

# Global Study on Children Deprived of Liberty: General, Justice, and Migration-Related Recommendations

THE FOLLOWING INFORMATION IS TAKEN FROM THE U.N. GLOBAL STUDY ON CHILDREN DEPRIVED OF LIBERTY<sup>1</sup>, LED BY INDEPENDENT EXPERT MANFRED NOWAK, AUTHORIZED BY THE U.N. GENERAL ASSEMBLY IN 2014, AND PRESENTED IN 2019

## SUMMARY

- The Study is based on the Convention on the Rights of the Child (CRC), which provides that: *“no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time”*.
- The Study addresses six situations in which children are deprived of liberty: administration of justice, children living in prisons with their primary caregivers, migration-related detention, institutions, armed conflict, and national security.

## CONCLUSIONS

- The majority of responding States had difficulties providing comprehensive, up to date, and disaggregated data on the number of children in various situations of detention; particularly, records are limited in the context of migration, institutions, national security and armed conflict.
- The data accumulated for the study indicate that a minimum of between 1.3 and 1.5 million children are deprived of liberty per year.
- The large number of children in detention is due to the lack of adequate support for families, caregivers, and communities to provide appropriate care of children and encourage their development.
- Based on the research conducted, conditions in most States often do not meet international standards.
- States are encouraged to establish an appropriate system of data collection at the national level, involving all relevant ministries and other agencies.

- Many detention facilities are characterized by overcrowding and high degrees of abuse, neglect and violence as well as a lack of hygiene standards, air and sunlight, privacy, adequate health care, recreational and educational opportunities and gender-sensitive facilities.

## RECOMMENDATIONS (GENERAL)

- States should make all efforts to significantly reduce the number of children in places of detention and to prevent deprivation of liberty before it occurs.
- To address the fundamental causes of deprivation of liberty of children, States should invest resources to reduce inequalities and support families to empower developing children.
- States should apply the requirement of the CRC that deprivation of liberty shall be applied only as a measure of last resort and for the shortest appropriate period of time in exceptional cases.
- States should repeal all laws and policies that permit the deprivation of liberty of children on the basis of impairment.
- Children should never be exposed to neglect, violence, sexual abuse or exploitation, ill-treatment, torture, and inhuman conditions of detention.
- States should ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- States should focus on rehabilitation and reintegration into society, including education, vocational training, family contacts, sports and recreation, adequate nutrition, housing, and health care.

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## RECOMMENDATIONS (ADMINISTRATION OF JUSTICE)

- States should develop specific child justice systems with the aim of diversion. If diversion is not possible, then the principal of the shortest appropriate period of time in detention needs to be applied.
- States should establish child justice systems with specialized structures and mechanisms offering free legal aid to all children regardless of age and family income, effective procedural safeguards, adequate, accessible and high-quality diversion and non-custodial solutions at all stages of the proceedings.
- States should establish a minimum age of criminal responsibility that is not below 14 years of age.
- States should not automatically transfer children deprived of liberty who reach 18 years of age to the adult criminal justice system.
- Capital and corporal punishment and life sentences should never be imposed on a child.
- States should eliminate status offenses, and to decriminalize child specific and “immoral” offenses, including on grounds of sexual orientations and gender identities.
- Police custody for children should not exceed 24 hours.

## RECOMMENDATIONS (MIGRATION-RELATED)

- Detention for purely migration-related reasons is never in conformity with the CRC. Whether children are on the move unaccompanied, separated, or with their family, migration-related detention never meets the high standards of a last resort measure.
- States should prohibit and end all forms of migration-related detention of children and their families.
- States should: prohibit child and family immigration detention in law; decriminalize irregular entry, stay and exit; adopt child-sensitive identification and referral procedures in the context of migration; and dedicate sufficient resources to appropriate non-custodial solutions for children and their families.
- Unaccompanied children should be provided with alternative care and accommodation, in line with the United Nations Guidelines for the Alternative Care of Children<sup>ii</sup>. States should provide refugee children with access to asylum procedures and other appropriate protection and humanitarian assistance, including family reunification, education, and health care
- Children with family members should be allowed to remain with their families in non-custodial, community-based contexts while their immigration status is resolved and the children’s best interests are assessed. Children should not be separated from their families.

<sup>i</sup> <https://childrendeprivedofliberty.info/general-assembly-report-of-the-global-study-on-children-deprived-of-liberty/>

<sup>ii</sup> [https://www.unicef.org/protection/alternative\\_care\\_Guidelines-English.pdf](https://www.unicef.org/protection/alternative_care_Guidelines-English.pdf)