



**Defence for
Children International**
the worldwide movement for children's rights

“Working together towards a Global Study on Children Deprived of Liberty”

Brief Report

*Brief Report of the Side Event to the 31st session of the Human Rights Council
“Working together towards a global study on Children Deprived of Liberty”*



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Date and Venue: 10:00 – 12:00
Thursday, 10 March 2016
Palais des Nations, Room XXIII

Organisations: Office of the Special Representative on Violence against Children
Office of the Special Representative for Children and Armed
Conflict
Office of the High Commissioner for Human Rights (OHCHR)
United Nations Office on Drugs and Crime (UNODC)
United Nations Children's Fund (UNICEF)
NGO Panel for the Global Study on Children Deprived of Liberty

Sponsored by: Permanent Mission of Algeria to the United Nations
Permanent Mission of Norway to the United Nations
Permanent Mission of Switzerland to the United Nations
Permanent Mission of Uruguay to the United Nations

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I. INTRODUCTION

During the 31st regular session of the United Nations Human Rights Council (UNHRC), a side-event was held on the topic “Working together towards a Global Study on Children Deprived of Liberty,” organized by the NGO Panel for the Global Study on Children Deprived of Liberty, Office of the Special Representative on Violence against Children, Office of the Special Representative for Children and Armed Conflict, Office of the High Commissioner for Human Rights, United Nations Office on Drugs and Crime, and the United Nations Children’s Fund.

Key panel speakers participating in the event included: Ms. Marta Santos Pais, United Nations Special Representative to the Secretary General (SRSG) on Violence against Children; Ms. Peggy Hicks, Director, Research and Right to Development Division, OHCHR; Ms. Leila Zerrougui, SRSG for Children and Armed Conflict; Mr. Juan Mendez, United Nations Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; Ms. Anna Giudice Saget, Justice Section, UNODC; Ms. Jo Becker, Human Rights Watch, co-convenor of the NGO Panel for the Global Study on Children Deprived of Liberty.

In March 2014, Defence for Children International (DCI) & Human Rights Watch (HRW), together with a number of other non-governmental organizations launched a campaign to call for a Global Study on Children Deprived of Liberty. Following numerous lobbying activities, the campaign concluded successfully with a formal request to commission an in depth Study in the child rights resolution of United Nations General Assembly in December 2014 (UNGA/69/157, para.52.d).

Subsequently, a decision was made by the UN Secretary General to designate the UN SRSG on Violence against Children to facilitate the initial consultations on how to take the Study forward in the lead up to the appointment of an Independent Expert.



The aim of the Study is to collect comprehensive, disaggregated data and qualitative research from across regions on the number and situation of children in detention. To this end, the Study will be technical and scientific in nature. The Study will also provide a consolidation of promising practices and the formulation of recommendations to support the work of Member States, UN agencies and other stakeholders to more effectively implement international laws and standards.

It is crucial that the Study follows a collaborative and participatory approach, including all actors. An Independent Expert must be appointed to best broker cooperation and contributions to the Study by all relevant stakeholders.

III. OVERVIEW

Around the world, countless numbers of children are deprived of liberty. Detention often occurs in squalid conditions, without adequate oversight and regulation and exposing children to high risks of violence. All too often, children's rights to education, health, and family life are compromised while the chance for a successful life outside bars is very hard to anticipate.

There is an acute lack of comprehensive, disaggregated data and qualitative research on child detention. The exact number of children deprived of their liberty worldwide is unknown and it is hard to gain a comprehensive view of the length and conditions of detention, the reasons behind this situation and of the opportunities to genuinely benefit from non-custodial alternatives and from effective social reintegration strategies. As a result, states lack a clear indication of the magnitude and of alternative approaches that benefit both children and society.

To address these concerns, in 2014, prompted by civil society, the General Assembly asked for a Global Study on Children Deprived of Liberty through its resolution UNGA/69/157, para.52.d. Framed by international standards, the Global Study will



collect sorely needed qualitative and quantitative data to document the situation of children deprived of liberty, in all its forms. Moreover, the Global Study will identify promising practices and formulate recommendations for action at national, regional and international level to prevent detention and reduce the number of children deprived of their liberty, and put in place effective non-custodial alternatives to detention.

