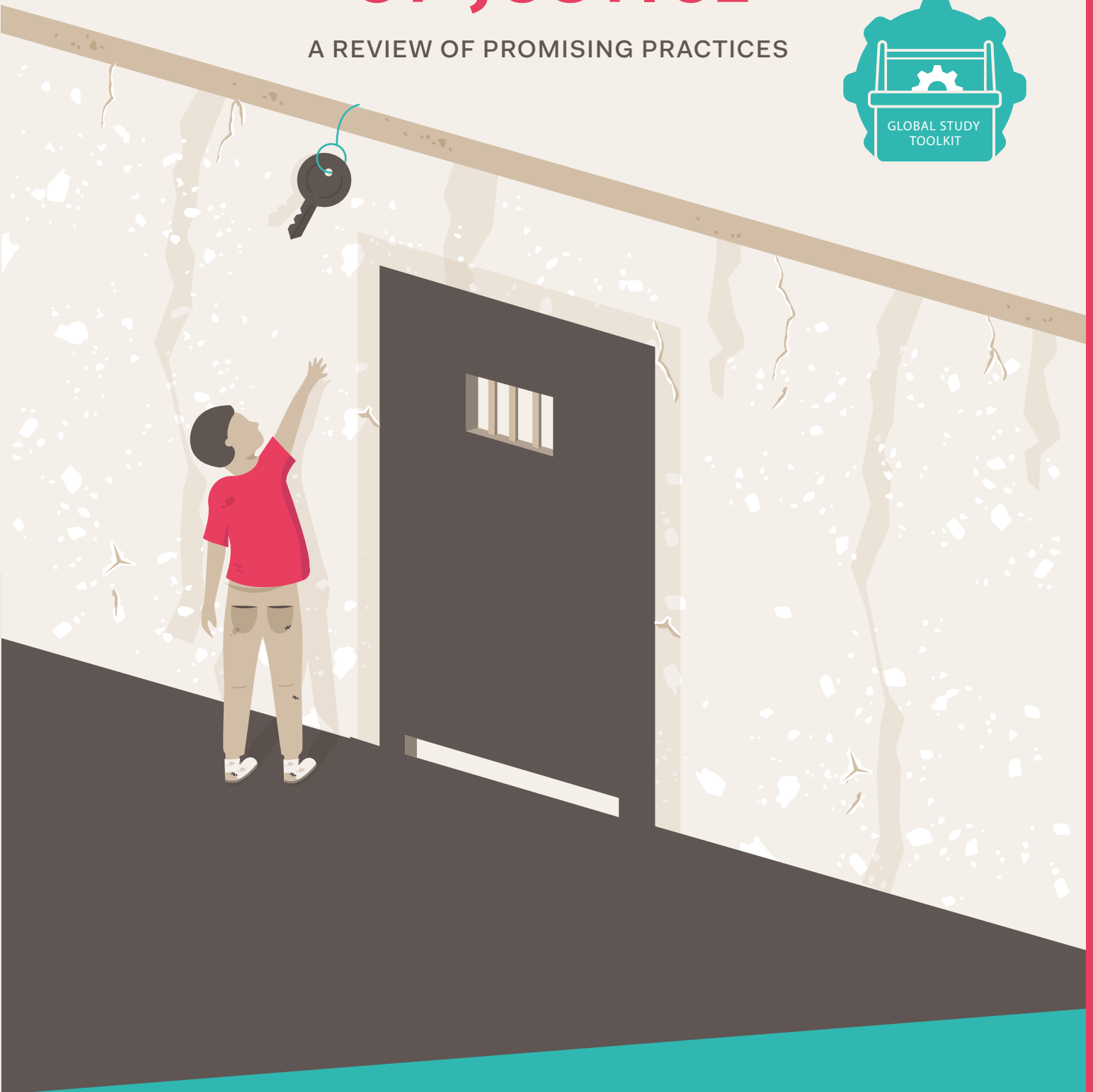


ENDING DEPRIVATION OF LIBERTY OF CHILDREN

ADMINISTRATION OF JUSTICE

A REVIEW OF PROMISING PRACTICES



Global Campus
of Human Rights



Global Study on Children
Deprived of Liberty



LUDWIG
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Summary:

This toolkit is a series of publications, all of which build on the findings and recommendations of the UN Global Study on Children Deprived of Liberty, an extensive study that analyses different areas in which children are deprived of their liberty. This tool provides illustrations of States practices across the world correlating with the recommendations of the Global Study in the field of administration of justice. An interactive version containing promising practices on all the Global Study areas can be found under www.nochildbehindbars.com

¹ First edition from September 2020. Sources cited in this toolkit are valid as of September 2020.

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List of Abbreviations

Beijing Rules	UN Standard Minimum Rules for the Administration of Juvenile Justice
LBI-GMR	Ludwig Boltzmann Institute of Fundamental and Human Rights
CAT	UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	UN Convention on the Elimination of all Forms of Discrimination against Women
CoE	Council of Europe
CRC	UN Convention on the Rights of the Child
CRIN	Child Rights International Network
CRPD	UN Convention on the Rights of Persons with Disabilities
DCI	Defence for Children International
ECHR	European Convention on Human Rights
EU	European Union
GCHR	Global Campus of Human Rights
GS	Global Study (as for UN Global Study on Children Deprived of Liberty)
Havana Rules	UN Rules for the Protection of Juveniles Deprived of Liberty
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IOM	International Organization for Migration
Nelson Mandela Rules	UN Standard Minimum Rules for the Treatment of Prisoners
NGOs	Non-Governmental Organisations
NHRI	National Human Rights Institution
NPM	National Preventive Mechanism
OHCHR	Office of the High Commissioner for Human Rights
OPAC	Optional Protocol to the UN Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
OPCAT	Optional Protocol to the UN Convention against Torture
OPIC	Optional Protocol to the UN Convention on the Rights of the Child on a Communications Procedure
UN GA	United Nations General Assembly
UNGACC	UN Guidelines for the Alternative Care of Children
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
Riyadh Guidelines	UN Guidelines for the Prevention of Juvenile Delinquency
Tokyo Rules	UN Standard Minimum Rules for Non-custodial Measures
SRSV VAC	UN Special Representative of the Secretary-General on Violence against Children
Vienna Guidelines	Guidelines for Action on Children in the Criminal Justice System

1. INTRODUCTION

This toolkit is part of a series of publications, all of which build on the findings and recommendations of the UN Global Study on Children Deprived of Liberty (thereafter Global Study). This Study analyses different areas in which children are deprived of their liberty, namely: administration of justice, children in prison with their caregivers, in the field of migration, in institutions, in the context of armed conflict and on national security grounds.

The aim of these toolkits is to guide States and other relevant actors to implement the recommendations of the Global Study by providing examples of practice and further tools. The examples are regarded as “promising practices”, as they contain actions that support the implementation of the Global Study recommendations.



BOX 1 – Global Number of Children in All Situations of Deprivation of Liberty

1.1. Objectives of this Toolkit

This document is intended as a simple, practical pathway to a collection of resources which **address deprivation of liberty of children** across the world and which supports efforts to end such deprivation. It aims to provide guidance to relevant stakeholders on how best to:


- a) **identify existing challenges leading to deprivation of liberty of children, and,**
- b) **respond to these challenges by using alternative, non-custodial approaches.**

The Toolkit builds on the findings and recommendations from the UN Global Study on Children Deprived of Liberty (2019)² and on its comprehensive approach to the issue across a variety of settings (administration of justice, migration, and institutional care). However, in order to help identify setting-specific challenges and opportunities, this edition of the Toolkit focuses on the area of deprivation of liberty of children in the **administration of justice** only. This chapter of the Study, and the full Global Study is the product of a **collaborative effort** of numerous experts from all over the world working under the lead of Manfred Nowak, who was appointed as Independent Expert to lead the Global Study in 2016.³ To find out more about the Global Study, see Annex 2.

Conceptually, both the UN Global Study and this Toolkit are grounded on international human rights and child rights standards, in particular, on the **UN Convention on the Rights of the Child (CRC)** of 1989. Consequently, the Toolkit offers a framework for **monitoring** of implementation of these international standards, in light of the findings and recommendations from the Global Study, at national and regional level, by clustering both recommendations and a selection of **promising practices** (model legislation, strategies and action plans, guidebooks, etc.) around key action areas identified in the Global Study.

The Toolkit should also be seen as a **complementary resource** to other Global Study-related tools, such as the Executive Summary on the UN Global Study on Children Deprived of Liberty, published in September 2020, as well as a Child-friendly Summary, the Toolkit on Migration, the Toolkit on Institutions and other material for promotion and dissemination.

Ultimately, the main **beneficiaries** of all these activities are **children**⁴ all over the world: those already living in situations of deprivation of liberty, and also those at risk of entering such settings. As a community of committed stakeholders, in whatever our role, as State authorities and judges, as parents and families, local communities, academics and civil society we have to work together to spare children deprivation of childhood through detention. We hope that the examples collected in this Toolkit - clearly showing what is already possible - will contribute to this endeavour!

² Available online at  - all internet links valid as of 30 June 2020. See Annex 2 for an overview on the Global Study and its main contributors.

³ The research process involved an extensive administration of questionnaires to governments, UN agencies, regional organisations, National Human Rights Institutions, and the international academic research community. Some 170 civil society organisations led by an NGO panel, co-convened by Defence for Children International and Human Rights Watch, were very much present in the process. In addition, 274 interviews with children from twenty-two countries permitted the research process to amply and directly consult the views of children. The administration of justice chapter was led by the Ludwig Boltzmann Institute of Fundamental and Human Rights/University of Vienna, who worked with experts from UNODC, DCI, CRIN and many other contributors (see all names under Global Study p. XV).

⁴ The term 'child' is defined as any person below the age of 18 (in line with the definition used by the UN Convention on the Rights of the Child).

1.2. Target audience

The Toolkit is intended for all stakeholders engaged in issues related to deprivation of liberty of children. While the UN Global Study has addressed these situations in many different contexts (justice, migration, alternative care), this edition of the Toolkit concentrates specifically on settings in relation to the **administration of justice**. Consequently, this includes professionals working in:

- police/law enforcement,
- the justice sector/juvenile justice, including prosecutors, judges, prison guards,
- lawyers and other legal professionals,
- probation officers, social workers, social education workers, service providers and other practitioners.


The measures and activities presented are rooted in international human rights and child rights standards and contain examples for assessing compliance with these standards at national level. Thus, the Toolkit also aims at **National Human Rights Institutions (NHRIs)**, like Ombudsman institutions, including Child and Youth Ombudspersons, as well as more specifically, **National Preventive Mechanisms (NPMs)**: these instruments, such as visiting commissions to prisons, may conduct preventive monitoring visits to any place or institution where persons may be deprived of their liberty, based on a mandate under the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

Furthermore, the Toolkit should give inspiration to **academia**, including teachers and students of human rights/child rights master's programmes, such as part of the Global Campus of Human Rights, on relevant topics for further research, including for impact assessment of legislation and services and evaluation.

Many of the examples presented draw from lessons learned from non-state service providers, and in return, they should further strengthen **civil society** advocating for alternatives to detention of children.

The Global Study promotes a systemic, structured approach to non-custodial measures which builds on close cooperation of a variety of stakeholders beyond the administration of justice context. As the Study has shown, particular challenges persist in **cross-sectoral, inter-agency cooperation**, in order to create rights-based, integrated child protection systems preventing risks of children getting into conflict with the law. Therefore, the Toolkit should bear relevance not only for the justice sector, but for any other state authorities and decision-makers on policy development in relation to children.

After all, selected resources should be used for discussion and reflection with **children** themselves, offering space and opportunities to share their own views, experiences and expectations on how to best avoid detention of children⁵.

⁵ In this regard, see the child-friendly summary of the UN Global Study, as developed in the context of the Child Rights/Global Study research programme of the Global Campus of Human Rights, 

1.3. Structure of this Toolkit

The Toolkit takes the UN Global Study as its starting point for offering a collection of resources addressing deprivation of liberty of children. **Chapter 9 of the Global Study** deals specifically with the **administration of justice context**. It explains relevant child rights standards, highlighting selected country case studies, identifying promising practices, with hundreds of further references. The Chapter concludes with a comprehensive set of 44 recommendations on how to ensure non-custodial approaches in child justice systems.

