



POLICY BRIEF:
HEALTH CONCERNS
AMONG CHILDREN
DEPRIVED OF
LIBERTY



World Health
Organization
REGIONAL OFFICE FOR Europe

ABSTRACT

This policy brief aims to highlight health concerns for children resulting from deprivation of liberty, under the principles of equivalence and continuity of care, human rights and international treaties. It also identifies policy actions and recommendations for Member States to support them in addressing challenges so they may achieve equivalent care that reflects the recommendations of the United Nations Global Study on Children Deprived of Liberty.

KEY WORDS

CHILDREN DEPRIVED OF THEIR LIBERTY
HEALTH IN PRISON
HEALTH POLICY
HUMAN RIGHTS
HEALTH IMPACTS

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BACKGROUND AND MAIN MESSAGES OF THE GLOBAL STUDY

Among the broad spectrum of population groups living under circumstances detrimental to their health, it is difficult to imagine a more vulnerable group than children deprived of liberty. The circumstances in which they find themselves are often extremely disadvantageous to short- and long-term health development not only during the period of deprivation of liberty, but also preceding and following it. From a public health perspective, it is hard to overstate the urgency of the central message of the United Nations Global Study on Children Deprived of Liberty (the Global Study). In fact, there is every reason to go even further: states need to better respect and protect the rights of children, not only by drastically reducing the number of children deprived of liberty, but also by recognizing places of detention as settings of structural violence and working towards complete abolition of institutions depriving children of liberty (1).

This aim can be achieved by preventive measures that minimize the risk of children getting into situations leading to deprivation of liberty and through active means of diversion and deinstitutionalization by transferring children from the justice to the child welfare system, eradicating migration-related detention and developing community-based alternatives. The Global Study urges countries to invest more resources in supporting families in their role as primary caregivers for children and simultaneously take a systemic approach to strengthening child justice and child welfare systems. This policy brief provides key recommendations based largely on the results of the literature review of the Global Study (2).

STUDY POPULATION

Deprivation of liberty commonly is defined as the confinement of human beings to a narrowly bounded location that they cannot leave by free will. This general situation applies to most children, as caregivers will limit their children's freedom of movement to protect them against dangers or for other reasons. The Global Study limits its scope to deprivation of liberty for which the state bears direct or indirect responsibility through, for instance, state-run institutions and state-licensed private institutions.

This study population is further categorized into subgroups that differentiate between six primary situations of deprivation of liberty currently faced by children. Table 1 provides a list of estimated numbers of children experiencing these situations, which comes to more than 7 million. The Global Study report underlines that these are conservative estimations.

TABLE 1.
CHILDREN
DEPRIVED
OF LIBERTY:
SITUATIONS AND
STATISTICS

SITUATION OF DEPRIVATION OF LIBERTY	NUMBER OF CHILDREN
Children deprived of liberty in the administration of justice	1 410 000
Children living in prisons with their primary caregiver	19 000
Children deprived of liberty for migration-related reasons	330 000
Children deprived of liberty in institutions	5 400 000
Children deprived of liberty in the context of armed conflicts	35 000
Children deprived of liberty on national security grounds	1 500
TOTAL	7 200 000

Source: Nowak (1).

COVID-19 RESTRICTIVE MEASURES CONTEXT

Making accurate and relevant distinctions between forms of deprivation of liberty has become even more difficult due to COVID-19-related restrictions on free movement. COVID-19 regulations are a product of judicial or administrative decisions, with the most radical forms of lockdown measures implying de facto confinement of individuals to a narrow space. Quarantine measures therefore could potentially be included in the list of situations depriving children of liberty. Quarantine measures in a pandemic, however, are different for many reasons from measures of institutionalization or detention that disconnect children from their personal networks and place them in high-risk environments.

Health concerns related to prolonged quarantine measures nevertheless exist. A review of studies on psychological effects of quarantine published in the early months of the COVID-19 pandemic found evidence of post-traumatic stress symptoms in quarantined children being four times higher than in those who were not quarantined (3). The review highlights the mitigating potential of information, rapid communication, provision of supplies, short duration of lockdown and voluntariness in limiting the negative health effects of general quarantine measures. Studies are needed to evaluate the health effects on children of the specific quarantine measures deployed during the COVID-19 pandemic.



Children deprived of liberty in the administration of justice

United States of America – incarceration rates for young people are higher here than in most countries. A national survey conducted in 2018 found that 7.1% of young people in juvenile facilities reported having been sexually victimized in the previous 12 months, including cases involving force or coercion. Boys and girls reported similar levels of sexual victimization. Most reported cases involved staff members of juvenile facilities.

Source: Smith & Stroop (4).