Previous in-depth UN studies such as children affected by armed conflict (Machel Study, 1996) and violence against children (Pinheiro Study, 2006) have proved crucial in consolidating knowledge and in promoting action oriented recommendations to achieve positive change.

Objectives of the panel discussion:

- Discuss the key issues that will be addressed by the Global Study on Children Deprived of Liberty;
- Present the institutional framework created in the support of the Global Study, including the UN Inter-Agency Task Force, the Group of Friends, the civil society forum, including the NGO Panel on the Global Study on Children Deprived of Liberty and the network of academics/research institutions;
- Mobilize political support and commitments to support the Global Study process.

VI. PANEL DISCUSSION

The discussion was opened by a video message from the **UN Deputy Secretary-General, Mr. Jan Eliasson**. In his message, he considered that despite the promise of the United Nations Convention on the Rights of the Child (UNCRC), countless



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children around the world continue to be overlooked, forgotten and abused. Some of the most invisible and voiceless children are those deprived of liberty. Many children languish in jails, or other forms of detention. Others are held because they are migrants, asylum seekers, refugees or simply homeless and living on the street. Still others have been locked up because of disabilities or mental health problems. Whatever the circumstances, these detainees - like all children - need care and protection; they need opportunities, education and guidance. Yet conditions in places of detention are often poor and dangerous; many facilities are overcrowded, unsanitary and lack adequate oversight and regulation. Children are at heightened risk of violence and exploitation, often without access to protection or justice. Their mental and physical development is at serious risk. The damage to their young lives is often irreparable. Children deprived of their liberty also fall into a statistical vacuum, with estimates ranging from the tens of thousands to as many as one million. I think it is closer to the million. The UN Deputy Secretary-General recalled that in 2014 the United Nations General Assembly commissioned the in-depth Global Study on Children Deprived of Liberty. He defined it as a major opportunity to shed light on a dark and disturbing picture. Aiming to help children enjoy their rights and to promote alternatives to deprivation of liberty, there is a legal and moral obligation to take this issue seriously and to make it a shared priority. A UN Task Force has been making progress in close collaboration with member states, civil society and academia, but this work needs urgent funding. Therefore, Eliasson called on member States and all stakeholders to support this process and to work together towards a solid Study that places children deprived of liberty first. A shared commitment, as embodied in the 2030 Agenda for Sustainable Development to “leave no one behind” and to live up to the UN Charter - stating the equal worth of all human beings – must be fulfilled. Eliasson reminded that the quality of a society can be measured looking at how it deals with its most poor, its most deprived, its most vulnerable people. That is a good definition of a good society, and a good society takes care of children who are deprived of their liberty.



In her address, **Ms. Marta Santos Pais, Special Representative of the Secretary General on Violence against Children**, talked about the steps taken towards the effective realization of the Global Study, including setting up the institutional framework. She underlined that there is no clue about the number of children deprived of liberty, for how long, for what reasons, and this worsens their situation being unable to ensure rehabilitation and reintegration. The Study will bring evidence, collect data, gather promising practices from governments, as well as restorative justice initiatives. It will lead to a cross-regional research forum with platforms engaging in new studies. Joining hands with governments is fundamental.

In her intervention, **Ms. Peggy Hicks, Director of the Research and Right to Development Division, Office of the High Commissioner for Human Rights**, recalled how the detention of migrants children is a timely issue. She highlighted how the rights of minorities and indigenous people, the impact of detention on girls, on children with disabilities – are all components to be included in the Study. Furthermore, the issue of age of criminal responsibility and that of pre-trial detention will also have to be addressed in the Study. Detention is unfortunately often a matter of punishment and not a last resort. She underlined the importance of leadership of an Independent Expert, an apposite Advisory Group and a NGO coalition as well as the need for governments to provide substantive inputs and funding for the Study.

