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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

**Joint written statement* submitted by Friends World
Committee for Consultation, a non-governmental
organization in general consultative status; Defence for
Children International, Geneva Infant Feeding Association,
the International Catholic Child Bureau, the International
Institute for Child Protection, SOS Kinderdorf International,
non-governmental organizations in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2013]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Impact of the death sentence on the children of the accused and measures to mitigate it

Introduction

The Child Rights Connect (formerly NGO Group for the CRC) Working Group on Children of Incarcerated Parents¹ wish to highlight the need for increased attention to the impact on children of having a parent sentenced to death or executed.

From the point of arrest to decades after the execution or release of a parent accused of a capital crime, the children's mental health and well-being, living situation, and relationships with others can all be affected, often in a devastating manner. The inherent trauma of knowing that a loved one is going to be executed can be exacerbated by public indifference or hostility, and by authorities who either fail to recognise or deliberately refuse to consider the situation of these children.

How children feel and how they act will depend on factors including the individual personality and circumstances of the child, the reaction of those around them (particularly their primary carer), the stage of the criminal justice process, and the public/media response.

Some of what children of parents sentenced to death go through is similar to the experience of children of any incarcerated parent. Other issues are distinct, most obviously the trauma of the anticipation and then the actual execution and its aftermath. Moreover, these children receive little consideration and support.

The particular plight of these children requires greater attention. This is in order both to understand more fully the impact that sentencing a parent to death has on children, and to ensure that their rights, needs and welfare are met in a situation where a parent has been sentenced to death, executed, exonerated or has a death sentence commuted. Their human rights as children require no less.

Holding the Human Rights Council "Panel discussion on children of parents sentenced to death or executed" is a welcome first step towards such greater attention within the United Nations and the identification of specific measures to support these children.

Research to date has identified the following as some of the specific concerns with regard to children of parents sentenced to death or executed.² These children

- endure a unique burden resulting from State action. Unlike any other criminal punishment, the execution of a parent severs the parent-child relationship irrevocably.

¹ The members of the Working Group are: Friends World Committee for Consultation (Quakers), International Catholic Child Bureau (BICE), International Action for Child Protection, DCI International, SOS Children's Villages International, International Baby Food Action Network/Geneva Infant Feeding Association and DNI Costa Rica

² See for example: Children of parents sentenced to death or executed. How are they affected? How can they be supported (Child Rights Connect, August 2013); Lightening the Load of the Parental Death Penalty on Children. Oliver Robertson and Rachel Brett (QUNO, 2013); Children of parents sentenced to death. Helen F. Kearney (QUNO, 2012) and more generally, Collateral Convicts: Children of Incarcerated Parents. Oliver Robertson (QUNO, 2012)

- experience particular emotional and psychological distress (such as intense fear, helplessness, or horror), including post-traumatic stress disorder (PTSD), with likely long-term repercussions.
- suffer a particularly traumatic, profoundly complicated and socially isolating loss, often combined with social ostracism. These children are often stigmatised by association though they themselves have committed no crime.
- are often left unprotected or do not receive adequate support, protection and care. While systems may exist to provide support to victims of crime, generally the children and family of those who commit crimes are not perceived as victims and nothing is made available to meet their needs.
- in some countries, especially where the death penalty is routinely applied in domestic murder cases, the parental death sentence often means that the child will lose both parents and the start of a life on the street. Potential alternative carers, including other family members, may not take them in because they cannot sustain the additional costs or due to the stigma associated with the crime or fear of revenge by those affected by the crime.
- face particular challenges to the parent/child relationship. Visiting a parent on death row can mean that a child has to go through intensive security procedures and has limited or no physical contact with the parent. The child may have to travel long distances to visit a parent, as prisons with death rows are often few and far between.
- may develop a conflictual relationship with the State. Executions are by design deliberate, premeditated State killings, sanctioned by a legal process: they are different from any other death of or separation from a parent the children can experience. Children may become disillusioned about the role of the State and might develop a harmful relationship with it.
- are further affected by both public and secret executions. Public executions take away the privacy and dignity of the condemned person and of the person's children and other family members. The children may be further psychologically traumatised and suffer even greater shame and stigma. On the other hand, secrecy over detention and execution exacerbates the emotional and psychological distress experienced by children.

Many, if not most, of these concerns are relevant not only for retentionist countries but also for those that have a moratorium. They are also relevant for countries that have abolished the death penalty not too long ago with regard to the children and families of those previously executed or sentenced to death. Some are relevant for all abolitionist as well as retentionist countries with regard to children of nationals on death row or executed in other countries.