In addition, the Study includes separate chapters on **cross-cutting dimensions** relevant for all settings of deprivation of liberty, such as in relation to the impact on health of children, on gender issues and on the rights of children with disabilities. Furthermore, children's views and experiences with deprivation of liberty are shared in Chapter 5 of the UN Global Study. All these dimensions should be read in conjunction with the administration of justice context as well.



For the purpose of this Toolkit, and building on the Study's recommendations, examples for effective implementation were grouped along five thematic 'action areas' and placed into a regional context. The **five policy 'action areas'** are:

- Review existing legislation, procedures and structures
- Provide non-custodial measures for children
- Ensure adequate treatment during deprivation of liberty
- Adopt a systemic approach to prevent deprivation of liberty
- Monitor implementation and ensure access to justice for children

1. INTRODUCTION


Each of these areas is linked to the Global Study recommendations. This section is followed by a selection of **examples of promising practices of implementation**, presented along the regions in which those measures have been tried and tested.⁶

The Toolkit is intended as a catalyst for change and as a **'living instrument'**, ready to constantly evolve and be enriched by further developments – not least by the implications of the global Covid-19 pandemic.⁷ **A process to facilitate content updates**⁷ such as the outcomes of this project with other initiatives at the UN and regional levels will be created. The process will be coordinated by the Global Campus of Human Rights (Child Rights/Global Study research programme), and supported by partners of the Global Study.

In terms of the format of presentation of the current Toolkit, it is submitted as a **document-type online version**. Consequently, it is rich on internet links referenced in footnotes, for the ease of compact reading of the main text. In addition to this downloadable version, there will be a web-based version of this Toolkit, which allows the author and the Global Study Team to add further contents.

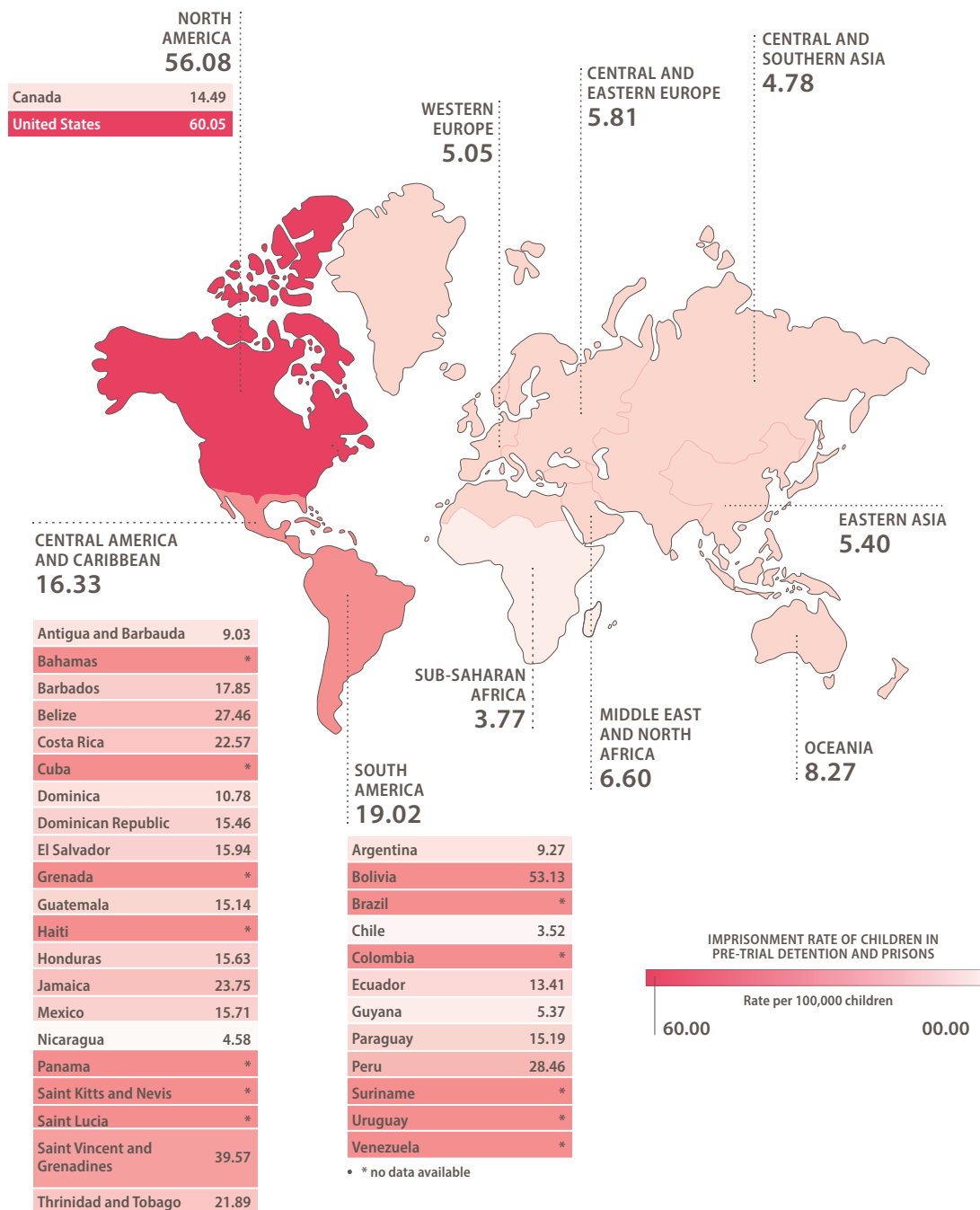
- > *If you want to share feedback and further promising practices and/or other materials, please get in contact with us through the e-mail addresses helmut.sax@univie.ac.at and globalstudy@gchumanrights.org*

⁶ It should be noted that the ToolKit builds on the promising practices selected in the Global Study research process and does not claim to be exhaustive

⁷ For an early general overview of implications, see Alliance for Child Protection in Humanitarian Action/UNICEF, Technical Note: COVID-19 and Children Deprived of their Liberty (April 2020), available (with additional resources on Covid-19 and child protection) at 

2. UN GLOBAL STUDY MAIN FINDINGS

According to exhaustive research from the Global Study, it is estimated that worldwide, **roughly 1.4 million children are deprived of liberty per year in police custody, pre-trial detention and prisons**. This is due to a variety of reasons, including ‘tough on crime’ policies, a low minimum age of criminal responsibility in many countries, the lack of specialised child justice systems, insufficient support to families and the lack of a functional child welfare system that could deal preventively with children at risk in getting in conflict with the law.



BOX 1 – Regional Imprisonment Rate of Children.

Source: Based on the UN Global Study on Children Deprived of Liberty (2019), p.262.

As far as children detained in the justice context are concerned, the Global Study draws the following conclusions:

- Existing justice systems are often dysfunctional - over-reliance on arrest and detention usually correlates with lack of capacity and resources; dedicated child justice systems have not been established across all countries;
- **Children consulted** in the Global Study process have highlighted concerns about lack of child-friendly procedures, lack of access to information and to contacts with the outside world as well as widely poor detention conditions;
- Research findings collected documentation that **detaining children is generally ineffective and cost-inefficient**;
- In many countries a punitive approach focusing on retribution and punishment dominates policies and public discourse instead of approaches **diverting children away** from the criminal justice system, addressing socioeconomic inequalities, establishing close inter-agency cooperation for effective child protection systems and aiming at rehabilitation and empowerment of children;
- **Minimum ages of criminal responsibility** of children are well below the recommended age of 14 years in the majority of countries;
- **Death penalty** for offences committed by children below 18 years still persist in 12 countries, **life sentencing** remains legal in 68 countries and **corporal punishment** as a criminal sentence is still executed in 33 countries, while some countries have no maximum time limit for **pre-trial detention** – contrary to international child rights law;
- Children often face **excessively lengthy criminal proceedings**; in some countries police detention may last for months and 42 countries have no state-funded legal aid system;
- **Discrimination** in the justice system is widespread – in pathways and conditions leading to detention, during detention and in relation to post-release support;
- Investments in effective **rehabilitation and reintegration** are insufficient and systematic evaluation of existing programmes is insufficiently conducted.
- General preventive **monitoring** mechanisms visiting places of deprivation of liberty often are not specifically adapted to the situation of children.

3. INTERNATIONAL LEGAL FRAMEWORK

Children are recognised as holders of human rights, and the [UN Convention on the Rights of the Child](#) enshrines the most comprehensive set of rights for this particular social group. According to **Article 37(b) of the Convention**, States Parties shall ensure 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 **right to personal liberty** is one of the oldest of human rights, which clearly is relevant to any person, not only to children. As a concept, personal liberty must not be confused with broader meanings of 'personal freedom' or other rights. Deprivation of personal liberty can be described as confining the bodily movement a person to a narrowly bounded location which the person cannot leave at will.⁸ Or, as defined in the [UN Rules for the Protection of Juveniles Deprived of their Liberty](#) (Havana Rules, 1990):



'The deprivation of liberty means **any form of detention or imprisonment or the placement** of a person in a **public or private custodial setting**, from which this person is not permitted to leave at will, by order of any judicial, administrative or other **public authority**' (Rule 11(b)).

Therefore, personal liberty has to be distinguished from other rights, such as freedom of movement, or restrictions like exile or expulsion from a state's territory. Personal liberty is not an absolute right, as the example of imprisonment as a criminal law sanction shows. Nevertheless, all major human rights documents contain strict limitations for authorities on purposes and forms of application of any deprivation of personal liberty, including the prohibition of unlawfulness and arbitrariness.⁹

In the case of children, however, the above-mentioned CRC provision sets the bar at higher levels: considering the unique processes and stages of child development, as well as the serious negative implications of deprivation of liberty for children - as once more evidenced by the UN Global Study - international child rights standards require dealing with children in conflict with the law in ways different from the treatment of adults. This requires, first of all, the setting up of a dedicated child justice system;² and, in relation to deprivation of liberty, the establishment of child detention as an exceptional 'measure of last resort' only. Thus, compliance with this standard requires documented evidence that alternatives to detention have been considered first. In addition, even if such measure may be justified, it must still be used 'only for the shortest appropriate period of time'.

⁸ For a more elaborate discussion of the legal concept of personal liberty, see Chapter 4 of the UN Global Study.

⁹ See Article 9 Universal Declaration of Human Rights, Article 9 International Covenant on Civil and Political Rights (CCPR), Article 5 European Convention on Human Rights.

¹⁰ See, UN Committee on the Rights of the Child, General comment No. 24 (2019) on children's rights in the child justice system, UN Doc. CRC/C/GC/24 (18 September 2019); a 'child justice system' is defined as 'the legislation, norms and standards, procedures, mechanisms and provisions specifically applicable to, and institutions and bodies set up to deal with, children considered as offenders', para. 8.

3. INTERNATIONAL LEGAL FRAMEWORK

The CRC expressly **prohibits certain forms of sanctions, most notably the death penalty and life imprisonment without possibility of release** for any offence committed by a person below the age of 18 years. In its General Comment no. 24 (2019), the UN Committee on the Rights of the Child, which is tasked with monitoring the implementation of the CRC, has given further clear interpretative guidance on CRC child justice standards:¹¹ accordingly, the minimum age of criminal responsibility for children should be 'at least 14 years of age'; deprivation of liberty should be possible only from the age of 16 upwards, and corporal punishment must be prohibited. In addition, the CRC declares 'the child's reintegration and the child's assuming a constructive role in society' as the main objectives of child justice systems dealing with child offenders (Article 40(1) CRC). For this purpose, the Convention expects that:

Next to the obligation to actively seek for alternative non-custodial measures, the CRC sets standards for the conditions and treatment of children while being deprived of liberty, which may include any form of arrest, detention or imprisonment:



'A **variety of dispositions**, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence' (Article 40(4) CRC).