Ms. Leila Zerrougui, Special Representative of the Secretary General for Children and Armed Conflict, focused on how the Global Study can highlight the issue of children detained for association with armed groups, in particular on national security charges. Children are too often deprived of liberty in the context of armed conflicts, considered not as victims but as security threats outside any legal framework of detention. The first reason of detention is the association with armed groups. They are also often detained because of their parents. They are also associated with terrorism. They stay years – from juvenile to adults – because they



are considered as security threats. They do not have access to their families. Many girls are detained for honour crimes – from being victims they become culprits. They are tried out of courts. Where are the shortcomings and how can we address them? The Study is to provide practical solutions, with promising practices to follow.

In his speech, **Mr. Juan Mendez, UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment**, talked about “the unique vulnerabilities of children deprived of liberty to torture and other ill-treatment and the role of the Global Study in addressing and combatting such violations”. He underlined that the Global Study is absolutely necessary, given estimates that an unknown number of children worldwide – perhaps more than one million –continue to be deprived of their liberty (by criminal justice systems). The detention of children is not only often typically costly and ineffective. As he found in the report presented to the Human Rights Council one year ago (A/HRC/28/68), children deprived of their liberty are at a very heightened risk of violence and of suffering torture and other ill-treatment. In this report, Mr. Mendez concluded that even very short periods of detention can undermine a child’s psychological and physical well-being and compromise cognitive development. Children deprived of liberty are at a heightened risk of suffering depression and anxiety, and frequently exhibit symptoms consistent with post-traumatic stress disorder. Reports on the effects of depriving children of liberty have found higher rates of suicide and self-harm, mental disorder and developmental problems. Even very short periods of detention can undermine a child’s psychological and physical well-being and compromise cognitive development. What’s more, children are particularly vulnerable to detention if they are impoverished, lack parental care, have been victims of physical or sexual abuse, or are living and working on the streets. In this context, it is clear that the detention of children – whether within the criminal justice system, institutionalization, or administrative immigration detention – is



inextricably linked – in fact, if not in law – with ill-treatment of children. The unique vulnerability of children deprived of their liberty requires higher standards and broader safeguards for the prevention of torture and ill-treatment. Within the criminal justice system, specific practices, such as segregation, the organization and administration of detention facilities, disciplinary sanctions, opportunities for rehabilitation, the training of specially qualified personnel, family support and visits, the availability of alternative measures, and adequate monitoring and oversight, require specific attention and modified standards. Nevertheless, the best way to ensure that children are not subjected to torture or other ill-treatment is to ensure that the deprivation of liberty of children is used only as *ultima ratio* measure, for the shortest possible period of time, only if it is in the best interest of the child, and limited to exceptional cases. The “best interests of the child” should not be defined in accordance to the convenience of the State. This is particularly true given the fact that children are often detained for “status offenses” such as truancy, or running away from home, and even when they have not committed any crimes, but simply as a result of “vagrancy,” homelessness, or as a result of being in need of care and protection. It is also particularly concerning that States also frequently detain children who are refugees, asylum seekers, and irregular migrants for a number of reasons, including health and security screening, to verify their identities, or to facilitate their removal from the territory. Such immigration detention practices across the globe, whether *de jure* or *de facto*, put children at risk of cruel, inhuman or degrading treatment or punishment. The deprivation of liberty of children based on their or their parents’ migration status is never in the best interest of the child, exceeds the requirement of necessity, becomes grossly disproportionate and constitutes cruel, inhuman or degrading treatment of migrant children. In addition, it is important to remember that children are also often deprived of liberty in institutional settings, including privately-run institutions. States’ obligations to prevent torture and other ill-treatment applies not only to public officials, but also to medical doctors, health-care professionals, social workers, and other carers,



including those working in private social care institutions. In conclusion, it is especially crucial for the Global Study compiles sound disaggregated data on the problem of children deprived of liberty, in order to accurately define the scope of the problem and put forth adequate information on alternatives to detention, which will not only benefit children, but also societies at large. Mr. Mendez welcomes the collaborative and participatory approach taken in this endeavor so far, and urges the continued collaboration of UN agencies, member States, civil society organizations, academia and children, in the future.

