



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

***“Implementing the Global Study on
Children Deprived of Liberty”***
Brief Report

*Brief Report of the Side Event to the 34th session of the Human Rights Council
“Implementing the Global Study on Children Deprived of Liberty”*



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Date and Venue: 14:00 – 15:30
Thursday, 08 March 2017
Palais des Nations, Room XXIV

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)
NGO Panel for the Global Study on Children Deprived of Liberty

Sponsored by: Delegation of the European Union to the United Nations
Permanent Mission of Austria to the United Nations
Permanent Mission of Chile to the United Nations
Permanent Mission of Switzerland to the United Nations
Permanent Mission of Uruguay to the United Nations

The content of this report does not necessarily reflect the individual positions of the organizations represented.



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I. INTRODUCTION

During the 34st regular session of the United Nations Human Rights Council (UNHRC), a side-event was held on the topic “Implementing the Global Study on Children Deprived of Liberty,” organized by the NGO Panel for the Global Study on Children Deprived of Liberty, the Office of the Special Representative of the Secretary General on Violence against Children, the Office of the Special Representative Secretary General for Children and Armed Conflict and the Office of the High Commissioner for Human Rights.

Keynote speakers participating in the event included: Mr. Manfred Nowak, Independent Expert leading the Global Study; Ms. Marta Santos Pais, Special Representative of the United Nations Secretary General on Violence against Children (SRSG-VAC); Ms. Leila Zerrougui, Special Representative of the United Nations Secretary General for Children and Armed Conflict (SRSG-CAAC) and Mr. Ben Lewis, International Detention Coalition, member of the Advisory Board to the Global Study. The event was moderated by Mr. Benoit van Keirsbilck, Director of Defence for Children International-Belgium and member of the Advisory Board to the Study.

In March 2014, Defence for Children International (DCI) & Human Rights Watch (HRW), together with several 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 United Nations General Assembly Resolution on the Rights of the Child in December 2014 (A/RES/69/157, para. 52.d). Subsequently, a decision was made by the UN Deputy Secretary General to designate the Office of the High Commissioner for Human Rights to act as the lead Secretariat for the Study and the SRSG on Violence against Children was tasked to facilitate the initial preparatory process in the UN System in close collaboration with relevant



stakeholders. In addition, a UN Task Force to support the Study development was established. With the appointment of Professor Manfred Nowak as Independent Expert leading the Study in October 2016, the Study has entered its implementation phase in early 2017. The campaign calling for the Study has been a collaborative and joint effort of different actors and considering scarce financial support, it is time to consider how these actors and others can once again join efforts and best use synergies to advance the development of the Study. Though in different ways, civil society, UN agencies, academia, governments and other actors all have a part to play in the effective implementation of the Study.

II. BACKGROUND

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 difficult 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 the General Assembly asked for a Global Study on Children Deprived of Liberty through its resolution 69/157. Previous in-depth UN studies such as on children affected by armed conflict (Machel Study, 1996) and on violence against children (Pinheiro Study, 2006) have proved crucial in consolidating



knowledge and in promoting action oriented recommendations to achieve positive change. 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 to reduce the number of children deprived of their liberty, and put in place effective non-custodial alternatives to detention.

With the appointment of Manfred Nowak as Independent Expert and lead author of the Global Study on Children Deprived of Liberty in October 2016, the Study has finally entered its implementation phase.

Objectives of the panel discussion:

- ✓ Mark the start of the implementation of the Study.
- ✓ Note the Global Study's anticipated content, scope and outcomes.
- ✓ Identify the role different stakeholders can play.
- ✓ Mobilize all stakeholders to contribute and (politically and financially) support the implementation of the Study.

III. PANEL DISCUSSION

The discussion was opened by a remark from **Ambassador Thomas Hajnoczi of the Permanent Mission of Austria to the United Nations**. The Ambassador recalled that the topic of children deprived of liberty is crucial for why Austria has supported the Global Study from the very beginning. While there exists broad recognition that all children deprived of liberty are exposed to an increased risk and denial of their fundamental human rights, the Ambassador emphasised the lack of qualitative and quantitative data and research on the actual magnitude of the problem: "We do not know the amount, the reasons behind, or the living conditions of children deprived of



liberty. Thus, the Global Study represents a unique opportunity to present data, to conduct in-depth research and to identify and develop best practices and alternatives to detention”. The Ambassador underlined Austria’s appreciation on the appointment of Manfred Nowak as the Independent Expert leading the Global Study and highlighted the work of the NGO coalition as a driving force behind the campaign calling for the Study and now to the Study itself. Nonetheless, he noted that there is still a long way to go: methodology and partners who can contribute in the Study’s implementation have yet to be identified. The Ambassador urged all Member States to ensure financial contributions for the Global Study to be carried out successfully and stated that Austria will continue to support the Study.