'Every child deprived of liberty shall be **treated with humanity and respect** for the inherent dignity of the human person, and in a manner, which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be **separated from adults** unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances' (Article 37(c) CRC).

In terms of treatment, Article 37(a) CRC contains an **absolute prohibition on the use of torture or other cruel, inhuman or degrading treatment or punishment**, which is further reinforced by a comprehensive **ban on all forms of violence against children** (Article 19), complemented by an obligation to make **recovery and social integration** possible (Article 39 CRC). These provisions are complemented by fundamental procedural rights, in particular the right to judicial review of any decision leading to deprivation of liberty, access to **information and legal assistance** (Article 37(d) CRC).

¹¹ For an explanation of key terms, see the Glossary in the ToolKit Annex.

Above all, the UN Committee on the Rights of the Child monitoring the implementation of the CRC has declared four General Principles, which shall guide the interpretation of all child rights provisions:

- the **best interests of the child** being a primary consideration in all actions taken (Article 3(1) CRC),
- involving children in meaningful ways in all **decision-making processes** relevant to them, and giving 'due weight' to the **children's views**, i.e. creating opportunities for children to have effective impact (Article 12 CRC),
- ensuring the **child's right to life, survival and development** (Article 6 CRC),
- protecting children from '**discrimination** of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status' (Article 2 CRC).

These child rights standards and principles are further reinforced by other human rights treaties, such as the [UN Convention Against Torture \(1984\)](#), which, in its [Optional Protocol \(2002\)](#) obliges States Parties to allow preventive monitoring visits (as part of so called '**National Preventive Mechanisms**') to all places of deprivation of liberty, defined as 'any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence' (Article 4 OPCAT). Furthermore, according to Article 14 of the [UN Convention on the Rights of Persons with Disabilities \(2006\)](#), 'the existence of a **disability** shall in no case justify a deprivation of liberty', while the [UN Convention on the Elimination of All Forms of Discrimination of Women \(1979\)](#) addresses **gender-based violence and discrimination**.

Next to legally binding treaty provisions, a wide-ranging set of 'soft-law' standards has been adopted in particular in the field of criminal justice generally and child justice specifically, that addresses detention of juveniles, non-custodial measures, prevention of child offending and child justice systems. Further progress has been made on establishing stronger child justice standards in regional human rights instruments and case-law, for instance through the Inter-American Court of Human Rights and the European Court of Human Rights.¹²

¹² For further references, see Chapters 4 and 9 of the UN Global Study. Particular mention should be made also of the influential and comprehensive Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice (2010).

3. INTERNATIONAL LEGAL FRAMEWORK

YEAR OF ADOPTION	LEGAL INSTRUMENTS	PARTIES TO THE TREATY
1950	EUROPEAN CONVENTION ON HUMAN RIGHTS	47
1966	INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS	173
1969	AMERICAN CONVENTION ON HUMAN RIGHTS	25
1981	AFRICAN CHARTER ON HUMAN AND PEOPLES RIGHTS	54
1985	UN STANDARD MINIMUM RULES FOR THE ADMINISTRATION OF JUVENILE JUSTICE ('BEIJING RULES')	
1988	BODY OF PRINCIPLES FOR THE PROTECTION OF ALL PERSONS UNDER ANY FORM OF DETENTION OR IMPRISONMENT	
1989	CONVENTION ON THE RIGHTS OF THE CHILD	196
1990	AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD	48
1990	UN RULES FOR THE PROTECTION OF JUVENILES DEPRIVED OF LIBERTY ('HAVANA RULES')	
1990	UN GUIDELINES FOR THE PREVENTION OF JUVENILE DELINQUENCY ('RIYADH GUIDELINES')	
1991	UN STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES ('TOKYO RULES')	
1997	GUIDELINES FOR ACTION ON CHILDREN IN THE CRIMINAL JUSTICE SYSTEM ('VIENNA GUIDELINES')	
2002	OPTIONAL PROTOCOL TO THE UN CONVENTION AGAINST TORTURE	90
2004	ARAB CHARTER ON HUMAN RIGHTS	14
2006	CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES	180
2009	UN GUIDELINES FOR THE ALTERNATIVE CARE OF CHILDREN	
2015	UN STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS ('NELSON MANDELA RULES')	



HARD LAW



SOFT LAW

BOX 2 – Relevant international standards.

Source: based on the UN Global Study on Children Deprived of Liberty (2019), p.66.

4. GLOBAL STUDY RECOMMENDATIONS & PROMISING PRACTICES

The key recommendations related to administration of justice have been clustered along **five action areas**, based on the respective Chapter 9 of the UN Global Study. These areas are:

- Review existing legislation, procedures and structures
- Provide non-custodial measures for children
- Ensure adequate treatment during deprivation of liberty
- Adopt a systemic approach to prevent deprivation of liberty
- Monitor implementation and ensure access to justice for children

Each action area contains recommendations from the Global Study to States and is followed by examples of States that are implementing promising practices. The examples provided are grouped according to geographic regions following an alphabetical order. This section is followed by general implementation tools. Furthermore, key questions have been formulated for each key area and can be found in Annex 5.



BOX 3 – Covered by the toolkit as practical examples.

Source: data from the research findings

Action area 1: Review existing legislation, procedures and structures

Under this policy area, it is recommended that **States should**:

1. Ensure comprehensive **human rights frameworks**, by ratifying the CRC/Optional Protocol, OPCAT and CRPD.
2. Review existing legislation to make them **comply with standards** that ensure principles of last resort and shortest period of time.
3. Establish dedicated **child justice systems**, including specifically trained police, prosecutors, judges, social workers, health workers and establish interface structures for exchange and cooperation between police, the justice sector and child protection services.
4. Apply **child justice principles for a transition period** also to young adults.
5. Set the **age of criminal responsibility at 14 years** as a minimum.
6. Set the **minimum age for deprivation of liberty at 16 years** (or above).
7. Limit **police custody for children to 24 hours**.
8. Limit **pre-trial detention for children to 30 days/6 months** until judgment.
9. **Prohibit capital punishment and life-long sentences for children**; radically reduce maximum prison sentences.
10. **De-criminalise child-typical conduct**, review/abolish status offences, petty crimes and 'immorality' offences in relation to children.
11. Ensure (child-specific and general) legal/procedural safeguards **available and accessible** to children.
12. Raise awareness among children, parents and communities about **child justice mechanisms** and reasons and requirements for non-custodial measures.
13. Set up national focal points for **data collection on children deprived of liberty**, including in the administration of justice.



Africa & Middle East

- **Palestine**: Establishment of specialised police units following 2016 Juvenile Protection Law focused on ensuring access to psychological and other support from the moment of arrest.¹³
- **Sierra Leone and DRC**: Training initiatives for law enforcement officials to change attitudes and communication with street-connected children DRC (Police Training Programme, DRC, 2015) and Sierra Leone (Police Training, 2016)¹⁴



- **South Africa**: special child justice court integrated in the general court system, also applying diversionary measures.¹⁵
- **Turkey**: national law requires companies to employ at least 3% ex-offenders, making it easier for former child offenders to access the employment market.¹⁶
- **Zambia**: practical Handbook on Juvenile Law, addressing juveniles in conflict with the law, in need of care and rights of witnesses and of gender-based violence, developed by local and international research partners.¹⁷

¹³ League of Arab States, Contemporary Arab Report on Implementing the Recommendations of the UN Secretary-General's Study on Violence against Children, 2012, p. 82; Mutaz M. Qafisheh, 'Palestine' in Scott H. Decker & Nerea Martache (eds.), International Handbook of Juvenile Justice, 2nd Edition, Springer, 2017, pp. 497-526

¹⁴ StreetInvest et al., Submission to the UN Global Study on Children Deprived of Liberty, Consortium for Street Children, September 2018, p.19

¹⁵ Child Justice Alliance pp. 51f. / ¹⁶ Unicef, Improving the Protection of Children in Conflict with the Law in South Africa / ¹⁷ See also Center for Law and Justice, Handbook on Juvenile Law in Zambia.



Americas

- **Central- and South America:** at least 10 countries have established laws providing for a right to a specialised judge for juvenile offenders as well as individualised and child appropriate treatment and conditions of detention.¹⁸
- **Costa Rica:** Juvenile Criminal Justice Law (JCJL) facilitates child-sensitive justice in close alignment with CRC standards.¹⁹
- **Guatemala:** Law for Integral Protection of Children and Adolescents 2003 established foundation for new child justice system.²⁰
- **United States:** Justice Reinvestment as a practice which facilitates the restructuring/ transformation of existing systems through shifting of financial resources.²¹



Asia & Pacific

- **Bangladesh:** Establishment of new Children's Act in Bangladesh in 2013: establishment of children's courts, prohibition of death penalty and life imprisonment, introduction of concept of restorative justice.²²
- **Georgia:** New Juvenile Justice Code in Georgia, 2015 – diversion, mediation and alternatives to detention, training of professionals.²³
- **Samoa:** Access to child-friendly justice.²⁴



Europe

- **Belgium:** Progressive and welfare-based model: Belgian legislation, 2006 Youth Justice Act specifically mandating restorative justice (esp. conferencing and mediation).²⁵
- **Italy:** child justice system as model for individualised rehabilitation and reintegration programmes and de-stigmatising, best-interest-focused proceedings.²⁶



General implementation tools relevant for this action area

- Model legislation for the establishment of a **child justice system**: UNODC Model Law on Juvenile Justice.²⁷
- **Child participation** efforts: Empowering street children through tailored trainings and informing them about their rights – 'Knowledge Exchange Training Pack' by StreetInvest.²⁸
- **Advocacy**, public campaigning and media work: UNODC programme and advocacy experiences.²⁹
- Monitoring of implementation: Manual for the **Measurement of Juvenile Justice Indicators**.³⁰
- Examples of (bilateral, multilateral) **cross-border cooperation**: Models for child rights-based reforms of juvenile justice systems by IJJO continental councils of experts from academia, public administration and civil society e.g. Asia-Pacific Council for Juvenile Justice.³¹
- Further activities may include **strategic litigation** and **trainings** and **capacity building** efforts.

¹⁸ Nico Iás Espejo, 'Specialised Child Justice Mechanisms in Latin America: From National Legal Standards to Effective Implementation', 2019, pp.3

¹⁹ UNICEF, 'Juvenile Justice Systems: Good Practices in Latin America', 2006, pp.17 ; Inter-American Commission on Human Rights, 'Juvenile Justice and Human Rights in the Americas', 2011, OEA/Ser.L/V/II. Doc. 78 para 330 ; For Juvenile Criminal Justice Law (JCJL) (in Spanish) see .

²⁰ UNICEF, 'UNICEF Toolkit on Diversion and Alternatives to Detention 2009: Project Examples – Summary Table', 2009, pp.22 ; For Law for Integral Protection of Children and Adolescents 2003 (in Spanish) see in particular arts 241ff. / ²¹ Review of Effective Practice in Juvenile Justice .

²² See for an analysis also with comparative references to other Asian countries, namely Indonesia, Malaysia, India and Vietnam; The author of that article notes, however, that the new law is not yet implemented satisfactorily.

²³ According to UNICEF's Annual Report 2015 on Georgia: / ²⁴ Unicef, Situation Analysis of Children in Samoa pp. 83f.

²⁵ Tim Chapman et al, Protecting Rights, Restoring Respect and Strengthening Relationships: A European Model for Restorative Justice with Children and Young People, pp. 43ff, at .

²⁶ Silvia Randazzo, 'Italy' in Keeping Youth Away from Crime: Searching for the Best European Practices, Volume 2, International Juvenile Justice Conservatory, pp. 184-234, .

²⁷ UNODC, 'Justice in Matters Involving Children in Conflict with the Law: Model Law on Juvenile Justice and Related Commentary', 2013 / ²⁸ / ²⁹ See pp. 81-87

³⁰ UNODC & UNICEF, 'Manual for the Measurement of Juvenile Justice Indicators', 2006 .