Ms. Anna Giudice Saget, Crime Prevention and Criminal Justice Officer, Justice Section, UNODC, presented an intervention on “the role of data collection in implementing the UN Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice and in contributing to a Global Study on Violence against Children”.

Her presentation focused on 4 main points:

- The role of UNODC in protecting children from violence;
- Background of the Global Study;
- Goal of the Global Study;
- The Data Collection process.

With Resolution 69/194, UNODC acquires a new mandate: supporting the implementation of the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice (A/C.3/69/L.5). Part III of the Model Strategies: violence against children in contact with the justice system, focuses on the particular risk of violence for children deprived of liberty. UNODC has started implementing a global programme to implement the Model Strategies.

Despite the UN Convention on the Rights of the Child imposing the obligation on



States to use deprivation of liberty only as a measure of last resort (article 37), in was estimated in 2009 that more than 1 million children were deprived of liberty (United Nations Children's Fund, Progress for Children, A report card on child protection, No. 8, September 2009). The current number of children deprived of liberty is unknown.

That is why the goal of the Global Study is *"to shine a light on the scale and conditions of children deprived of their liberty and secure the protection of their rights"* (Secretary General Ban Ki-moon on Universal Children Day). The Study will overcome the acute lack of data and include promising practices and recommendations for action to effectively realize all relevant rights of the child.

The Data Collection Process. The principle at the basis of Global Study should be "solid data from clear sources". The data collection process would include:

- Follow-up with case study-countries;
- Scientific literature;
- Review of data availability;
- Review of data quality;
- Validation: data shared back to countries for review;
- Accountability: process clearly defined and shared.

The UNODC describes a three-phased process to collect data:

Phase 1: Need for a large coverage and use of best sources of data in each country. This can be carried out by means of a questionnaire, which should be short and simple – just core indicators, also flexible and allow transparency. On this point, it is also crucial that there be a local focal point/expert facilitating the data collection and providing insight on what's behind the data.

Phase 2: Collection of Metadata for each country individually to try and understand



what is behind the data considered. It is necessary to understand the possible use of data. In this phase it is necessary to consider the opinion of the focal points, of local experts, qualitative studies on that country, and triangulation with other sources are needed to interpret the data and assess potential biases.

Phase 3: Data Entry and Data Validation. Data has been filtered on the base of the analysis of the metadata. Data should be re-checked by the national authorities and national experts. Final clean database containing statistics on detected cases of trafficking and information on the metadata, qualitative studies, opinion of experts etc.

In her address, **Ms. Jo BECKER, Advocacy Director, Human Rights Watch, co-convenor of the NGO Panel for the Global Study on Children Deprived of Liberty**, focused on NGOs leadership role in the campaign calling for the Study and as key contributors to its concrete realization.

Over 2 years ago, NGOs began advocating for a Global Study on Children Deprived of Liberty. Whether working on juvenile justice, immigration detention, children with disabilities, or children in armed conflict, civil society was convinced that far too many children around the world are detained illegally, arbitrarily, and unnecessarily, often at great cost to society. A Global Study on Children Deprived of Liberty was necessary for two fundamental reasons: 1) as researchers, advocates, or as service providers, NGOs saw first-hand the children whose lives were being damaged, demeaned, and thrown away; 2) Many of them had experience with the two previous UN studies on children, and saw their profound impact. The Graça Machel Study on children and armed conflict (1996) brought global attention to children recruited as soldiers, children killed in war, child refugees, and the impact of landmines on children. It prompted new international standards, and new mechanisms to protect children from conflict, including the SRSG on children and armed conflict, who has been instrumental in securing commitments from



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governments and armed groups alike to end violations against children in war. The Paulo Pinheiro Study on Violence against Children (2006) brought new attention to violence against children, prompting national and regional action plans, legislative changes, and a commitment by the world community to eradicate all forms of violence against children by 2030.

