

*“Children do not belong behind bars. Children should go to school. They should be playing with their friends. They should be together with their families.”*  
- No Kids Behind Bars! (Defence for Children International, 2005)

We, civil society organisations, call upon the members of the United Nations General Assembly [to agree to the recommendation of the Committee on the Rights of the Child<sup>1</sup>], to request that the United Nations Secretary-General undertake a **GLOBAL STUDY ON CHILDREN DEPRIVED OF LIBERTY**<sup>2</sup> in order to comprehensively **collect data and statistics** from across regions on the number and situation of children in detention; **share good practices**; and **formulate recommendations** for effective measures to prevent human rights violations against children in detention and reduce the number of children deprived of liberty.

There is a great lack of quantitative and qualitative data (particularly disaggregated data), research and verified information on the situation of children deprived of their liberty.<sup>3</sup> Deprivation of liberty has very negative consequences for the child’s harmonious development and is to be a *“measure of last resort and for the shortest appropriate period of time”*<sup>4</sup>. Children deprived of liberty are exposed to increased risks of abuse, violence, acute social discrimination and denial of their civil, political, economic, social and cultural rights; certain disadvantaged groups are more affected than others; and society is affected at large as deprivation of liberty tends to increase social exclusion, recidivism rates, and public expenditure.

The Study will take into account deprivation of liberty in all its forms, including: children in conflict with the law; children confined due to physical or mental health or drug use; children living in detention with their parents; immigration detention; children detained for their protection; national security; etc. In order to ensure that deprivation of liberty is clearly understood and thus used as a measure of last resort, there is also critical need to improve the **clarity around key concepts which are related to children’s rights and deprivation of liberty** (such as last resort, shortest possible time, best interests of the child; access to justice; pre-trial detention; diversion; restorative justice; formal and informal justice systems; alternative measures; protective measures; age of criminal responsibility; rehabilitation and reintegration; administration detention; inter alia).

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<sup>1</sup> Acting under United Nations Convention on the Rights of the Child (UNCRC), article 45(c)

<sup>2</sup> *“Deprivation of liberty means any form of detention or imprisonment or the placement of a person under the age of 18 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”*, UN Rules for the Protection of Juveniles Deprived of their Liberty 1990 (**Havana Rules**)

<sup>3</sup> Lack of existing data on children deprived of liberty is mentioned in a number of official reports, inter alia: Joint report on prevention of and responses to violence against children within the juvenile justice system (2012), Special Representative of the Secretary General on violence against children, the Office of the High Commissioner for Human Rights (OHCHR) and United Nations Office on Drugs and Crime (UNODC); UNCRC General Comment No.10 (2007); Administrative detention of children: a global report (2011), Children’s Legal Centre, University of Essex & UNICEF; Report of the UN Special Rapporteur on the Human Rights of Migrants (A/HRC/20/24).

<sup>4</sup> Convention on the Rights of the Child, article 37(b)

The Study will map out, through monitoring and evaluation analysis, how existing international laws and standards are being implemented on the ground and assess the concrete possibilities for States to improve their policies and responses. Through the collection of sound evidence and reliable data, the Study will also provide a consolidation of **good practices** and the formulation of **recommendations**, to support the work of States, UN agencies and other stakeholders to more effectively implement international standards and ensure that children deprived of their liberty actually enjoy their human rights.

The Study will be framed to have the following main strands:

- Collect quantitative and qualitative **data and statistics** on children deprived of their liberty, addressing gender, age, vulnerable groups, and disparities (e.g., urban/rural, regions, ethnic groups);
- Describe the **situation of children in detention** facilities and the use and abuse of deprivation of liberty, considering international human rights law and standards;
- Explain the **key concepts** which are related to children's rights and deprivation of liberty. Aim to inform, and to promote greater commitment to improving justice systems, and the enjoyment of rights;
- Analyse the effective application of **prevention measures** and **alternative measures** that ensure that detention is used only as a last resort (privileging diversion & restorative justice, inter alia), and leads to adequate rehabilitation measures;
- Formulate **recommendations and good practices** to implement standards, as well as reduce the number of children deprived of their liberty.

This Study would build upon the model of the United Nations Study on the Impact of Armed Conflict on Children (1996) conducted by Graça Machel and the United Nations Study on Violence against Children (2006), carried out by Paulo Sergio Pinheiro. Both of these studies exposed the nature, extent and causes around the issues of conflict and violence, and proposed clear recommendations for prevention and responsive actions. Note that the Study carried out by Pinheiro explicitly mentions, in the area of custody and detention, how “[...] *better data collection is urgently needed globally* [...]”<sup>5</sup>. Both studies represent a strong platform for advocacy and action and have led to important advancements for children. These Studies represent a benchmark to assess any progress made in these specific fields; this Study will do the same. In the area of deprivation of liberty a concrete evaluation of the situation is highly necessary and urgent.

**In order for a Global Study on Children Deprived of Liberty to be accomplished, the signatories of this Call ask the Members of United Nations General Assembly to request the United Nations Secretary General to conduct such an in-depth Study, through the appointment of an Independent Expert - to work in collaboration with the UN Interagency Panel on Juvenile Justice (IPJJ), UN agencies, State members, civil society organisations, academia and children themselves, as well as all other relevant partners.**

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<sup>5</sup> United Nations Secretary-General's Study on Violence against Children 2005, pg.191