³¹ International Juvenile Justice Observatory (IJJO) website; Asia-Pacific Council for Juvenile Justice (APCJJ) website See also Asia-Pacific Council for Juvenile Justice (APCJJ), 'Addressing Juvenile Justice Priorities In The Asia-Pacific Region', 2016 .

Action area 2: Provide non-custodial measures for children

Under this policy area, it is recommended that **States should**:

1. Develop a **National Strategy and Action Plan** for the replacement of detention of children by non-custodial measures.
2. Implement **accessible and high-quality diversion programmes** to prevent children getting into contact with the criminal justice system.
3. Implement non-custodial solutions, both **in pre-trial proceedings and after conviction**, e.g. through probation and early release programmes.
4. Implement **a restorative justice approach**, including victim offender compensation programmes.
5. Assess the **potential of informal justice mechanisms**, in line with international standards.
6. Implement and adequately **fund early and post-release programmes**.



Africa & Middle East

- **Arab countries (Jordan, Tunisia, Algeria, Sudan, Qatar, and Egypt):** Programmes to prioritise the practice of keeping children within their families and communities.³²
- **Kenya:** Bail and Bond Guidelines with general rule that bail should not be denied to child offenders.³³
- **Malawi:** Paralegals under the Paralegal Advisory Institute screen children in conflict with the law at police stations in order to enable diversion.³⁴



- **Children and Informal Justice Systems (IJS) in the African context**, analysing the distinction between traditional/indigenous/religious, semi-formal and alternative community-based systems.³⁵
- **Sierra Leone:** local courts function as a linkage between both systems.³⁶
- **South African:** Child Justice Act providing for wide range of diversionary measures, such as release from police detention with informal warning.³⁷
- **Uganda:** From Prison Back Home project as a restorative justice approach with community involvement and interagency cooperation.³⁸

³² League of Arab States Secretariat, Comparative Arab Report on Implementing Recommendations from the UN Study on Violence against Children.

³³ Guideline 4.1. / ³⁴ UNODC, Handbook on improving access to legal aid in Africa p. 31.

³⁵ African Child Policy Forum, Spotlight the invisible: Justice for children in Africa, 2019, pp. 82ff., with further references to specific country practices, highlighting positive and worrying aspects of IJS.

³⁶ Ibid, p. 88. / ³⁷ ch 6, 8. / ³⁸ UNODC, Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders p. 56.



Americas

- **Argentina:** 'Support System for Protected Adolescents' provides alternatives to institutionalisation and options for social reintegration for juvenile offenders through education, vocational training and supervised independent living arrangements.³⁹
- **Canada:** Life-Plan Coaching Programme (PACT) as a community response to serious offenders between the ages of 12 and 18, aiming at empowering young people to create personalised plans; youth offenders are regularly referred to the programme by a judge as a probation order or bail conditions.⁴⁰



- **Guatemala:** Supervised probation programme aims to tackle root causes of delinquency and provide psychological support as well as community based, stigma-free avenues of reintegration.⁴¹
- **Mexico:** Adolescent Pretrial Services Unites ('UMECA') on the state level, tasked with risk assessments to support pre-trial release.⁴²
- **United States (Washington State):** Family Integrated Transitions post-release programme to reintegrate child offenders with mental health or substance abuse problems and to lower the risk of recidivism.⁴³



Asia & Pacific

- **Afghanistan (Kabul):** Non-residential Juvenile Rehabilitation Centre (JRC) offering education and vocational training to children in conflict with the law.⁴⁴
- **Bangladesh:** Alternatives to pre-trial detention, also assisting children in the reunification with their family after release.⁴⁵
- **Bhutan:** Community-based rehabilitation for children having committed minor offences.⁴⁶
- **India (West Bengal):** Open Air Correctional Home: reintegration of prisoners by open prison conditions for prisoners that have served at least 2/3 of their sentence.⁴⁷



- **Indonesia, Papua New Guinea, Philippines and Samoa:** Restorative juvenile justice approaches.⁴⁸
- **Maldives:** Approach of family and community conferencing to divert children from the criminal justice system in cases of minor offences under the Strategic Plan for the Reform of the Juvenile Justice System.⁴⁹
- **New Zealand:** Children's and Young People's Well-being Act (1989).⁵⁰
- **New Zealand:** police warnings, alternatives to detention (specialized and highly trained section of the police force).⁵¹



³⁹ UNICEF, 'Support System for Protected Adolescents: La Plata, Buenos Aires (Argentina)', 2008

⁴⁰ UNODC, Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders p. 61.

⁴¹ UNICEF, 'UNICEF Toolkit on Diversion and Alternatives to Detention 2009: Project Examples – Summary Table', 2009 pp.22

⁴² Doug Keillor, 'Children in Prison: Excessive Juvenile Pre-trial Detention in Mexico City', International Justice Consulting, p.47; see also:

⁴³ pp. 51f. / ⁴⁴ UNICEF/IPU, Improving the Protection of Children in Conflict with the Law in South Asia p. 49.

⁴⁵ UNICEF/IPU, Improving the Protection of Children in Conflict with the Law in South Asia p. 30.

⁴⁶ Ibid, p. 50. / ⁴⁷ Ibid, p. 62. / ⁴⁸ UNICEF, Diversion not detention. p. 117. / ⁴⁹ UNICEF, Inter-Parliamentary Union, Regional Parliamentary Guide. p. 19.

⁵⁰ See (also for other promising practices) / ⁵¹ Juvenile Justice Information Exchange essay

Practical use of unconditional diversion/police warnings in 23 states in East Asia and the Pacific,⁵² including:

- **Papua New Guinea and the Philippines** Community juvenile justice.⁵³
- **Papua New Guinea, Indonesia and the Philippines:** Diversion from formal judicial proceedings.⁵⁴
- **Samoa and Thailand:** Alternatives to pre-trial detention.⁵⁵
- **Samoa, Thailand, Papua New Guinea, and Indonesia**⁵⁶ and **Vietnam:**⁵⁷ Alternatives to post-trial detention.
- **Samoa:** Access to child-friendly justice and handling of criminal cases through informal justice system (IJS).⁵⁸
- **Sri Lanka:** Systematic use of mediation boards as an effective and informal way of dispute resolution,⁵⁹ and establishing a Community-Based Corrections System for children older than 16 years addressing the root causes for a child's offending behaviour.⁶⁰



Europe

- **Belgium:** Victim-offender mediation.⁶¹
- **Bulgaria,**⁶² **England,**⁶³ **Italy**⁶⁴ and **Hungary**⁶⁵: Foster care as an alternative to detention.
- **Finland:** Victim-offender mediation – mediation as a free service in criminal cases.⁶⁶
- **The Netherlands and Croatia:** Conditional diversion programme: HALT project from The Netherlands⁶⁷ and, modelled after this, 'STOP' from Croatia (Zagreb).⁶⁸
- **The Netherlands:** Multisystemic Therapy (MST) interventions as non-custodial measures for young offenders with complex behavioural problems that take place in the child's home and address the entire household.⁶⁹
- **Northern Ireland and Belgium:** Family Group Conferencing model practiced inter alia.⁷⁰
- **Northern Ireland:** Diversionary Youth Justice Conferencing.⁷¹

Promising practices on alternatives to detention from Europe⁷², in particular:

- **Northern Ireland:** Bail Support Schemes.⁷³



General implementation tools relevant for this action area

- Integration of Informal Justice Systems (IJS) into child protection systems, monitoring and controlling function of the state with regard to IJS.⁷⁴
- Development of National Strategy for the replacement of child detention by **non-custodial measures**: UNICEF Toolkit on Diversion and Alternatives to Detention.⁷⁵
- **Strategic litigation:** Child Rights International Network (CRIN) 'Guide to Strategic Litigation'.⁷⁶
- **Awareness-raising** (public campaigning, media work, lobbying with lawmakers): International Juvenile Justice Observatory, Juvenile Offenders Detention Alternative in Europe – Good Practice Manual.⁷⁷
- Further activities may include legal reform, development of funding strategies for non-custodial measures, trainings and capacity building, assessments involving children directly, preparation of supporting resources for prosecutors and judges on the application of non-custodial solutions.

⁵² UNICEF, Diversion not Detention: A study on diversion and other alternative measures for children in conflict with the law in East Asia and the Pacific, p. 37.

⁵³ Ibid, p. 85. / ⁵⁴ Ibid, p. 92. / ⁵⁵ Ibid, p. 101. / ⁵⁶ Ibid, p. 106 / ⁵⁷ Ibid, p. 62. / ⁵⁸ UNICEF, Situation Analysis of Children in Samoa, pp. 83f.

⁵⁹ UNICEF/IPU, Improving the Protection of Children in Conflict with the Law in South Asia, p. 18. / ⁶⁰ Ibid, p. 38.

⁶¹ Pali/Randazzo: Practical Guide on Implementing Restorative Justice With Children, International Juvenile Justice Observatory, 2018, pp. 36ff; Tim Chapman, Protecting Rights, Restoring Respect and Strengthening Relationships: A European Model for Restorative Justice with Children and Young People, pp. 43ff.

⁶² Ibid, p. 71. / ⁶³ Ibid, p. 33. / ⁶⁴ Ibid, p. 49. / ⁶⁵ Ibid, p. 88. / ⁶⁶ Pali/Randazzo: Practical Guide on Implementing Restorative Justice With Children, International Juvenile Justice Observatory, 2018, pp. 74ff, pp. 54ff. / ⁶⁷ Ibid, pp. 49f, pp. 62ff.

⁶⁸ Terre des Hommes Foundation 'Lausanne' in Hungary, 'Alternative Ways to Address Youth: (AWAY) Project', Research Synthesis Report, 2018, p.27.

⁶⁹ Peter Murphy, Anthony McGinness & Tom McDermott, Review of Effective Practice in Juvenile Justice: Report for the Minister for Juvenile Justice, Australia, Noetic Solutions, 2010, p.36. / ⁷⁰ Ibid, pp. 46f. / ⁷¹ Pali/Randazzo: Practical Guide on Implementing Restorative Justice With Children, International Juvenile Justice Observatory, 2018, pp. 54ff. / ⁷² IJJO, Alternatives to Detention for Juvenile Offenders: Manual of good practices in Europe / ⁷³ Ibid, pp. 51f.

⁷⁴ Danish Institute for Human Rights Informal Justice Systems: Charting a Course for Human Rights-Based Engagement, pp. 122ff, special focus on the children in the criminal justice system, pp. 133ff. / ⁷⁵ Ibid, p. 76. / ⁷⁶ For Child Rights International Network's (CRIN), 'Guide to Strategic Litigation', 2009 go to or.

⁷⁷ See for instance IJJO, Alternatives to Detention for Juvenile Offenders: Manual of good practices in Europe, pp. 55ff. on advocacy strategies; UNODC et al, Protecting the rights of children in conflict with the law, pp. 81-87

Action area 3: Adopt systemic approach to prevent deprivation of liberty

Under this policy area, it is recommended that **States should:**

1. Take a systemic approach to **prevention of child detention**, based on evaluation of the *status quo*, assessment of impact of existing services and devising holistic strategies for responses.
2. Establish **formalised cooperation mechanisms** for inter-agency cooperation between families, communities, schools, social services, youth work, health services, local administration, police and the justice sector, in order to create integrated, effective child protection systems.
3. Identify and address **root causes for risks** that potentially lead to children getting in conflict with the law.
4. **Prevent discrimination** of groups of children (e.g. based on belonging to ethnic or social minorities, migrants, LGBTI community, gender), for instance through dedicated policies, staff recruitment strategies, training.



