

Concept paper for the UNITED NATIONS STUDY ON VIOLENCE AGAINST CHILDREN

Background

In 2000 and 2001, the Committee on the Rights of the Child devoted two days of general discussion to the theme of violence against children. As a result of the days of general discussion,¹ the Committee recommended that the Secretary-General be requested, through the General Assembly, to conduct an in-depth international study on violence against children (CRC/C/111, para. 707). The Committee emphasized that this study should be “as thorough and influential” as the 1996 United Nations study on the impact of armed conflict on children, (A/51/306 and Add. 1) known as the Machel study. In his letter to the Secretary-General of 12 October 2001, transmitting the Committee’s request, the Chairperson of the Committee on the Rights of the Child emphasized that the study

“should lead to the development of strategies aimed at effectively preventing and combating all forms of violence against children, outlining steps to be taken at the international level and by States to provide effective prevention, protection, intervention, treatment, recovery and reintegration” (A/56/488, annex).

In 2001, the General Assembly, in resolution 56/138 decided to request the Secretary-General to conduct ‘an in-depth study on the question of violence against children’. In its resolution 2002/92 on the rights of the child, the Commission on Human Rights suggested that the Secretary-General “appoint an independent expert to direct the study, in collaboration with the Office of the High Commissioner for Human Rights, the United Nations Children’s Fund and the World Health Organization”. The same year, the General Assembly, in resolution 57/190 reaffirmed its request and encouraged the Secretary-General to appoint an independent expert to direct the study. On 12 February 2003, the Secretary-General appointed Mr. Paulo Sergio Pinheiro as the independent expert to direct the study. In its resolution 2003/86, the Commission on Human Rights requested the independent expert to conduct the study as soon as possible and invited him to be based in Geneva in order to enhance his collaboration with the OHCHR, UNICEF and WHO.

Objectives of the study

The study will provide an in-depth global picture of violence against children and propose clear recommendations for the improvement of legislation, policy and programmes relating to the prevention of and responses to violence against children. The study will document the magnitude, incidence and consequences of various types of violence against children. For each type of violence against children addressed, the study will also review what is known about the causes and associated risk and protective factors. Its focus will be on prevention strategies, in particular through the identification of best practices in prevention, including those designed by children. It will also survey legal responses to violence and services for children who have been its victims, again including interventions designed by children; furthermore, the study will describe the evidence demonstrating which interventions work, which are promising, and which have been shown to be ineffective.

¹ State violence against children (CRC/C/9100, chap. V) and Violence against children, within the family and in schools (CRC/C/111, chap. V)

The study should provoke comprehensive national reviews of the situation of violence against children in as many States as possible covering, among other things, prevalence, legal frameworks, child protection systems, statistics, violence in institutions, evaluation of reports and recording of data and initiatives to protect children and prevent violence against them that have proven to be effective.

The process of the preparation of the study will include consultations at the regional, subregional and national levels which will aim to ensure that Member States and all parts of civil society pay increased attention to violence against children. The study will also seek to generate sharing approaches to the issue, in particular from a South-to-South perspective. Efforts will be made to discern gaps in legal protection at the international, regional and national levels and to put forward specific proposals for strengthening legal standards, policies and programmes. The study will make recommendations for action consideration by Member States, the UN system and civil society, including remedies and preventive and rehabilitative measures, at the national and international levels. It is hoped that the study will be a dynamic force for change and by fostering advocacy for, and promoting proven interventions to prevent violence against children, and will be a catalyst for the mobilization of resources and political will at the international and national levels that are required to address the problem. It also expected that the study will stimulate the creation of networks and partnerships directed at the elimination of violence against children.

Scope

The study will be guided by international human rights treaties, in particular the Convention on the Rights of the Child and the jurisprudence of its Committee and other human rights treaty bodies. It will take full account of the recommendations adopted by the Committee on the Rights of the Child following its days of general discussion, as well as the recommendations of relevant special procedures of the Commission on Human Rights and its Subcommission. It will also draw on authoritative academic and scientific research.

As the issue of the situation of children and armed conflict was fully addressed by the Machel study, this element will not be included in the present study; some related issues not addressed in that study, such as violence against child-asylum seekers, will, however, be dealt with. The focus of the study will be on children as victims of violence, although some attention will be paid to children as perpetrators of violence against other children. The role of men and boys as advocates against violence and as agents for change will also be considered.