Children of parents on death row in States with moratoria

Some countries are not currently executing prisoners (for example, due to a moratorium) but do still issue or not commute existing death sentences. Not carrying out executions is a positive step and should be encouraged; it spares the children the particular trauma of the execution.

But these children continue to be affected negatively. The fate of the parent remains unsettlingly uncertain since the State could resume executions at any time, and the parent remains on death row, with all that this entails.

Children require support even when the parent is exonerated or the sentence is commuted

When the parent is exonerated and released, or has a death sentence commuted to a term of imprisonment, children and their families require support as they may experience difficulties in adjusting to the new situation (for example, because contact may have stopped during imprisonment on death row as it was considered too emotionally difficult for the child, the imprisoned parent or the carer to maintain it, so that the relationship needs to be rebuilt.)

Children of parents facing the death penalty abroad

Nationals of all countries, abolitionist or retentionist, may face the death penalty in other countries (for example, when working abroad), and when they do their children will also be affected.

In particular, children who are in the same country as the sentenced parent may need help to be repatriated to the country of origin or to stay near the parent, depending on factors such as the child's age and the availability of other suitable carers. Children in the country of origin or elsewhere may need additional help to stay in contact with the parent and receive information about their situation.

Where assistance to nationals on death row and to their families is provided it varies enormously, depending on the home State concerned and even the specific consulate involved. The obligation under international law to inform prisoners of their right to consular assistance and to enable them to contact consular officials is frequently disregarded.

Numbers and background of children affected

Children of parents sentenced to death or executed are an invisible population. Regardless of whether the number of people who are sentenced to death or executed each year is public knowledge or not, the children are not counted. The absence of statistics is a sign that authorities either fail to recognise or deliberately refuse to consider the situation of these children.

Persons sentenced to death and therefore also their children, often come disproportionately from poor, minority, and disadvantaged backgrounds. The family's already difficult situation gets worse when a parent is sentenced to death or executed.

Conclusion

One thing that is striking in comparison to children of prisoners in general is how much bleaker the situation of children of parents sentenced to death or executed appears to be. Among children of prisoners in general, there are often examples of good practice that help to ameliorate the situation, or stories of children for whom parental imprisonment is less damaging than for others. But with children of parents sentenced to death, the picture is almost uniformly negative.

While there are things that can and must be done to support these children, it is both better and often easier to prevent harm than to remedy it. Avoiding both the imposition and the implementation of the death penalty would mean that these children would not experience the increased negative effects on their health and well-being that such a situation entails,

and would not have to live their lives dealing with the cruel and final consequences of an act of the State when they themselves have committed no crime.

Recommendations

To the United Nations

An expert seminar, with relevant UN experts and practitioners, should be convened to explore further the consequences of a parental death sentence on the children, and identify measures to mitigate them, and the rights of the child in this context.

To States:

Criminal justice agencies should develop data collection and monitoring systems aimed at protecting children's rights that capture the number of death sentence prisoners with children, the number of children each such prisoner has and other information necessary to plan policy and practice.

The impact of criminal sentences (including death sentences) on the child's best interests should be considered when sentencing a parent.

States should establish an immediate official moratorium on the use of the death penalty, with a view to abolishing it. In establishing the moratorium they should ensure that it applies to the imposition of death sentences, in addition to executions, and that they commute all existing death sentences. Where abolition is contemplated or enacted, States should make any repeal of the death penalty apply retroactively to persons already sentenced to death.

Pending abolition, the following are minimum steps to be taken without delay:

- Conditions on death row should be improved, in accordance with international standards. Children should be allowed to visit the parent and to have physical and spoken contact when visiting, unless this is not in their best interests.
- Special support should be available where children of parents sentenced to death (and their remaining care-givers) are in need, such as income support, travel costs, payment of medical and school fees and funeral grants, either by the State directly or through other actors. Information about its availability and how to access it should be provided. Support should also be available after the execution and in case of exoneration or commutation.
- Specific guidance should be developed for police officers, court and prison staff, schools, media and others likely to interact with or affect the lives of children whose parent is or may be sentenced to death or executed.
- Families should be informed well enough in advance of the execution date to allow for a final visit. They should have the body returned, without costs to themselves, or be informed of and be given access to the burial site, and be given the prisoner's personal effects with advance notice.

States should provide assistance (practical, emotional and/or financial) to the children of their nationals on death row abroad and to their nationals abroad to enable the children to benefit from such assistance. States must comply with their obligation under international law to inform prisoners of their right to consular assistance.