Africa & Middle East

- **Francophone Africa:** Establishment of mobile courts.⁷⁸
- **Malawi:** Legal aid provided by paralegals.⁷⁹
- **South Africa:** One-Stop Child Justice Centres with specialised staff from different disciplines enhancing inter-agency cooperation.⁸⁰



Americas

- **Canada:** Youth Justice Renewal Initiative (YJRI) as part of the Youth Criminal Justice Act (YCJA) as community approaches to tackle youth crimes.⁸¹
- **El Salvador:** Comprehensive national protection system model established by the Law on Comprehensive Protection of Children and Adolescents (LEPINA).⁸²
- **Mexico:** Impact assessment of reduction of Chihuahua state statutory maximum duration of pre-trial detention Reference: Juvenile Justice Advocates International, Children in Pretrial detention: promoting stronger international time limits, p. 37ff.⁸³
- **United States (San Diego):** Whole-of-community participation and inter-agency cooperation in - "Comprehensive Strategy for Youth, Family and Community".⁸⁴

⁷⁸ CRIN, Rights, Remedies & Representation: Global Report on Access to Justice for Children, p. 29, with further reference to respective State reports.

⁷⁹ UNODC, Handbook on improving access to legal aid in Africa, p. 32. / ⁸⁰ Ibid, p. 54. / ⁸¹ Noetic Solutions Pty Limited, Review of Effective Practice in Juvenile Justice, p. 62.

⁸² Alejandro Morlachetti, 'Comprehensive National Child Protection Systems: Legal Basis and Current Practice in Latin America and the Caribbean' (Economic Commission for Latin America and the Caribbean (ECLAC), 2013) pp.55 / ⁸³ For project description and activities see: / ⁸⁴ , p. 71



Asia & Pacific

- **Australia:** Koori Justice Programme in Victoria State diversion programmes and community-based sentencing alternatives for indigenous communities;⁸⁵ Indigenous Service Support Officers (ISSO) in Queensland;⁸⁶ Aboriginal Juvenile Courts in Australia dealing with indigenous offenders in a more informal setting and including community members in the court process.⁸⁷
- **India:** Prohibition of detention of neglected and delinquent children in police lock-ups and prisons of. So: instead of treatment by specialized institutions.⁸⁸
- **Lao PDR:** Village Mediation Units focussing on diversion for minor offences.⁸⁹
- **Maldives:** Specialised Police Family and Child Protection Unit (FCPU) dealing exclusively with children in conflict with the law.⁹⁰
- **New Zealand:** Family Group Conferencing (FGC) and other programmes/initiatives to address indigenous offending.⁹¹
- **New Zealand:** Police Youth Aid Programme introduced Youth Aid Officers specialised in dealing with children in conflict with the law, in particular focussing on alternative measures to detention.⁹²
- **Philippines:** FREELAVA Diversion Programme.⁹³



Europe

- **Belarus:** Release and regular update of aggregated data on children in contact with the justice system.⁹⁴
- **Several European countries:** Socio-legal defence centres and similar institutions.⁹⁵
- **Ireland:** specific safeguards for children in conflict with the law in Irish Children's Act, 2001.⁹⁶



General implementation tools relevant for this action area

- **Advocacy and campaigns:** Inter-Agency Coordination Panel on Juvenile Justice, Protecting the Rights of Children in Conflict with the Law.⁹⁷
- Provide free, effective and accessible **legal aid and information** of how to access it to children: UNICEF Guidelines on Child-Friendly Legal Aid⁹⁸; Child Helpline International.⁹⁹
- **Policies addressing risk groups**, such as children in street situations: provision of identity documents/citizenship;¹⁰⁰ Multi-systemic Therapy (MST) to address chronic and violent juvenile offenders;¹⁰¹ Family Functional Therapy aiming at juveniles struggling with offending, substance abuse or violence through employment of individual therapists.¹⁰²
- Further activities may include public opinion research, measures to ensure diversity in staff recruitment processes, training and capacity building, community-strengthening programmes, child participatory efforts, establishment of focal points for inter-agency cooperation, including for (bilateral, multilateral) cross-border cooperation.

⁸⁵ See also for further reference Noetic Solutions Pty Limited, Review of Effective Practice in Juvenile Justice: pp. 59f. / ⁸⁶ pp. 60f.

⁸⁷ UNICEF/IPU, Improving the Protection of Children in Conflict with the Law in South Asia, p. 57

⁸⁸ Ibid, p. 13. / ⁸⁹ Ibid, p. 55. / ⁹⁰ Ibid, p. 25. / ⁹¹ Noetic Solutions Pty Limited, Review of Effective Practice in Juvenile Justice, p. 63.

⁹² UNICEF/IPU, Improving the Protection of Children in Conflict with the Law in South Asia. 54f.

⁹³ Ibid, pp. 55f. / ⁹⁴ / ⁹⁵ DCI Belgium et al, Practical Guide for Lawyers, pp. 67ff. / ⁹⁶ Ibid, p. 64. / ⁹⁷ See for instance UNODC et al, Protecting the rights of children in conflict with the law, pp. 81-87 / ⁹⁸ UNICEF, 'Guidelines on Child-Friendly Legal Aid', 2018 / ⁹⁹

¹⁰⁰ Consortium for Street Children, Submission to the UN Global Study

¹⁰¹ Noetic Solutions Pty Limited, Review of Effective Practice in Juvenile Justice, pp. 36f. / ¹⁰² Ibid, pp. 37f.

Action area 4: Ensure adequate treatment during deprivation of liberty

Under this policy area, it is recommended that **States should**:

1. Ensure adequate, **child and gender-sensitive detention conditions** and ensure effective internal oversight mechanisms.
2. Ensure that **children are separated from adults** in detention.
3. Ensure **personal contacts of the child to the outside world**, including to parents and persons of trust.
4. Provide children with **access to quality education**, including vocational training and preparation for release.
5. Provide children access to quality health care services, including mental health services and access to therapies.
6. **Prevent violence in detention**, ban corporal punishment and develop conflict mediation, anti-bullying and child safe-guarding policies for all child justice institutions.



Africa & Middle East

- **Kenya:** 'Participatory educational theatre' to help child offenders address experiences of violence and trauma through oppression, abuse, mistreatment and neglect.¹⁰³
- **Turkey:** ARDIÇ Programme - training modules on psychosocial treatment of children with specific problems and awareness raising of child rights.¹⁰⁴
- **Turkey (Ankara Reformatory):** As a model of an open prison facility, foster (re-)integration of child offenders into society, even in cases of serious offences.¹⁰⁵



Americas

- **El Salvador:** 'City of Childhood and Adolescence' (*Ciudad de la Niñez y la Adolescencia* - CNA) programme organised by the Institute for the Development of Children and Adolescents (ISNA) offers vocational training and recreational spaces for young persons to prevent violence and delinquency.¹⁰⁶
- **Mexico and Peru:** Juvenile justice laws guarantee freedom from violence as well as special rights regarding treatment in and conditions of detention that correspond to the child's age and needs.¹⁰⁷
- **United States (Louisiana):** multi-faceted integrated treatment programme for child sexual offenders entailing provision of psychological/psychiatric treatment and education as well as family/group therapy and reintegration services with a specific focus on re-entry intervention.¹⁰⁸

¹⁰³ CESVI European Union, Guidelines Manual on Juvenile Justice Best Practices: An Evidence-Based Approach to the Justice Reforms in Kenya, 2016

¹⁰⁴ Reference in p. 94; See also UNICEF, *Review and Expansion of the ARDIÇ Programmes and Development of a Psycho-social support and Intervention Programme Tailored to the Needs of Ministry of Family and Social Policies and Provision of Trainings*, Ref: PRO/TURA/2014-G.

¹⁰⁵ Ibid, p. 58. / ¹⁰⁶ For project description in Spanish see: / ¹⁰⁷

¹⁰⁸ Lee A. Underwood et al., 'Results from a Multi-modal Program Evaluation of a Four Year State-wide Juvenile Sex Offender Treatment and Re-entry Program', *Journal of Prison Education and Re-entry*, Vol. 2(2), 2015



Asia & Pacific

- **India:** Public-private partnerships between the State and NGOs to improve institutional conditions and services.¹⁰⁹
- **Korea:** Correctional Service - detached centres within prison facilities for child offenders to meet their families during deprivation of liberty, additionally family meeting days and family meals.¹¹⁰
- **Singapore:** Yellow Ribbon Project by private, public and non-governmental actors offers training and education in detention facilities; focus also on reintegration after release.¹¹¹



Europe

- **England:** Multi-disciplinary training of staff of the Keppel Unit, aiming to avoid restraint measures of children capable of extreme violence.¹¹²



General implementation tools relevant for this action area

- Establishing **effective monitoring and complaint mechanisms:** Penal Reform International (PRI), Safeguarding Children in Detention: Independent Monitoring Mechanisms for Children in Detention in MENA.¹¹³
- **Advocacy and campaigns:** Inter-Agency Coordination Panel on Juvenile Justice, Protecting the Rights of Children in Conflict with the Law.¹¹⁴
- **Child rights-based assessment tools** for the determination of conditions of detention: Penal Reform International (PRI), Toolkit for Interviewing Children, their Guardians, and Staff of Juvenile Detention Facilities.¹¹⁵
- Further activities may include trainings and capacity building of detention facilities' staff, development of material (involving children) providing information for detained children about complaint mechanisms.

¹⁰⁹ UNICEF/IPU, Improving the Protection of Children in Conflict with the Law in South Asia, p. 43.

¹¹⁰ UNODC, Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders, p. 54. / ¹¹¹ Ibid, p. 57.

¹¹² PRI, Protecting children's rights in criminal justice systems - A training manual and reference point for professionals and policymakers; further p. 94

¹¹³ Penal Reform International (PRI), 'Safeguarding Children in Detention: Independent Monitoring Mechanisms for Children in Detention in MENA', 2011 .

¹¹⁴ See for instance pp. 81-87

¹¹⁵ Penal Reform International (PRI), 'Toolkit for Interviewing Children, their Guardians, and Staff of Juvenile Detention Facilities', 2011 .

Action area 5: Monitor implementation and ensure access to justice for children

Under this policy area, it is recommended that **States should**:

1. Establish **effective feedback and complaint mechanisms that are accessible to children**, including access to information on such mechanisms in a language they can understand.
2. Establish **effective external monitoring mechanisms**, including National Preventive Mechanisms with specialisation on monitoring places of detention of children.



Africa & Middle East

- **Algeria, Jordan and Sudan:** Specialised units and toll-free telephone lines for complaints.¹¹⁶
- **Arab context:** Establishment of safe reporting mechanisms for children and hotlines to receive reports on violence against children (often with CSO involvement) evaluated as a follow-up on the implementation of the recommendations of the UN Secretary-General's Study on Violence Against Children.¹¹⁷
- **Arab region:** Monitoring and evaluation agencies to scrutinise implementation of CRC and respective recommendations.¹¹⁸
- **Jordan:** Monitoring the situation of children in care and justice institutions by the National Centre for Human Rights.¹¹⁹
- **Kenya**¹²⁰ and **South Africa**¹²¹: Litigation by NGOs on behalf of children in cases of public interest.
- **Mauritania:** Reports on compliance with regulations and international standards by Bar Association in Mauritania.¹²²
- **South Africa:** Independent Correctional Centre Visitors (ICCVs).¹²³



Americas

- **Chile:** Inter-institutional Commission for the Supervision of Detention Centres (Comisión Interinstitucional de Supervisión de Centros Privativos de Libertad) (CISC) acting as monitoring body for the rights of adolescents deprived of liberty.¹²⁴
- **Ecuador:** National Council on Children and Adolescents acting as oversight body for the fulfilment of children's rights and lead institution of the Decentralized National System of Comprehensive Protection of Children and Adolescents.¹²⁵



Asia & Pacific

- **New Zealand:** Office of the Children's Commissioner, inter alia, monitoring and investigation mandate.¹²⁶

¹¹⁶ League of Arab States Secretariat, Comparative Arab Report on Implementing Recommendations from the UN Study on Violence against Children, p. 145.
¹¹⁷ Ibid, pp. 81f. / ¹¹⁸ Ibid, p. 56. / ¹¹⁹ Ibid, p. 147. / ¹²⁰ CRIN, Access to Justice for Children: Kenya, pp. 9f. / ¹²¹ Art. 15 (d) Children's Act. / ¹²² Ibid, p. 145.
¹²³ See review by Parliamentary Monitoring Group: [link](#).
¹²⁴ Alejandro Morlachetti, 'Comprehensive National Child Protection Systems: Legal Basis and Current Practice in Latin America and the Caribbean' (Economic Commission for Latin America and the Caribbean (ECLAC), 2013) pp.7, [link](#); To access the Commissions reports (in Spanish): [link](#).
¹²⁵ Alejandro Morlachetti, 'Comprehensive National Child Protection Systems: Legal Basis and Current Practice in Latin America and the Caribbean' (Economic Commission for Latin America and the Caribbean (ECLAC), 2013) pp.48 [link](#).
¹²⁶ For monitoring function: [link](#); for investigation procedure: [link](#).



