



Concept Note:

Regional Consultation  
*Middle East and North Africa Region*

**Organised by**

OMCT, INPT, PRI, DCI, Global Campus, UNICEF, OHCHR, IOM and the  
Ludwig Boltzmann Institute of Human Rights (BIM)

Tunis | Tunisia  
26 - 27 November 2018

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## Background and Definition of Deprivation of Liberty

The right to personal liberty is one of the most important Human rights. Deprivation of liberty should therefore only be an exceptional measure. Since children suffer more than adults from any form of detention and imprisonment, the deprivation of liberty should only be a measure of last resort and, if it cannot be avoided, only for the shortest possible period of time. This important principle is laid out in article 37 of the United Nations CRC. Nevertheless, experience shows that far too many children are deprived of liberty in the administration of criminal justice, in various forms of institutions, migration related centers and other places of detention. Many studies show that any form of deprivation of liberty has various harmful consequences for the physical and mental health and development of children in society. In spite of many studies that have been undertaken into different types of deprivation of liberty, we simply do not have enough data on the number of detained children on a global level, on their reasons for their detention and on best practices of states which replace detention by non-custodial measures. This is the main reason why civil society, the UN committee on the rights of the child and UN Agencies urged governments to authorize another Global study on this specific aspect of children's rights, following up on the ground breaking study by Sergio Pinheiro on Violence against children published in 2006.

For this purpose, the UN General Assembly Resolution 69/157 of 18 December 2014 requested the Secretary-General to commission an in-depth global study on children deprived of liberty. In October 2016, Manfred Nowak (Austria) was appointed by the United Nations Inter-agency Task Force as Independent UN Expert leading the Global Study on Children Deprived of Liberty.<sup>1</sup>

Based on the over-all mandate from the General Assembly, the following core objectives of the Global Study have been identified:

- Assess the magnitude of this phenomenon, including the number of children deprived of liberty (broken down, in particular, by age, gender and nationality), as well as the reasons invoked, the root-causes, type and length of deprivation of liberty and places of detention;
- Document good practices and capture the views and experiences of children to inform the Global Study's recommendations;
- Promote a change in stigmatizing attitudes and behaviour towards children at risk or who are deprived of liberty; and
- Provide recommendations for law, policy and practice to safeguard the rights of children concerned and prevent and significantly reduce the number of children deprived of liberty through effective non-custodial alternatives, guided by the best interests of the child.

Consequently, as stated in the Resolution, the Study recommendations will be grounded on a child rights-based approach, which provides a comprehensive, universal framework for assessment of legislation, policies and practice in relation to children deprived of their liberty. Article 37 lit b of the UN Convention on the Rights of the Child (1989) provides that: "No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time." Lit c and d of the same provision require any child deprived of liberty to be treated with dignity and respect, containing further safeguards in relation to conditions of deprivation of liberty, contact with the family, legal review and other procedural rights.

Deprivation of liberty is defined in Article 4(2) of the Optional Protocol to the Convention against Torture which provides as follows: "For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority." Furthermore, this definition and international standard is reaffirmed in Rule 11(b) of the UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules).

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<sup>1</sup> Cf OHCHR Website, <http://www.ohchr.org/EN/HRBodies/CRC/StudyChildrenDeprivedLiberty/Pages/Index.aspx>.

## Overview - Regional and Thematic consultations

Besides engaging in desk research and data collection on the dimensions of the phenomenon, the UN Global Study will engage in further in-depth analysis on certain issues through **thematic and regional consultations** with a broad range of stakeholders, including state authorities, UN agencies, academia and civil society, as well as children.

The overall purpose of these processes will be:

- raising awareness of the Global Study process
- collecting additional data on progress and challenges in relation to specific Study areas/ regional contexts and developments,
- receiving input and feedback on the Global Study research process, findings and challenges
- encouraging further engagement of stakeholders in the Study process (in particular, to support submission of responses to the Study Questionnaire),
- solicit recommendations and suggestions of States from the region as well as other relevant stakeholders and identify possible next steps.

Following the overall purpose and objectives, the Regional Consultations on Children deprived of liberty can be platforms designed to allow an open exchange among key stakeholders regarding the trends, challenges and opportunities in the implementation of International human rights treaties, as well as specific actions to address the main issues related to Children Deprived of Liberty.

The Consultations will seek to identify the main instruments that are set in place by the regional organizations in support to their Member States and in compliance with their mandates, to address the issues related to the broader topic of this initiative. The Consultations will also highlight the challenges as perceived by the international, regional and sub-regional organizations, as well as by Member States and Civil Society Organizations (CSOs,) and will gather the best practices and experiences in the task of understanding the phenomenon of children deprived of liberty.

The consultations will have thematic and/or regional focus with the intention to emphasize on the needs and gaps of the region or in that specific thematic area and allow the participation on relevant actors that would not be able to do so on a broader event.

The Regional Consultations will be organized jointly by the implementing parties and will provide a forum to exchange experiences and good practices among the relevant stakeholders.

## Regional Consultation in Tunis

The Tunisian Authority to Prevent Torture (INPT) is the Tunisian Preventive Mechanism that took its function in May 2016. Created in 1985, the World Organisation Against Torture (OMCT) is today the main coalition of non-governmental organisations (NGO) fighting against torture, summary executions, enforced disappearances and all other cruel, inhuman or degrading treatment. Penal Reform International (PRI) was founded in London in 1989. It is an international nongovernmental organization working on penal and criminal justice reform worldwide. Defence for Children International (DCI) is an independent non-governmental movement set up during the International Year of the Child (1979) to ensure on-going, practical, systematic and concerted international and national action specially directed towards promoting and protecting the rights of the child.