In her address, **Ambassador Sabrina Dallafior, Deputy Permanent Representative of Switzerland to the United Nations**, noted that depriving a child of liberty is not only a serious threat to its fundamental rights, but also a threat to society at large. She underlined that a detained child often does not have access to adequate education, is deprived of several other human rights and might even be exposed to violence. The Ambassador referred to the issue of children deprived of liberty as a “black hole of despair, walled up in silence, without access to education or justice.” She noted that “we lack data on how many of these children are migrants, mentally ill or imprisoned as a result of external factors like poverty, parental condition, conflict and violence. Nonetheless, what we do know is that these children are especially vulnerable to rape, torture and ill treatment, often with irreversible consequences, for themselves and society.” The Global Study will help to fill these gaps, gathering critical data and allowing for a strengthened coordination by addressing the potential violations of the rights of children deprived of liberty as well as their possible consequences. Moreover, she referred to SDG target 16.2 on the eradication of violence against children which places the issue on the international development agenda, and emphasized that the Study can contribute to the realization of this target. Furthermore, the Ambassador highlighted Switzerland’s appreciation



for the nomination of Manfred Nowak as the Independent Expert as his nomination shows the importance given to the Global Study. She also noted the proactive and essential advocacy activities the NGO Panel has conducted. The Ambassador is confident that the Global Study on Children Deprived of Liberty is the necessary first step to address the issue of imprisoned children and the associated consequences. She stressed that funding from Member States is urgently needed in order to support the structures that have recently been set by the OHCHR. The Ambassador finished her remarks by stating that Switzerland pledges to continue to financially contribute to the Global Study if other States decide to do so as well.

Ms. Marta Santos Pais, Special Representative of the Secretary General on Violence against Children, highlighted various reasons for why it is important to carry out the Global Study. “Violence is closely connected with deprivation of liberty and especially children suffer from violent acts by detainees and staff. Children deprived of liberty is a group left behind and neglected by the society”, Santos Pais stated and stressed that this situation needs to change. The Global Study can play a vital role: “The study will identify good practices and promising experiences, as well as recommendations for action. It will help to consolidate data and sound evidence to support states in the promotion of alternatives to detention, to safeguard the rights of children deprived of liberty; and to ensure that these children are counted for and visible in the development of policy and law. The Global Study is also designed to help shape capacity-building initiatives for professionals and promote change in stigmatizing attitudes and behaviour towards children behind bars. Eventually, the Global Study will help to reduce the number of children deprived of liberty, and improve the conditions in situations of deprivation of liberty.”

The Special Representative recalled the achievements of previous UN studies, particularly the Global Study on Violence Against Children and the Global Study on Children in Armed Conflict. To achieve the same effects, the Global Study on Children Deprived of Liberty needs to be carried out in a participatory manner, be action



oriented and receive the necessary commitment from all stakeholders, she said. How the Study will be conducted and its current state: Manfred Nowak has been appointed as Independent Expert and therefore plays a leading role in the successful implementation of the Study. Moreover, the UN Task Force will continue to move the Study forward as it has played an important part in advancing the Study to this stage of implementation. It has done so by conducting regular consultations with the governmental Group of Friends and other stakeholders, to seed understanding for the need of the Study, to gather support and build upon existing synergies. Also the Advisory Board will continue to play a vital role in supporting the Independent Expert by guiding and advising the process of the Study. The Advisory Board is constituted of experts in this field from different regions. In addition, she stressed the importance of a strong decentralized presence of UN offices in the field underpinned by broad support from NGOs and research networks around the world. Ms. Santos Pais expressed confidence that the Study has the potential to achieve at least the same results as the previous UN studies. Lastly, she highlighted the crucial need for financial support in order for the Global Study to be successfully carried out, urging everyone, Member States, UN agencies and others, to provide funding.

In his intervention Mr. **Manfred Nowak, Independent Expert appointed to lead the Global Study on Children Deprived of Liberty**, expressed his gratitude to see the amount of people in the room showing their support to the Study. He iterated that there is a strong link between SDG 16.2 on eliminating violence against children and between the detention of children. “Not only are children in detention at particular risk of violence, but the very fact of depriving children of liberty, is a form of structural violence”, the expert emphasized. The Study should feed into the implementation of the SDGs and indeed this has already been recognized by many, expressed Mr. Nowak. He also noted that vast information relevant to the Study already exists and that substantial work has already been carried out which needs to be built upon. “We depend on full cooperation from UN agencies, States, NGOs and other stakeholders to