Europe

- In many countries, free legal aid is (only) ensured through pro-bono assistance.¹²⁷
- **Belgium:** Strong regulatory framework in concerning access to free legal aid by children;¹²⁸ similar strong rules in **Luxembourg, Lithuania and Finland.**¹²⁹
- **England:** Independent advocacy service for young offenders provided by an NGO (Barnardo's).¹³⁰
- **Slovenia:** Complaints mechanisms under the Rules on Police Authorisations adopted under the Slovenian Police Act.¹³¹



General implementation tools relevant for this action area

- Advocacy for **ratification of OPCAT, CRC Optional Protocol on communication procedure (OPIC):** Supporting resources at Child Rights Connect website dedicated to ratification of OPIC.¹³²
- Child-focused **monitoring** of places of deprivation of liberty: Defence for Children International (DCI) – Belgium, Practical Guide: Monitoring Places Where Children are Deprived of Liberty.¹³³
- Strategic litigation and legal assistance to address challenges and ensure **compliance** with existing legal framework: Child Rights International Network (CRIN), Legal Assistance Toolkit for Children and Child's Rights Organisations.¹³⁴
- Trainings & capacity building for **monitoring/complaint mechanism staff:** Penal Reform International, Protecting Children's Rights in Criminal Justice systems - A training Manual and Reference Point for Professionals and Policymakers¹³⁵; Child Rights International Network (CRIN), CRC Complaints Mechanism Toolkit.¹³⁶
- Further measures may include policy development for child participation in monitoring efforts, development of child safeguarding policies for detention facilities.

¹²⁷ CRIN, Rights, Remedies & Representation: Global Report on Access to Justice for Children League of Arab States Secretariat, Comparative Arab Report on Implementing Recommendations from the UN Study on Violence against Children / ¹²⁸ Ibid, p. 29.

¹²⁹ Ibid, p. 30. / ¹³⁰ See CoE, Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, p. 92; ¹³¹ See CRC-Committee, Second Periodic Report of Slovenia, CRC/C/70/Add. 19, 18 June 2003, para. 23. / ¹³² ¹³³ Defence for Children International (DCI) – Belgium 'Practical Guide: Monitoring Places Where Children are Deprived of Liberty', 2016.

¹³⁴ Child Rights International Network (CRIN), 'Legal Assistance Toolkit for Children and Child's Rights Organisations', 2012.

¹³⁵ See PRI, Protecting children's rights in criminal justice systems - A training manual and reference point for professionals and policymakerspp. 109ff.

¹³⁶ Child Rights International Network (CRIN), 'CRC Complaints Mechanism Toolkit', 2013 see or.

ANNEX 1: GLOSSARY OF KEY TERMS

- **Alternatives to detention:** Measures that may be imposed on children who are being formally processed through the criminal justice system, at both pre-trial and sentencing stages, that do not involve deprivation of liberty.¹³⁷
- **Child:** any person under the age of 18, in line with the definition provided in the UN Convention on the Rights of the Child (Article 1). 'Stressing the use of child-sensitive terminology, words and terms such as 'minor', 'juvenile' and 'juvenile delinquent' have been avoided (...), due to their negative and prejudicial connotations and the fact that they detract from the reality that the individuals involved are first and foremost children and adolescents'.¹³⁸
- **Child in conflict with the law:** A child is in conflict with the law where he or she has committed or has been accused of having committed an offence. Depending upon the local context, children may also be in conflict with the law where they are dealt with by the juvenile justice or adult criminal justice system for reason of being considered to be in danger by virtue of their behaviour or the environment in which they live.¹³⁹
- **Child justice system:** the legislation, norms and standards, procedures, mechanisms and provisions specifically applicable to, and institutions and bodies set up to deal with, children considered as offenders.¹⁴⁰
- **Complaints mechanism:** Any system that allows a child (in conflict with the law) to bring any aspect of the treatment that child has received, including violations of his or her rights, to the attention of the authority responsible for the place of detention, or any other official body established for such purpose. Such mechanisms could include ombudspersons and autonomous, statutory community-based prison monitoring groups.¹⁴¹ These mechanisms may be individual or collective, informal (for example: oral requests or mediation) or formal (through a written complaint form and procedure); oral (for example: request to staff) or written (for example: letter addressed to the ombudsman of children).¹⁴²
- **Criminal justice system:** Laws, procedures, professionals, authorities and institutions that apply to witnesses and victims/survivors, and to those alleged as, accused of, or recognised as having committed a criminal offence¹⁴³, whether adults or children.¹⁴⁴
- **Deprivation of liberty:** 'Any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority'.¹⁴⁵
- **Diversion:** Conditional channelling of children in conflict with the law away from judicial proceedings towards a different way of resolving the issue that enables many – possibly most – to be dealt with by non-judicial bodies, thereby avoiding the negative effects of formal judicial proceedings and a criminal record.¹⁴⁶
- **Independent monitoring mechanisms:** Bodies that undertake monitoring of facilities where people are deprived of their liberty through on-site (announced or unannounced) visits.¹⁴⁷
- **Individual rehabilitation/reintegration plans:** A document which outlines specific characteristics of a child's conflict with the law which is designed to tailor rehabilitation / reintegration to each individual child. The plan should address the risks in the child's life that led to the original conflict with the law.¹⁴⁸


¹³⁷ UNICEF Toolkit on Diversion and Alternatives to Detention, 2009, Glossary, .

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ UN Committee on the Rights of the Child, General comment No. 24 (2019) on children's rights in the child justice system, UN Doc. CRC/C/GC/24 (18 September 2019); the UN Committee further explains: 'In the English version of the present general comment, the term "child justice system" is used in place of "juvenile justice".'

¹⁴¹ UNICEF Toolkit on Diversion and Alternatives to Detention, 2009, Glossary.

¹⁴² DCI Belgium, Practical Guide - Monitoring places where children are deprived of liberty (2016), , p. 16.

¹⁴³ Adapted from the definition of 'adult criminal justice system' in the UNODC/UNICEF Manual on the Measurement of Juvenile Justice Indicators, Appendix 1, pp.53-55.

¹⁴⁴  Unicef;

¹⁴⁵ UN Rules on the Treatment of Juveniles Deprived of their Liberty (Havana Rules) Art. 11(b).

¹⁴⁶ UNICEF Toolkit on Diversion and Alternatives to Detention, 2009, Glossary.

¹⁴⁷ DCI Belgium, Practical Guide - Monitoring places where children are deprived of liberty (2016), pp. 15f.

¹⁴⁸ UNICEF Toolkit on Diversion and Alternatives to Detention, 2009, Glossary.

- **Informal justice system / non-formal justice system:** Forms of justice enforcement and dispute resolution that are not an integrated part of the formal justice system and which have a degree of effectiveness, stability and legitimacy within a designated local constituency. Informal justice systems are most often based on a normative framework deriving from tradition/custom, and/or religion, on occasions with integrated elements from the national legal framework and/or international human rights standards.¹⁴⁹
- **Juvenile justice system (= see Child Justice System):** The juvenile justice system consists of the laws, policies, guidelines, customary norms, systems, professionals, institutions and treatment specifically applicable to children in conflict with the law.¹⁵⁰
- **Mediation / victim-offender mediation:** A process in which a neutral person assists two or more people to resolve a conflict and reach a solution acceptable to all sides. (...) Victim-offender mediation brings the victim/survivor of a crime together with the offender for mediation, provided that the offender has admitted guilt to the offence (without pressure) and that both sides agree to take part. Mediation does not have to be face-to-face: 'shuttle' mediation and letter-writing are some examples of indirect mediation.¹⁵¹
- **Minimum age of criminal responsibility:** the minimum age below which the law determines that children do not have the capacity to infringe the criminal law.¹⁵²
- **Non-custodial measure:** 'measure to which a child may be sentenced by a competent authority that does not include deprivation of liberty'.¹⁵³
- **Pre-trial detention:** 'The period when children are deprived of liberty between the moment of being charged and the moment of being sentenced. (...) Pre-trial detention includes: detention in police cells following arrest and before the first assessment of the case before a competent authority; and detention in remand facilities following the first hearing of the case before a competent authority but prior to the final disposition hearing'.¹⁵⁴
- **Rehabilitation:** 'Restoring of a person to good health or a constructive place in society, often through therapy and education. The term 'reintegration' is generally preferred to 'rehabilitation' as the latter is thought to divert attention away from external factors and responsibilities bringing a child into conflict with the law. Art. 40 CRC specifies that every child in conflict with the law has the right to be treated in a way which takes into account the desirability of promoting his/her reintegration and assuming a constructive role in society'.¹⁵⁵
- **(Re)integration:** '(Re)-establishing of roots and a place in society for children who have been in conflict with the law so that they feel part of, and accepted by, the community. This involves a process of social, economic and political reintegration, for example: through the restoring of family, peer and community relationships; and through participation in educational or livelihood activities, cultural and leisure activities, and decision-making processes'.¹⁵⁶
- **Restorative justice:** 'any process in which the victim, the offender and/or any other individual or community member affected by a crime actively participates together in the resolution of matters arising from the crime, often with the help of a fair and impartial third party. Examples of restorative process include mediation, conferencing, conciliation and sentencing circles'.¹⁵⁷
- **Status offence:** 'An act or behaviour that is only considered criminal if the person committing it is, or is believed to be, under the age of eighteen (i.e. it is an 'offence' due to their 'status' as a child). Typical status offences include truancy, running away from home, being out after dark or being 'beyond parental control''.¹⁵⁸

¹⁴⁹ Ibid.¹⁵⁰ UNODC/UNICEF, *Manual for the Measurement of juvenile justice indicators*, 2006. ¹⁵¹ Ibid.¹⁵² UN Committee on the Rights of the Child, General comment No. 24 (2019) on children's rights in the child justice system, UN Doc. CRC/C/GC/24 (18 September 2019).¹⁵³ UNODC/UNICEF, *Manual for the Measurement of juvenile justice indicators*, 2006.¹⁵⁴ UNICEF Toolkit on Diversion and Alternatives to Detention, 2009, Glossary.¹⁵⁵ Ibid.¹⁵⁶ Ibid.¹⁵⁷ UN Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (2000), para. 2; UN Committee on the Rights of the Child, General comment No. 24 (2019) on children's rights in the child justice system, UN Doc. CRC/C/GC/24 (18 September 2019).¹⁵⁸ UNICEF Toolkit on Diversion and Alternatives to Detention, 2009, Glossary.

ANNEX 2: UN GLOBAL STUDY – BACKGROUND INFORMATION AND GENERAL FINDINGS

Background Information

Until recently, there was very limited understanding of the situation of children deprived of liberty across countries. Country-specific data on child justice in the criminal law context was scarce, and even more so were data on migration-related detention and institutional care provided for children. With push from civil society organizations (hereafter CSOs), this thematic became an issue on the international decision-making agenda. In October 2016, Professor Manfred Nowak was appointed as independent expert to lead the Global Study whose mandate was derived from the UN General Assembly of December 2014 that invited ‘the Secretary-General to commission an in-depth global study on children deprived of liberty’.¹⁵⁹ The actual research process started in 2017 and lasted for three years. A complex Study methodology was developed, addressing three research questions:

- What is the **current understanding** of the situation of children deprived of liberty (targeting in particular the data gap)?
- What are current **typical responses to such situations** (focusing on existing legal and policy instruments and their implementation)?
- What **efforts are needed to prevent** the use of measures that deprive children of liberty, what non-custodial alternatives should be used?