The study will adopt the definition of the child contained in article 1 of the Convention, i.e. “[e]very human being below the age of eighteen years unless, under the law applicable to the child, the majority is attained earlier.” It will draw on the definitions of violence in general and of different types of violence against children in particular, notably the definition presented in the WHO *World Report on Violence and Health*: “the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation”.

The concept of violence reflected in the Convention on the Rights of the Child, especially in articles 19, 34 and 37, other human rights treaties and human rights instruments such as the 1993 Declaration on the Elimination of Violence against Women will also inform the study. In accordance with article 19 of the Convention and the work of the Committee on the Rights of the Child, violence, for the purposes of the study, will include all forms of physical or mental violence, injury and abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse. The study will also be underpinned by the general definition of child abuse agreed by the experts participating in the WHO Consultation on Child Abuse Prevention in 1999. That definition reads “child abuse or maltreatment constitutes all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child’s health, survival, development or dignity in the context of a relationship of responsibility, trust or power.”

The study will seek to provide an understanding of the nature, extent, causes and consequences of different forms of violence against children, taking into account the various settings in which violence takes place. It will pay special attention to violence against children in the family, adopting a broad and comprehensive approach, and include such issues as female genital mutilation and other harmful traditional practices; child sexual abuse, including in the context of early and forced marriages; honour killings; and interpersonal violence inflicted by siblings and peers. The meaning of “family” which will be adopted by the study will include the extended family or even broader communal ties, in view of article 5 of the Convention on the Rights of the Child.

Consideration will also be given to other settings, both public and private, where violence against children occurs: schools, including military schools; religious institutions; care and residential institutions; detention facilities and prisons; in sports; on the streets; and in work situations. Violence in the context of the administration of justice will be addressed, with emphasis on corporal and capital punishment as well as maltreatment and torture. The study will examine violence inflicted by teachers on students in schools, as well as among students, including bullying/hazing.

Physical, sexual or mental violence and neglect of children by individuals and groups in the course of organized crime, including drug-related organized crime, commercial sexual exploitation and the sale and trafficking of children will be examined.

The study will examine the experience of both urban and rural communities and take cultural specificities into account (without suggesting that custom, tradition or religious considerations may be invoked to avoid respecting obligations of States parties under the Convention on the Rights of the Child). Attention will be paid to the impact of discrimination (including discrimination based on sex, race, descent, economic status) on the patterns of violence experienced by children, as well as to other factors that compound the risk of violence, such as mental or physical disability and poverty. The vulnerability of specific groups of children, including migrant children, indigenous children and children from racial, religious and ethnic minorities, among others Roma and Afro-Latino children, will also be considered. Gender

analysis will be a fundamental aspect of the study which will reflect the Declaration and Programme of Action of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

The causes and consequences of violence against children will be addressed, and the systems, structures and social realities that lie behind violence and its linkages to poverty and globalization will be explored. The costs of violence against children to society, including perpetuation of the cycle of violence, will also be considered.

State responsibility for violence against children and the concept of due diligence will be part of the study. It will examine violence suffered by children living in institutions owned, managed, licensed or supervised by the State, including in the maintenance of law and order. It will also address violations arising from the failure of States to take adequate measures to meet their obligation to prevent and combat violence against children and to protect children from violence “while in the care of parent(s), legal guardian(s) or any other person who has the care of the child” (article 19 of the Convention). In addition, State obligations to prevent violence against children will be considered.

Strategy

The study will rely on existing knowledge, research and documentation, including research conducted at the community level. As a first step, it will seek to provide a “state-of-the-art” review of the current knowledge about violence against children gleaned from existing research, studies and other data sources, and will highlight gaps in data and research by region, country, sex and age. It will also seek to prompt new research on new or neglected issues.

The study will seek to identify best practices for the prevention of and responses to violence against children, including through the evaluation of existing interventions, approaches and methodologies. It will also highlight short-term and long-term strategies to provide care, rehabilitation and reintegration of victims. The study will provide a framework for an exchange of experience and best practices, particularly among countries in the South.