gather the data needed. The Global Study will only be successful if we see this as a joint effort”, the Independent Expert underscored. To advance the implementation of the Study and the development of its methodology, Mr. Nowak elaborated that an expert meeting will take place mid-March during which a questionnaire will be developed. This questionnaire will be sent to governments as well as other partners who can contribute data such as civil society, National Human Rights Institutions, National Preventive Mechanism and other stakeholders which have access to closed institutions. Mr. Nowak explained that the Study process is a gathering exercise, and that the Study must inquire the reasons for the detention of a child, the length and the alternatives to detention. “The collection of best practices and alternatives to detention will enable governments to learn from each other.” Mr. Nowak stressed the need for reliable, disaggregated data to allow for a comparable analysis. Furthermore, in parallel to the data gathering process, regional and thematic consultations are planned. “The General Assembly gave us two years to carry out the Global Study (by October 2018)¹ and for the submission of the final report. Thus, the drafting of the different chapters must begin, we have to start now!”, the Independent Expert highlighted. Despite the continuous commitment and support from a wide range of stakeholders, the Independent Expert addressed with concern the financial difficulties to date and the dire lack of funding allocated to the Study. He expressed his gratefulness to the financial and personal contributions from Austria and Switzerland as well as the OHCHR and stated hope for UNICEF and UNHCR to follow. “If we see this as a joint effort and carry the work out together, we should be able to finalize the Study by 2018”, the Independent Expert concluded.

In her address, **Ms. Leila Zerrougui, Special Representative of the Secretary General for Children and Armed Conflict**, emphasised the importance of the Global Study moving forward as well as the gravity of challenges currently faced in the area

¹ UN General Assembly Resolution 71/177,



of deprivation of liberty of children. In the exercise of her mandate, the detention of children on grounds of association with armed parties to conflict is of particular concern: “While Member States clearly face serious security threats in situations of armed conflict, their responses are often counterproductive.” Ms. Zerrougui stated that thousands of children are being detained, particularly in the context of counterterrorism and national security operations, often purely for association with parties to conflict; she deplored the lack of effective safeguards in place for these children. Furthermore, she underlined that the practice of mass deprivation of liberty will also be detrimental to Member States in the long-term, as it leads to individual and community grievances. “Instead, the money spent on detention could be better invested in comprehensive reintegration programmes, to enable children to contribute to the future of the country. We want to help Governments to develop expertise which can assist institutions to stop the practice of detaining and locking up children”, the expert argued. Moreover, Ms. Zerrougui listed some of the main concerns related to deprivation of liberty of children in armed conflict. Firstly, the use of terminology such as “reintegration,” “rehabilitation” or “de-radicalisation centre” has often been used to circumvent the applicability of safeguards and to deny the rights of those deprived of their liberty. Secondly, concerning the definition of a child; while it is almost universally accepted that a child means below the age of eighteen, practice between and even within States is sometimes divergent, she said. Thirdly, the Special Representative raised the issue of the increased use of screening of civilians by Government security forces or pro-government militias. “This practice has resulted in mass deprivation of children’s liberty, both due to long processing times, but also due to a presumption of affiliation to a party of the conflict”, she underlined. Ms. Zerrougui expressed hope for the Global Study to focus on good practices and to provide tools to Member States affected by armed conflict, to facilitate alternatives to the deprivation of liberty. “The objective of the Global Study is not to shame and blame governments, but rather to provide support and help them to implement their international obligations and to end decrease the practice of child



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detention.” Finally, Ms. Zerrougui encouraged all stakeholders to support the Global Study and emphasized that detention is not an effective practice to fight terrorism.

In his intervention, **Mr. Ben Lewis** from the **International Detention Coalition** and member of the Advisory Board to the Study, stressed the need for civil society involvement, pointing out how civil society can and is involved to move the Study forward and support the work of the Independent Expert and the OHCHR. Mr. Lewis provided some short information about the NGO Panel and how it came together several years ago to address the immense concern of children deprived of liberty. “The NGO Panel is composed of over 120 NGOs from around the globe ranging from researchers, advocates and service providers. Whether we work on juvenile justice, immigration detention, children with disabilities, or children and armed conflict, our work and research has convinced us that far too many children around the world are detained arbitrarily, illegally, and unnecessarily”, he explained. Furthermore, Lewis reiterated that the NGO Panel has already begun their work, such as collecting information and coordinating the inputs from NGOs across the world, consolidated in a database. Members of the NGO Panel, such as his own organization, engage in information sharing and awareness raising as well as research activities on national levels across the various thematic clusters that can feed into the Study. Lewis then touched upon a few issues pertaining to the situation of children deprived of liberty. He underlined that previous research reveals the disproportionate and devastating effect detention has on children, often amounting to irreparable damage. “These children are seen as disposable, they are beaten, burned, given electric shocks, placed in solitary confinement and the list goes on. Even children detained in child friendly institutions experienced Post Traumatic Stress Disorder (PTSD), bed wetting, depression, suicide and suicide attempts”, Lewis stressed. He also recalled that the overall effect of being looked up, placed behind bars or in closed institutions, are more detrimental to children than to adults. Moreover, Lewis pointed out that the CRC Committee has on several occasions raised concerns about the harm inflicted on



children languishing in jails or other forms of detention. In addition, Lewis addressed the costly and ineffective nature of detention of children and thus the immense cost saving that is associated with non-detention practices. “An estimated number of one million children across the globe are deprived of their liberty; having said that, the exact number of children looked up and denied their freedom is unknown. The lack of data illustrates the necessity of the Global Study to identify this problem”, he underscored. Finally, he concluded that while the required overall budget for the Study is modest, the benefits could be enormous: “If every Member State provided \$10 000, the Study would be well on the way, as it takes a relatively little amount of money to move in the right direction.”