It is proposed to facilitate a regional consultation by combining the efforts of the INPT Tunisia, OMCT Tunisia, the PRI Regional Office for Middle East and North Africa, DCI and to seek assistance from UNICEF Tunis, OHCHR's Regional Office for the Middle East and the coordination team of the Independent Expert leading the Global Study on Children Deprived of Liberty within the Ludwig Boltzmann Institute of Human Rights (BIM).

In this regard, the regional consultation can facilitate exchange of information i.e. inform the Independent expert on current trends and situations in the Middle East and North Africa region whilst at the same time, the Independent expert can inform the participants on the UN Global Study process and follow-up wherever there have been gaps within the collection of data as well as gaps in the literature/desk review found by the UN Global Study research groups on the six different settings where deprivation of liberty of children have been identified i.e. children in the administration of justice, children incarcerated with their parents, children in detention due to migration related reasons, children in institutions and children deprived of liberty due to armed conflict as well as national security reasoning's.

Optimally, it is proposed that one research group lead (5 in total-as national security and armed conflict is one major group), together with a regional expert in the respective thematic concern facilitate the workshop. Together with state representatives from the region, civil society organizations and further experts in each workshop a profitable discussion can be facilitated.

Currently, the Independent Expert is the Secretary General of the European Inter-University Centre for Human Rights and democratisation (EIUC) and its Global Campus of Human Rights, comprised of seven master programs in all world regions. One of these is the ARMA master program in democratisation and human rights in which the University of Carthage (Tunisia) is taking part. Both the Arab master and the cooperating universities will cooperate with and support with the regional consultation.

It is proposed (TBC) that Terres des Hommes (TdH) facilitate consultation with children but it remains to be discussed in an upcoming meeting.



## Programme

### DAY 1, 26 November 2018

TIME	ACTIVITY
8:30 – 9:30	Conference Registration Coffee & tea / World Café with stands of organisations
9:30 – 10:00	Welcome Speeches by Officials and Child Representative (tbc)
10:00 – 11:00	Presentation of the Agenda: 6 situations of deprivation of liberty focusing on: <i>(1) Dimensions of Deprivation of Liberty (DoL)</i> <i>(2) Current Responses in the Legal Framework</i> <i>(3) Prevention / Alternatives</i>  Presentation by the UN Independent Expert on Children Deprived of Liberty: Q&As
11:00 – 12:30	<u>Two Workshops in parallel (Part 1)</u> <i>DoL in the administration of Justice / DoL in Armed Conflict</i>
12:30 – 13:30	LUNCH
13:30 – 15:00	<u>Two Workshops in parallel (Part 2)</u> <i>DoL in the administration of Justice / DoL in Armed Conflict</i>
15:00 – 15:30	COFFEE BREAK
15:30 – 17:00	<u>Two Workshops in parallel (Part 1)</u> <i>Children incarcerated with their parents / migration-related DoL</i>
17:00 – 17:30	COFFEE BREAK
17:30 – 19:00	<u>Two workshops in parallel (Part 2)</u> <i>Children incarcerated with their parents / migration-related DoL</i>
19:00	CLOSING WORDS

### DAY 2, 27 November 2018

TIME	ACTIVITY
8:30 – 9:30	Coffee & Tea / World Cafe
09:30 – 10:00	Welcome Words
10:00 – 11:30	<u>Two workshops in parallel (Part 1)</u> <i>Children in institutions / DoL on National Security Grounds</i>
11:30 – 12:00	COFFEE BREAK
12:00 – 13:30	<u>Two workshops in parallel (Part 2)</u> <i>Children in institutions / DoL on National Security Grounds</i>
13:30 – 14:30	LUNCH
14:30 – 16:30	<i>Consultation with Children (tbc)</i>
16:00 – 16:30	COFFEE BREAK
16:30 – 17:00	Presentation of key issues and policy recommendations by the chosen Rapporteurs for each type of DoL (5 mins each)
17:00 – 18:00	Summary by Independent Expert and other key experts (AB, NGO Panel, etc.) + Discussion
18:00 – 18:30	Presentation by the children of their recommendations
18:30	CLOSING SPEECHES / CLOSING CEREMONY

## Workshop Facilitators

- Expert holding the workshop (academia, NGO, UN agency)
- Rapporteur(s)
- Coordination team of the global study
- Coordination team of the organisers

## Logistics

- Translators (Arabic <=> English) between 2 and 4 translators
- Translation Booths: between 1 and 2 booths depending on option
- Catering
- Breakout Rooms / Small meeting Rooms

## Participants

- **Experts from the region**, including current or former members of human rights treaty bodies and special procedure mandate holders,
- **representatives and experts from regional human rights mechanisms**, national human rights institutions,
- **UN agencies** from the region
- **members of civil society organizations**
- **academics**
- **State representatives** of relevant ministries (ministry of justice, ministry of family affairs, etc.), missions, and other relevant stakeholders from the region
- **Children or Adults, who as children were deprived of liberty**

will be invited to attend, taking into account gender and geographic balance and areas of expertise to allow for an open, inclusive and transparent consultation process.

## Regionality

Participants from specifically the **Arabic-speaking region** from the Middle East, North African and Gulf region:

*Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen*

## Outcomes

- ✓ Raise awareness on the issue of Children in thematic areas in the sub-continent (as key experts from the region will be invited to participate in the consultation).
- ✓ Explore the approach towards this issue within the Study and beyond, holding an open forum with key stakeholders from different sectors (State representatives, UN agencies, NGO, academia) in the sub-continent.
- ✓ Explore best practices thematically as well as regionally.
- ✓ Receive feedback from key stakeholders and discuss further steps.