support of those policies. The legal reforms promoted by the anti-maras plans, among other things, involved the passage of laws establishing penal responsibility in the grounds of the mere suspicion of being a pandilla member and opened the possibility of children to be tried as adults, when accused of gang membership.

Apart from contradicting the existent national, regional and international human rights and child rights basic standards, the - results are appalling: the level of violence has apparently increased among the pandillas (I say apparently because there is almost no reliable data in the region); arbitrary detentions have become almost a routine; accusations of police violence were common; and the detention centre that already were in precarious situation are now in even worse conditions, resulting in several casualties during the last year in Honduras, for example.

I am also aware about -allegations of violent and arbitrary detention of many Palestinian children by Israeli officers, some of them detained under the accusation of stone throwing. The Committee on the Rights of the Child expressed clearly its concerns on very serious irregularities such as the use of administrative and incommunicado detentions and the lack of transparency and accountability in cases of torture.

Unfortunately this tragic state of affairs is not specific to Palestine or Latin America. With different contextual factors and levels of violence, both in the North and in the South there are serious inconsistencies between the existent juvenile systems and the minimal standards established by the CRC and other human rights instruments. From the detention of teenagers –who illegally entered rich countries, to the overcrowded and terribly maintained institutions in some - nations, the incapacity of the State to promote transparency, accountability and respect to basic human rights standards remains a serious threat to child dignity and development. It is also remarkable how the majority of those who are in the criminal justice actually do not belong there. This situation not only -threatens the child individually but frequently may even aggravate their involvement with the same illegal activities that the imprisonment is allegedly combating.

¹ Feld, Barry C. *Juvenile and Criminal Justice Systems' Responses to Youth Violence*. University of Chicago, 1998*

Ladies and Gentlemen:

What brings a child to be in conflict with the law and what are the consistent forms to prevent that? What are the concrete possibilities of improving the situation and functioning of the juvenile justice system?

Those are just some of the many difficult questions that I hope that this conference addresses in the next days. As we all know, it is not enough to catalogue the violations and horrors present in many juvenile justice systems. We need to develop a deep understanding about the broad scenario where youth violence takes place and about the evolution of the juvenile justice system.

The popularity of get-tough measures are not simple products of the paranoia fuelled by political groups, the fear provoked by youth violence has also concrete roots that must be addressed. The skepticism over the juvenile justice system is also stimulated by contradictions that the system has not resolved internally.

The Study on violence against children will build on the international human rights standards, also considering public health and protection approaches emphasizing the importance of prevention and early intervention, considering strategies to minimize the chances and the seriousness of offending and re-offending. It is also imperative to always make it clear that is crucial that the security and judicial system be rendered not only more efficient, but more credible, accessible and accountable. It is equally important that any measure concerning preventive strategies or the functioning of the juvenile justice system would never have a consistent impact if it are not properly budgeted and recognized as public policy. Episodic actions have limited impact and may even raise extra skepticism.

I hope that the Conference that begins today will give us not only a deeper understanding about what is happening in the process of institutionalization of children, but also what could be done to avoid the intensification of violence within this system. The challenge presented by the situation of children in conflict with the law is today one of the crucial aspects in the implementation of the Convention of the Rights of the Child. The rhetoric of the so called wars against crime and the stigmatization of groups of adolescents are extremely worrying signals that need to be responded consistently.

As I said, the UN SG Study on Violence Against Children look forward to receive the conclusions and -particularly the concrete recommendations from this very important conference. Perhaps one of the best definitions of how much the institutionalization may affect the development of a child is one given by one Palestinian child in a Save the Children report that has the sentence as it title: "One day in Prison –feels like a year". Many years are being lost today - there are no excuses for our inaction. Children can't wait.