European Union (remark from the floor): The representative announced that a cross-regional, joint statement in support of the Global Study will be presented during the General Debate on Item 3 during the 34th Human Rights Council session, kindly presented by the Netherlands. The joint statement aims to raise awareness and explicitly asks for political and financial support provided to the Study. The representative urged all Member States to support the statement and thereby, showing support for the Study.

The Office of the Special Rapporteur on the Rights of Persons with Disabilities (remark from the floor): The Office is part of the Advisory Board and eager to provide input to the Study. The importance of the Study to the mandate of the Special Rapporteur was stressed as many children are deprived of liberty on grounds of their disability. All forms of deprivation of liberty should be taken into consideration, including closed institutions and psychological centres. The Office is currently conducting a two-year research project on children with disabilities in institutions in Ireland, with Manfred Nowak as part of the Steering Committee, which could feed into the Global Study and vice-versa.



In the following **question and answer session**, the following issues were addressed: The Study will apply the ***definition of deprivation of liberty*** provided for in Article 4 (2) of the UN Optional Protocol of the Convention Against Torture (OPCAT). The scope of the definition is broad, yet, it has a link to governmental authority. The Independent Expert explained that it is the government's obligation to monitor and provide licences to prisons, detention centres, public or private custodial settings and that as such, institutions for children with disabilities will be within the scope of the Study. Asked ***how local NGOs can concretely contribute to the Study***, the Independent Expert explained that examples of good practices relating to the deprivation of liberty of children and alternatives to detention will be crucial to the Study and encouraged NGO partners to submit information they may have. It was pointed out that ***child participation*** will play an important role in the Study, especially in the awareness raising and data gathering processes and during the consultations to be conducted. The Independent Expert stated that there are some meetings anticipated which could serve as ***consultations***, namely a Human Dimension meeting of the Organisation of Security and Co-operation in Europe (OSCE) on "the Rights of the Child", one day devoted to children deprived of liberty (8 June 2017, Warsaw). Furthermore, he explained that a sub-regional consultation on juvenile justice was tentatively planned to be organised by the UNODC and Uruguay and that the Council of Europe (CoE) had offered to arrange a regional consultation. He hopes that other regional organisations will be willing to host regional or thematic consultations as well. Marta Santos Pais added that a regional conference on detention in Latin America will take place in June 2017, where challenges and good practises will be on the agenda and that could feed into the Study.

IV. CONCLUSION

The side event "Implementing the Global Study on Children Deprived of Liberty", proved to be a positive step forward in the progress of the Study. It demonstrated broad UN support and readiness to work jointly and determined to allow for a Global



Study on Children Deprived of Liberty to be presented in October 2018. It became once more obvious that different stakeholders have already been working on this subject and that existing reports, studies and collection of best practices need to be built upon and taken into consideration. Members of the UN Task Force are eager to move the Study forward and also several Member States underlined the importance and value of the Global Study, and called for greater support to the Study. Various NGOs from all over the world showed their commitment to the Study, eager to contribute. Work conducted on the alternatives to detention must be implemented now. One crucial concern was addressed by all key note speakers: the dire lack of funding. Serious commitments from Member States are indispensable for the Study to be implemented in a participatory, in-depths and qualitative manner and for it to have practical effects on policies and legislation at all levels. We must continue, together, to move forward in mobilizing political and financial support and commitments to the Global Study to make sure that it does not turn into a failed opportunity.

In addition to several representatives of UN Member States, also representatives of the OHCHR, of the ICRC, of UNICEF, of the office of the Special Rapporteur on Disability and of the Global Partnership to End Violence Against Children all attended the event in support of the Study.

V. FURTHER INFORMATION

- ✓ The NGO Panel for the Global Study on Children Deprived of Liberty, official website: <http://www.childrendeprivedofliberty.info/>
- ✓ Global Study on Children Deprived of Liberty, OHCHR website: <http://www.ohchr.org/EN/HRBodies/CRC/StudyChildrenDeprivedLiberty/Pages/Index.aspx>



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- ✓ 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
- ✓ UN General Assembly Resolution 71/177, 2016:
http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/177

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