A Global Study on Children Deprived of Liberty can have a similar catalytic effect as the previous Studies and prompt new laws, policies, and practices that can dramatically reduce the number of children behind bars and locked doors. But to reach that goal, a better idea of how many children involved is needed, the realities of their circumstances, what alternatives to detention work, and how countries can better live up to their international obligations.

The UN Committee on the Rights of the Child had a similar view. They examine dozens of countries every year. Their comprehensive reviews convinced them that too many governments were not living up to their obligations to reserve detention as a last resort, and that the overuse of detention had serious negative consequences for children and society alike. In May 2014, they wrote to all to the UN Secretary General supporting the NGO campaign and recommending a Global Study be commissioned.

Both the UN Committee and NGOs agreed that, similarly to the previous studies, this Study should also be led by an Independent Expert on behalf of the UN Secretary General. This is important for several reasons: to bring a high profile to the issue, to facilitate cooperation across the UN system, and to ensure independence in the examination of the topic. We know that some governments have been concerned that a Study led by an Independent Expert would lead to calls for a new ongoing mandate, like the SRSGs currently sitting at this podium. It must be made clear that NGOs are NOT calling for a new mechanism.

NGOs created a formal panel to support the Study, the “NGO Panel”, which now



includes nearly 100 NGOs and civil society organizations from around the world. This panel includes national, regional, and international organizations, research and legal centers, and faith-based organizations.

In 2014, the NGO Panel met with dozens of governments during the lead-up to the United Nations General Assembly (UNGA), sharing research on the issue, the CRC's recommendation, and the potential impact of the Study. Successfully, in December 2014, the UNGA formally asked the UN Secretary General to initiate the Study (resolution UNGA/69/157, para.52.d.).

The Study is being prepared in several ways: consultations are being arranged by the SRSG on Violence against Children with regard to the scope of the Study; identification of possible funding sources is underway; establishment of a database systematizing existing research from both academic and NGO sources to inform the Study; identification of partners who can provide specific expertise; collection of data on promising practices.

It is over one year ago that the UNGA requested the Study and it has yet to commence implementation. It is encouraged that the UN Secretary General will appoint an Independent Expert as soon as possible and that supportive member States will make concrete financial pledges to support this important initiative, having far-reaching consequences that will benefit all of us.

UNICEF (intervention from the floor): as the Study moves forward, UNICEF looks forward to continuing to work with the UN Task Force and partners, Civil Society and Governments to support the Study, and, through it, to improve the situation of children deprived of liberty, for whatever reason. The work undertaken so far has demonstrated the commitment of a wide range of actors to this initiative, and has generated a wealth of information and ideas about how the Study might be organized and conducted. UNICEF will continue to work to support the process of realizing these ideas and looks forward to continued dialogue with member States,



civil society and fellow UN entities as work on the Study enters its next, crucial phase.

VII. CONCLUSION

This event proved to be a positive step forward in the advancement of the Study, with clear commitments from UN agencies of the Inter-Agency Task Force, member States and civil society organization. The OHCHR ready to host the Secretariat for the Study, funds permitting. UNODC ready to support the data collection, funds permitting.

UNICEF, the UN Special Rapporteur on the Sale of Children, Child Pornography and Child Prostitution as well as the Rapporteur on the Rights of the Child of the Inter-American Commission on Human Rights, all attended the event in support of the Study.

We must continue, together, to move forward in mobilizing political and financial support and commitments to support the Global Study process.

VIII. FURTHER INFORMATION

- ✓ The NGO Panel for the Global Study on Children Deprived of Liberty, official website: <http://www.childrendeprivedofliberty.info/>
- ✓ Defence for Children International (DCI), official website: <http://www.defenceforchildren.org/>
- ✓ UN General Assembly Resolution 69/157, 2014: http://srsg.violenceagainstchildren.org/sites/default/files/documents/docs/A_69_157_EN.pdf

For further information, please contact: info@defenceforchildren.org