In an effort to engage a broad range of stakeholders, the study will seek the active involvement of the following partners:

(a) Human rights organs and bodies and regional human rights mechanisms

The study will draw on the expertise of the human rights treaty bodies, in particular the Committee on the Rights of the Child, and special rapporteurs of the Commission on Human Rights and the Sub-Commission for the Promotion and Protection of Human Rights. Building on an initial discussion on cooperation between the independent expert and the human rights mechanisms which took place on 25 June 2003, ways and means of ensuring active collaboration and cooperation between these mechanisms in the preparation of the study will be developed. Efforts will be made to coordinate with other processes regarding violence, in particular the OHCHR-WHO international expert consultation on violence prevention and human rights foreseen by the Commission on Human Rights resolution 2003/28.

(b) WHO, UNICEF and OHCHR

The study will rely on the expertise and research undertaken by the three supporting agencies, including the WHO *World Report on Violence and Health*, research undertaken by UNICEF, including through its Innocenti Research Centre in Florence, notably the Digests on domestic violence and on violence against children, and studies undertaken by its country offices. The extensive field presence of UNICEF, will be drawn on to provide substantive input, and in the preparation and implementation of the regional consultations and field visits, as will OHCHR and WHO field presences.

(c) Funds, programmes, specialized agencies, regional organizations and other intergovernmental bodies

The participation of relevant funds, programmes, specialized agencies, as well as regional organizations, will be encouraged and facilitated. Research by other parts of the system, including ILO, UNESCO, UNHCR, the United Nations Office on Drugs and Crime (UNODCCP), the United Nations University, as well as the World Bank and the Inter-American Development Bank, will also be drawn upon. The Inter-parliamentary Union and UPeace will also be invited to participate.

(d) National human rights institutions

National human rights institutions, including ombudsmen and commissioners for children, will be encouraged to provide information and share expertise with the study, in light of the Paris Principles (General Assembly resolution A/48/134) and General Comment No.2 of the Committee on the Rights of the Child.

(e) NGOs and civil society

The study will pay particular attention to building partnerships with a wide range of actors, including NGOs, academic and research institutions and professional associations. Their research and role in raising awareness and fostering commitment among key constituencies to address violence against children will be given attention from the outset and throughout the study. Support networks already formed or developing, such as the NGO Advisory Panel for the UN Study on Violence against Children, which aim to channel and coordinate input to the study, will be particularly welcome, while utmost care will be taken to ensure open participation.

(f) Participation by children

Ways in which children can be involved and participate in a meaningful and significant way and in their best interests, including as observers and researchers and in the planning, analysis and dissemination stages, will be facilitated. Attention will also be given to protection issues and ethical considerations, including confidentiality, willingness, safety, health status, parent/community acceptance, freedom of expression, and any legal obligation to report abuse. Children's perceptions of the definition of violence will also be emphasized. The participation of children in the General Assembly special session on children will be built on, as will experiences with young people training their peers to work as human rights observers. Other strategies for the involvement of children, such as child-to-child surveys, including those being developed by NGOs, will be considered. Strategies developed by children themselves to confront violence will also be highlighted in the study.

(g) Regional consultations

In order to ensure broad and extensive participation, regional, subregional and national consultations will form an integral part of the study. Regional consultations will provide a framework for gathering research, expertise and information from each region, and for sensitizing political actors and stimulating networking among public authorities and civil society, including NGOs and academic institutions. As with the rest of the study, child participation will be factored into regional consultations. It is also foreseen that the independent expert will conduct visits to individual countries where innovative strategies to prevent and address violence against children have been implemented.

An expert consultation will be convened in Geneva in August 2003 to develop a questionnaire for States regarding current legislative frameworks and strategies at the national level to address violence against children, based, inter alia, on national action plans to follow up the General Assembly special session on children and reports submitted to the Committee on the Rights of the Child.

(h) Website

An interactive study website will be developed, with the input of children, in order to facilitate and encourage the involvement of a broad range of stakeholders in the study.

(g) Reports

The Secretary-General has been requested to submit a substantive progress report on the Study to the Commission on Human Rights at its sixtieth session in 2004, and the final study at its sixty-first session (2005).

A publication similar to the WHO *World Report on Violence and Health* or the UNDP *Human Development Report*, will be prepared by the independent expert, as will a child-friendly version.

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