In terms of the scope, the study covered six key areas of deprivation of liberty of children. They included: **Administration of justice (focus of this Toolkit), Children living in prisons with their primary caregivers, Migration-related detention, Institutions, Armed conflict, and National Security.** Additionally, four cross-cutting dimensions have been addressed by further dedicated research processes. They include: **Views of children, Impact on health, Children with disabilities, and the Gender dimension.**

The research was a truly global process. It involved governments through an extensive questionnaire for data and information gathering, UN agencies, regional organisations, National Human Rights Institutions, the international academic research community¹⁶⁰ and some 170 civil society organisations led by an NGO Panel, co-convened by Defence for Children International and Human Rights Watch.¹⁶¹ Two-hundred and seventy-four interviews with children from twenty-two countries permitted the research process to amply and directly consult the views of children.¹⁶²

Finally, Manfred Nowak presented the main findings of the research in his report to the UN General Assembly in New York in October 2019.¹⁶³ This was followed by the publication of a seven hundred-and-fifty-six-page report titled ‘THE UNITED NATIONS GLOBAL STUDY ON CHILDREN DEPRIVED OF LIBERTY’ in Geneva in November 2019, in an event commemorating the 30th anniversary of the adoption of the UN Convention on the Rights of the Child.¹⁶⁴

¹⁵⁹ 13 UN General Assembly, Resolution 69/157 of 18 December 2014, UN Doc. A/RES/69/157 (3 February 2015), para. 52(d).

¹⁶⁰ With further guidance by an Advisory Board of 22 international experts.

¹⁶¹ As part of a core group of eight organisations, which also included the Child Rights International Network (CRIN), International Catholic Child Bureau (BICE), International Detention Coalition (IDC), International Juvenile Justice Observatory (IJJO), Penal Reform International (PRI), Terre des Hommes International Federation and the World Organization against Torture (OMCT) – see <https://childrendeprivedofliberty.info>.

¹⁶² See Chapter 5 of the UN Global Study on findings from children. UN General Assembly, Report of the Independent Expert leading the United Nations global study on children deprived of liberty, UN Doc. A/74/136 (11 July 2019); see also <https://www.ohchr.org/EN/HRBodies/CRC/StudyChildrenDeprivedLiberty/Pages/Index.aspx>.

¹⁶³ UN General Assembly, Report of the Independent Expert leading the United Nations global study on children deprived of liberty, UN Doc. A/74/136 (11 July 2019); see also <https://www.ohchr.org/EN/HRBodies/CRC/StudyChildrenDeprivedLiberty/Pages/Index.aspx>.

¹⁶⁴ Again, see the Omnibook website at <https://omnibook.com/global-study-2019>.

**ANNEX 2: UN GLOBAL STUDY –
BACKGROUND INFORMATION AND GENERAL FINDINGS**

RESEARCH GROUPS & CROSS-CUTTING RESEARCH GROUPS	LEADING RESEARCH INSTITUTION / ACADEMIA	UN FOCAL POINT	NGO FOCAL POINT
Children Deprived of Liberty in the Administration of Justice	Ludwig Boltzmann Institute of Human Rights (BIM) <i>Austria</i>	UNODC	Child Rights International Network (CRIN) Defence for Children International (DCI)
Children Living in Prisons with their Primary Caregiver	Global Campus of Human Rights (GCHR) <i>Italy</i>	OHCHR	Children of Prisoners Europe (COPE) Quakers
Children Deprived of Liberty for Migration Related Reasons	Joint Research Centre / European Commission (JRC / EC) <i>Belgium</i>	IOM UNHCR	Global Detention Project (GDP) Human Rights Watch (HRW) International Detention Coalition (IDC)
Children Deprived of Liberty in Institutions	Centre of Child Law / University of Pretoria (CCL / UP) <i>South Africa</i>	UNICEF	Lumos SOS Children's Villages International (SOS)
Children Deprived of Liberty in the Context of Armed Conflict	Human Rights Watch & Columbia University (HRW / CU) <i>United States</i>	SRSR CAAC	Penal Reform International (PRI) Human Rights Watch (HRW)
Children Deprived of Liberty on Grounds of National Security	Human Rights Watch & Columbia University (HRW / CU) <i>United States</i>	SRSR CAAC	Penal Reform International (PRI) Human Rights Watch (HRW)
Views of Children	University College Cork (UCC) <i>Ireland</i> Queen's University Belfast (QBU) <i>United Kingdom</i>	UNICEF	Terre des Hommes (TdH) and 22 regional NGOs
Impacts on Health	Murdoch Children's Research Institute & University of Melbourne (MCRI / UoM) <i>Australia</i>	WHO	
Children with Disabilities	NUI Galway (NUI Gal) <i>Ireland</i>	UN Special Rapporteur on Persons with Disabilities (SR Disabilities)	
Gender Dimension	University of Cyprus (UCY) <i>Cyprus</i> Chulalongkorn University (CHU) <i>Thailand</i> Association of Women Lawyers of Senegal (AJS) <i>Senegal</i>	UN Working Group on Discrimination against Women (WGDAW)	

BOX 4 – International Study research groups.

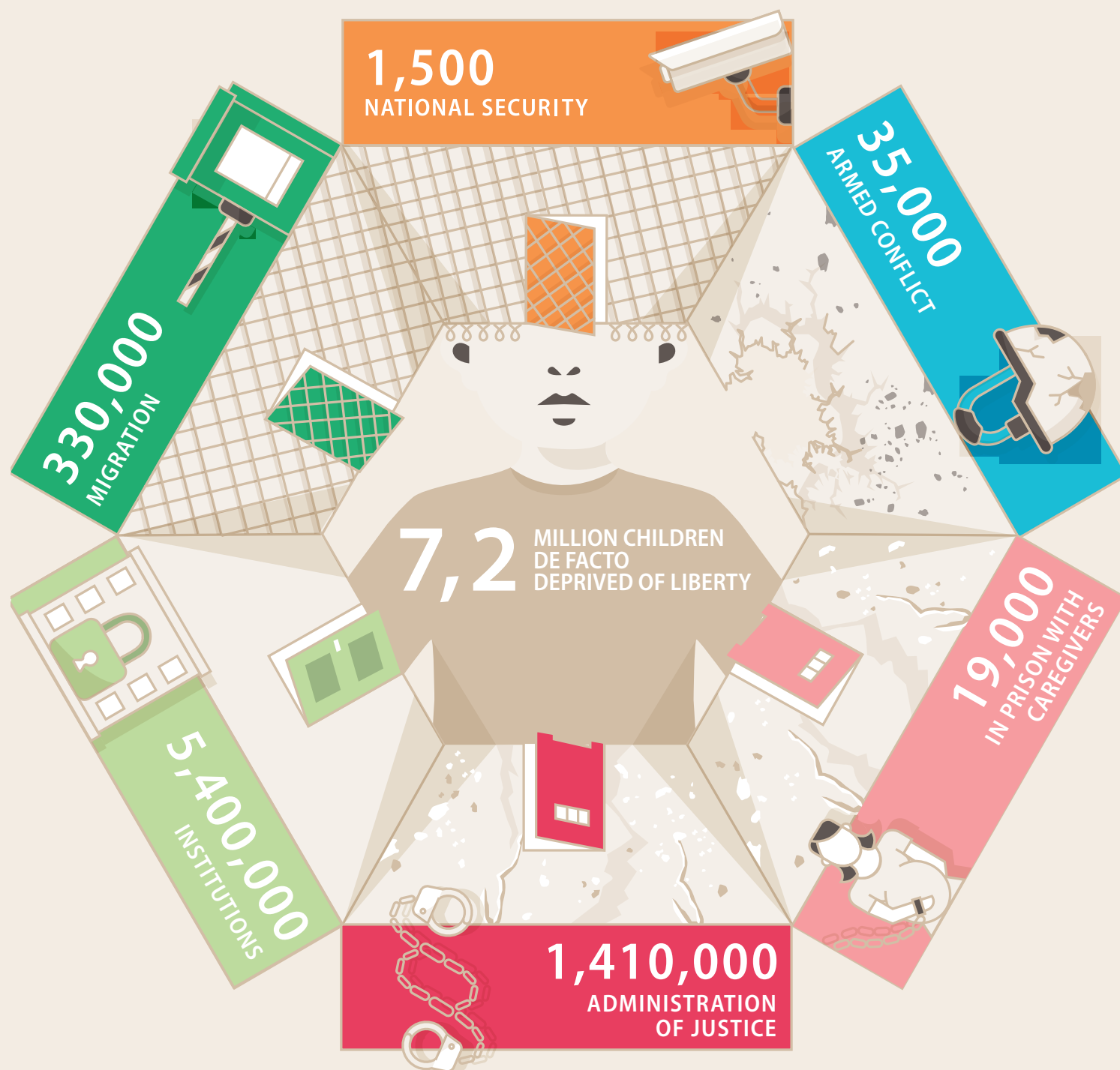
Source: UN Global Study on Children Deprived of Liberty (2019), p.21/22.

General Findings

One of the main objectives of the Global Study has been to shed light on the situation of children deprived of liberty by engaging in an **extensive data collection process**. As a result, it is possible, for the first time, to provide sound data and estimates on the numbers of children affected by deprivation of liberty.

Consequently, across all settings, the Global Study highlighted that:

- **More than 7 million children worldwide** are held in situations of deprivation of liberty, including 5,4 million children in certain institutional care settings, 1,4 million children in the administration of justice (police custody, pre-trial detention, imprisonment) and some 330.000 children in migration-related detention.
- **Safeguards** to ensure that deprivation of liberty of children are applied only in exceptional cases, as a last resort and for the shortest period of time, are widely insufficient or non-existent.
- Deprivation of liberty is often counter-productive to its stated objectives, while **overly expensive and cost-inefficient**.
- The prevalence of 'status offences' and 'tough on crimes' policies contributes to **over-criminalisation** of conduct of children and young people.
- Together with **lack of effective support for families and caretakers** and **insufficient inter-agency cooperation to create comprehensive, integrated and rights-based child protection systems**, they are key driving factors leading to deprivation of liberty.
- Deprivation of liberty is linked to **discrimination** of certain groups of children, who are overrepresented in such settings, ranging from children from minorities, children of afro-descent and migrant children to boys/girls (depending on setting), children in street situations, LGBTI children and children with disabilities.
- In most countries, **conditions of detention are deplorable** and do not meet international standards; violence persists across all forms of institutional settings; deprivation of liberty is inherently stressful and potentially traumatic to children.
- Detention of children can be considered **a form of structural violence**; it leads to children becoming 'invisible', with lack of attention paid to their best interests, such as in the case of small children in prison together with their caretaker.
- **Lack of independent monitoring bodies** contribute to weak enforcement standards.



BOX 5 – Numbers of children deprived of liberty.

Source: UN Global Study on Children Deprived of Liberty (2019), p.661.

ANNEX 3: ACTION AREAS AND KEY QUESTIONS FOR TOOLKIT APPLICATION

Action area 1: Review existing legislation, procedures and structures

Key Questions

When preparing for the application of the Toolkit in e.g. a comprehensive country assessment process, you may find the following key questions (based on relevant international standards and Global Study findings) useful at the beginning of such process.

- Has the country ratified OPCAT, CRC Optional Protocol for a complaint mechanism, CRPD?
- Do you have a specialised system to try children in conflict with the law? What does your juvenile justice system look like (separated system, specialised unit within the adult system, no separation between juvenile and adult system)?
- To what extent do professionals in the child justice system receive regular training on alternatives to detention?
- What is the minimum age of criminal responsibility in your country?
- What is the maximum length of police custody for children in your country?
- How long can children be held in pre-trial detention in your country?
- How much time on average does it take to reach a judgment after opening the proceedings?
- Do your laws provide for capital punishment or life-term sentences with regard to child offenders?
- What is the maximum prison sentence for any offence committed by children prescribed by your national laws?
- Are so-called status offences, i. e. offences that only children can commit due to their status as children, petty crimes and so-called 'immoral' behaviour punishable in your country?
- Are children in detention facilities detained separately from adults?
- Are boys and girls detained in separate facilities?
- Has your country implemented specific (legal) safeguards for girls, LGBTI children, children with disabilities or other particularly vulnerable children in detention?
- Do children in detention have the opportunity to maintain regular contact to the outside world, especially their families? Are regular visits by family, friends, etc. allowed?
- Are there any awareness-raising activities, for instance in schools, about child justice and detention?
- Is there a national focal point for data collection on children deprived of liberty in the administration of justice context? If so, does this focal point collect data from other settings as well?

