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FOR JUSTICE AND PEACE



**Franciscans International**  
A voice at the United Nations



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## 24<sup>th</sup> Session of the Human Rights Council Geneva, 9-27 September 2013

### Agenda Item 2 & 3 General debate:

*Introduction of SG/HC thematic reports: Latest developments, challenges and good practices in human rights in the administration of justice - Report of the Secretary-General (A/HRC/24/28) – A/68/261.*

### 13 September

Joint Oral Statement submitted by **International Catholic Child Bureau** and co-signed by:

1. *Franciscans International (FI);*
2. *Company of the Daughters of Charity of Vincent de Paul;*
3. *Dominicans for Justice and Peace, Order of Preachers;*
4. *Edmund Rice International (ERI);*
5. *Office International de l'Enseignement Catholique (OIEC);*
6. *International Organisation for the Right to Education and Freedom of Education (OIDEL);*
7. *International Volunteerism Organization for Women, Education, Development (VIDES International)*
8. *Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco (IIMA) ;*
9. *Mouvement International d'Apostolate des Milieux Sociaux Indépendants (MIAMSI) ;*
10. *New Humanity.*

**Thank you Mr. President,**

The SG report on *Human rights in the administration of justice: analysis of the international legal and institutional framework for the protection of all persons deprived of their liberty* stresses the importance that “a child-rights approach to justice primarily entails a justice system that is responsive to children’s needs and focuses on the best interest and well-being of the child”. Yet, many obstacles jeopardise the effective achievement of this goal at the national level.

Among the impediments, the lack of or inadequate judicial oversight, the overuse of detention, including pre-trial detention, the overcrowding which leads to serious violations of human rights, such as denial of or insufficient access to medical care, food, sanitation and hygiene facilities, security, and rehabilitation services. Other challenges lay on death and cases of serious injuries in detention, age determination and criminal responsibility of children, girl living in detention with their babies, disability as a sole ground for detention and involuntary detention of children with disabilities, especially with “mental health problems”. In addition, the report mentions the mistreatment and poor living conditions of children with disabilities in detention, the use of coercive force on psychiatric patients leading to overmedication as a pretext to restrain mental health patients in detention. Moreover, the increasing number of women and girls held in penal institutions due to greater severity in sentences, even for minor offences, remains an issue of concern along with the lack of protection of groups with distinct needs while deprived of their liberty.

Very often, detention, including pre-trial detention, is not used, even for petty offences, as a measure of last resort. Children deprived of liberty in general and accompanied or unaccompanied migrant children in particular, have limited access to procedural safeguards, such as legal aid, access to a lawyer and adequate interpretation services.

Nonetheless, according to the recent UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems adopted by the GA in December 2012, States should ensure that anyone detained is entitled to legal aid.

To fulfil their obligations in compliance with international human rights law, the ICCB and the co-signing organisations strongly believe that only a restorative approach is likely to promote the respect of the rights of children deprived of their liberty and ensure remedies.

**Mr. President,**

We encourage the HC and SG to:

- **specifically include in their future thematic reports recommendations on restorative juvenile justice in reference to the 2002 ECOSOC Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (Res. 2002/12) - E/2002/INF/2/Add.2) as well to relevant UNODC programming materials;**
- **Mainstream and monitor within the technical support provided by OHCHR field offices and other UN relevant bodies the restorative approach to juvenile justice.**