CHILDREN’S RIGHTS TO HEALTH IN THE CONTEXT OF PRISONS \[ deprivation of liberty/detention \] in AFRICA

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1. Background

- Why? What? How?
- Special duty of care
- What is in a word?-A conversation on terminology
2. The child rights framework

- The human right to health recognized by various instruments

- The Convention on the Rights of the Child (1989) and


- Indivisibility and interdependence of rights

- Nature of state party obligations
2. The child rights ... cont’d

- Best interests of the child (Art 4(1))
  - “In all actions concerning the child”
  - “any person or authority”
  - individual children but also children as a group
  - In prevention, treatment, care and support

- Non-discrimination
  - Sex, hiv status, access to information etc

- Right to life, survival and development
  - Key determinants include nutrition etc

- Child participation + evolving capacity
  - What is needed, how to provide it,
  - Age and maturity - independent decision making
2. The child rights … cont ‘d

- Right to highest attainable standard of health
  - “highest” - should take into account biological, social, cultural and economic, as well as resources
  - “and to facilities” - prevention, promotion, treatment, rehabilitation, and palliative care services
  - Reporting obligation of health care system to violations
  - “no child deprived of right of access to health care services”
  - Health-seeking behaviour is shaped by the environment in which it takes place
  - Early identification and addressing priorities
2. The child rights … cont ‘d

- the obligation to reduce child mortality
- Adolescent morbidity and mortality
- “medical assistance and health care to all children” with emphasis on the development of primary health care
- Should prioritize universal access for children to primary health-care
- Application of readily available technologies
- Food, clean drinking water, and environmental pollution?
Detention/deprivation of liberty

- As a last resort
- Alternatives to detention
- Age determination
- Death penalty, no parole etc
- Detention for “non-criminal” matters
- Girls (for seclusion, mingling, consensual sexual conduct, etc)
- Separation (from adults, for instance)
2. The child rights ... cont ‘d

- The situation of children imprisoned with parents/care givers
  - Prevention
    - At what age is appropriate?
  - Nutrition
  - Medical care? Contact?
  - Information management?
  - Role of CSOs
3. Other specific rights

- Access to information
- Violence
- Education
- Birth registration
- Privacy / Confidentiality
- Importance of initial health screening
- Continuity of care
3. Concluding remarks

- Law reform/policy/budgeting
- Remedies
- NHRIs
- What is available beyond domestic litigation?
- African Committee
- Some thoughts for the future?