Action area 2: Provide non-custodial measures for children

Key Questions

- Does your legislation provide for diversion/restorative justice programmes?
- Does your country have informal justice mechanisms in place?
- Are there non-custodial alternatives to pre-trial detention for children?
- Are there other programmes aiming at non-custodial solutions established?
- Is there a (national) strategy in place on how to avoid detention of children/replace it by non-custodial measures?

- Are statistical data collected on the use of non-custodial measures?
- Have you set up early or post-release programmes specifically for children? If so, are they sufficiently funded? What are typical barriers for their implementation?
- In terms of shaping public opinion, what is the attitude towards non-custodial solutions for children in conflict with the law among stakeholders, including political decision-makers?

Action area 3: Provide non-custodial measures for children

Key Questions

- Has there been a nationwide risk assessment of situations and/or of groups of children more likely to be arrested/being overrepresented in detention?
- Is there a professional national network for regular exchange of experiences off stakeholders dealing with children in conflict with the law in your country? Is there a regular forum for public debate on (alternatives to) deprivation of liberty?
- Are there inter-agency cooperation efforts to prevent children from getting in contact with the justice system? Is there a focal point that coordinates efforts to adequately address children in conflict with the law?
- Are there programmes in place to specifically target and support children from marginalised communities, dysfunctional families and poor socio-economic background? If so, are these programmes adequately funded?
- When recruiting personnel for law enforcement, to what extent is consideration given to actively recruit persons with particular background (e.g. belonging to ethnic or religious minorities, indigenous communities, the LGBTI community or other marginalised sections of society)?
- Is there a system in place that collects data on children in detention comprehensively? Are there statistics on children deprived of liberty, but also on the use of non-custodial measures?
- Do you cooperate in data sharing within the framework of regional and international comparative research initiatives in the field of child justice system (e.g. UN Survey of Crime Trends and Operations of Criminal Justice Systems , International Self-Report Delinquency Study, World Prison Brief)?
- Do you use evidence-based risk assessment tools for child offenders? If so, at which stage in the justice system, and who decides on their application? What is the methodology behind them, and are they accessible to the offenders (defendants) and the general public?
- What is the nationwide share of the government's budget allocated to the criminal justice system? As part of this share, what is the share allocated to the child justice system?
- In relation to children in street situations, do you have a strategy/policy (including for police) addressing the situation of those children, and how to ensure respect for the principle of detention as a last resort?

Action area 4: Ensure adequate treatment during deprivation of liberty

Key Questions

- To what extent do children deprived of liberty have access to quality education? Are they allowed to visit school while in detention?
- To what extent do children deprived of liberty have access to health care? What are the main obstacles they face when accessing health care? Are medical personnel regularly present in detention facilities?
- Do detention facilities offer psychological support/mental health care services to children?
- Are there special schemes in place to provide girls in detention with gender-specific health care?
- Is corporal punishment of children in detention prohibited? If it is prohibited by law, have you received information on compliance in practice?
- Are children under certain circumstances held in solitary confinement? If so, what are the prerequisites for solitary confinement of children?
- Are children held separately from adults in detention?
- Have you received allegations of violence by detention facility staff or inter-prisoner violence among children in detention? How widespread are such allegations?
- How do you guarantee the right to privacy of detained children?
- To what extent is detention facility staff trained in conflict management and mediation skills?
- Is there a child safeguarding/protection policy in place for the detention facility?
- Is there a confidential, safe reporting and complaint mechanism for children for the facility?

Action area 5: Monitor implementation and ensure access to justice for children

Key Questions at Preparatory Stage

- Has a National Preventive Mechanism (according to OPCAT standards) been established in your country? If so, is there specific guidance on standards for monitoring places of detention of children deprived of liberty?
- Is there a Child and Youth Ombudsperson established in your country? If so, does this institution regularly check child/juvenile detention facilities?
- Are there specific complaint mechanisms in place for children deprived of liberty?
- How do you ensure that complaint mechanisms are made accessible to children?
- Are such mechanisms in a position to carry out their work independently? What are the challenges they face in their daily work?
- Is there a structured follow-up mechanism for implementing recommendations from monitoring bodies?

ANNEX 4: NGO PANEL FOR THE UN GLOBAL STUDY ON CHILDREN DEPRIVED OF LIBERTY

The Global Study process has led to several processes for cooperation and exchange, most notably among the members of the thematic international research groups. For the Global Study Chapter 9 on administration of justice, research was coordinated by the Ludwig Boltzmann Institute of Fundamental and Human Rights (LBI-GMR) in Vienna/Austria (Moritz Birk, Helmut Sax), joined by academics from The Netherlands, United Kingdom, Argentina and South Africa; in addition, UNODC acted as the focal point on child justice in relation to other UN agencies, while the international NGO Panel supporting the Global Study was represented in the group by Defence for Children International and the Child Rights International Network. Helmut Sax (LBI-GMR) continues to act as contact person for this Study area.¹⁶⁵ The NGO Panel, bringing together some 170-member organisations, proved an essential resource for the research process, including for identifying good practices and policies for non-custodial measures.

NGO Panel for the Global Study on Children Deprived of Liberty¹⁶⁶

Core Group

1. [Defence for Children International](#) (DCI) – co-convenor
2. [Human Rights Watch](#) (HRW) – co-convenor
3. [Child Rights International Network](#) (CRIN)
4. [International Catholic Child Bureau](#) (BICE)
5. [International Detention Coalition](#) (IDC)
6. [International Juvenile Justice Observatory](#) (IJJO)
7. [Penal Reform International](#) (PRI)
8. [Terre des Hommes International Federation](#)
9. [World Organization against Torture](#) (OMCT)

Full list of Members of the NGO Panel:

<https://childrendeprivedofliberty.info/about/the-ngo-panel-for-the-global-study-on-children-deprived-of-liberty/members-of-the-ngo-panel/>

Further relevant child's rights networks and platforms

- Child Rights Connect, <https://www.childrightsconnect.org> - global network of some 90 organisations, engaged in advocacy, policy development and civil society support for the monitoring process with the UN Committee on the Rights of the Child, see: Engaging in the Reporting Cycle of the UN Committee on the Rights of the Child¹⁶⁷
- European Network of Ombudspersons for Children (ENOC), <https://enoc.eu>.

In the current follow-up to the UN Global Study, a leading role is played by the Global Campus of Human Rights an international inter-university network for human rights research and training. It has established a far-reaching child rights research programme, with a dedicated sub-programme on UN Global Study projects focusing on disseminating and implementing the findings and recommendations across the world.

Global Campus on Human Rights

- Coordinates Global Study follow-up activities:
<https://gchumanrights.org/research/projects/un-global-study.html>
- Manages child rights research programme.

In the current follow-up to the UN Global Study, a leading role is played by the Global Campus of Human Rights an international inter-university network for human rights research and training. It has established a far-reaching child rights research programme, with a dedicated sub-programme on UN Global Study projects focusing on disseminating and implementing the findings and recommendations across the world.

ANNEX 5: FURTHER RELEVANT SOURCES & TOOLS FOR ANALYSIS AND RESPONSE

1. Further relevant child's rights networks and platforms

- Full report: <https://omnibook.com/global-study-2019>

General Assembly report: <https://undocs.org/A/74/136>; Website:

<https://www.ohchr.org/EN/HRBodies/CRC/StudyChildrenDeprivedLiberty/Pages/Index.aspx>

2. Official/state sources on legislation (legal databases), policies and structures, including State Party reports to UN monitoring bodies (treaty-based, Charter-based)

- OHCHR treaty bodies database:
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en

3. Assessments from international monitoring mechanisms (e.g. UN human rights treaty bodies), fact-finding mechanisms (e.g. UN Human Rights Council special procedures), Universal Periodic Review (UPR)

- UN Committee on the Rights of the Child website:
<https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>;
- UN Human Rights Council special procedures:
<https://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>;
- Universal periodic review (UPR):
<https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>

4. Assessments from regional mechanisms

- Council of Europe: Committee on the Prevention of Torture (CPT)
[https://www.coe.int/en/web/cpt\(CPT\)](https://www.coe.int/en/web/cpt(CPT)), CoE Guidelines on child friendly justice,
<https://www.coe.int/en/web/children/child-friendly-justice>
- Organization of American States (OAS): <http://www.oas.org/en/topics/children.asp>
- African Union/African Charter: <https://www.acerwc.africa/about-the-charter/>

5. Assessments from state national monitoring mechanisms (e.g. reports from National Preventive Mechanisms, NHRIs)

- Overview by Global Alliance of National Human Rights Institutions: <https://ganhri.org>

6. Civil society monitoring reports (e.g. 'shadow reports' for state monitoring processes)

- Child Rights Connect database of civil society reports to the Committee on the Rights of the Child from 1991 to 2014: <https://www.childrightsconnect.org/alternative-report-archive/>;
- OHCHR treaty bodies database:
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en

7. Academic/civil society literature and analysis

- Save the Children Resource Centre, <https://resourcecentre.savethechildren.net>
- NGO Panel for the Global Study on Children Deprived of Liberty, resource collection, <https://childrendeprivedofliberty.info/resources/publications/>

8. Research methodologies for needs assessments and other tools

- General child rights Toolkit: [UNICEF http://www.childrightsToolkit.com/](http://www.childrightsToolkit.com/)
- SWOT analysis (strengths, weaknesses, opportunities, and threats): https://www.academia.edu/30845108/A_Situation_Analysis_of_Child_Rights_in_Nepal
- PESTLE analysis (political, economic, social, technological, legal and environmental factors/trends): <https://www.care-international.org/files/files/Care%20International%20Advocacy%20Handbook.pdf>, p. 10
- Influence tree template: https://www.eurochild.org/fileadmin/public/05_Library/Thematic_priorities/01_Childrens_Rights/FORUM_Advocacy_Toolkit-DEF.pdf, p. 20
- Power mapping grid/stakeholder mapping template: https://www.eurochild.org/fileadmin/public/05_Library/Thematic_priorities/01_Childrens_Rights/FORUM_Advocacy_Toolkit-DEF.pdf, p. 19; https://www.unicef.org/evaluation/files/Advocacy_Toolkit.pdf, p. 30, 31; https://resourcecentre.savethechildren.net/node/8557/pdf/part_2.pdf, p. 29; <https://www.care-international.org/files/files/Care%20International%20Advocacy%20Handbook.pdf>, p. 17
- Target audience mapping grid: https://www.unicef.org/evaluation/files/Advocacy_Toolkit.pdf, p. 32

9. Documented involvement/participation of children (including in monitoring processes)

- UN Committee on the Rights of the Child: <https://www.ohchr.org/EN/HRBodies/CRC/Pages/ChildParticipation.aspx>;
- PRI Toolkit on interviewing children: <https://cdn.penalreform.org/wp-content/uploads/2012/01/Toolkit-for-Interviewing-Children-Guardians-Staff-of-Juvenile-Detention-Facilities.pdf>;
- Save The Children: <https://www.savethechildren.org.uk/content/dam/global/reports/advocacy/consultation-Toolkit.pdf>
- Eurochild – Child participation Toolbox: <https://www.eurochild.org/policy/child-and-youth-participation/>

10. Documentation on various child detention issues

- Child detention monitoring mechanisms/guidelines: <http://www.childrensrightsbehindbars.eu>
- International Juvenile Justice Observatory (IJJO) documentation center: <http://www.oijj.org/en/docs/general>