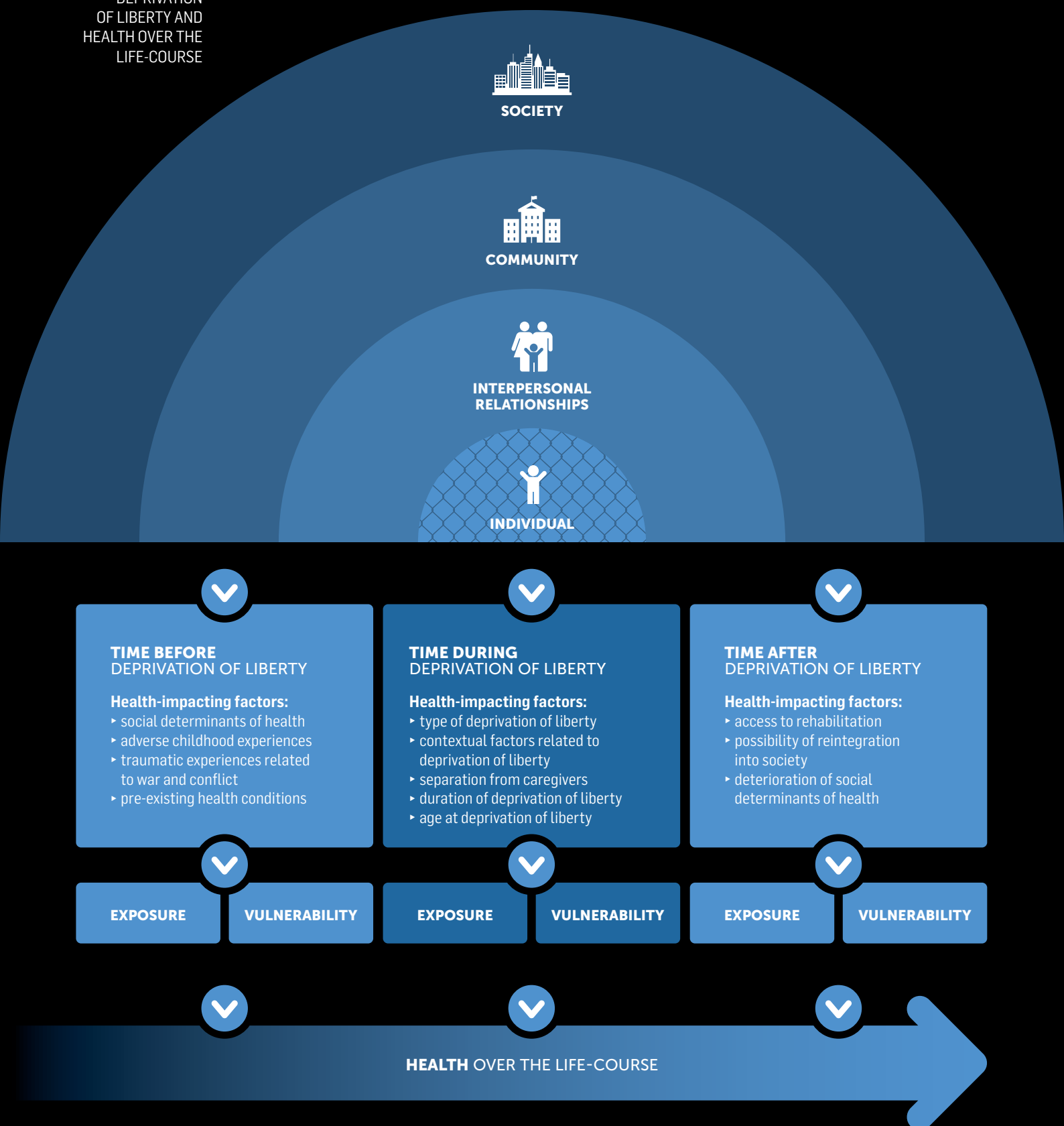
WHAT WILL DETERMINE THE HEALTH IMPACT OF DEPRIVATION OF LIBERTY?


An ecological framework highlighting the interplay between individual, interpersonal, community-related and societal factors is helpful in promoting understanding of the complexity behind health development in children deprived of liberty. A life-course approach enables consideration of how the levels of the ecological framework manifest in the times before, during and after deprivation of liberty and how these stages interact in relation to exposures, vulnerabilities and health development from birth to death (5,6). These stages and a number of health-impacting factors can be situated in the framework (Fig. 1).

Time before deprivation of liberty

The early childhood period is considered to be the most important phase of development throughout the life-course (7). Forty-three per cent of children aged younger than 5 years in low-income and middle-income countries grow up in an environment that will hinder them from developing their full potential (8). Deficits in the powerful combination of five central factors – adequate nutrition, security and safety, responsive caregiving, early learning and access to health services – will have long-lasting impacts on children and contribute to increased vulnerability to adverse experiences (9). These broader social determinants of health may interact with specific types of

FIG. 1.
AN ECOLOGICAL
FRAMEWORK ON
DEPRIVATION
OF LIBERTY AND
HEALTH OVER THE
LIFE-COURSE






adverse experiences, such as abuse, neglect and childhood household dysfunction, or traumatic experiences related to wars and conflicts, including war injuries, loss of support system and family, and exposure to violence and torture.

While recognizing that early-life factors may modify the health impact of deprivation of liberty, it is important to acknowledge that deprivation of liberty is such a severe stressor that negative health impacts will be unavoidable for the great majority. Some children – including those living in prisons with their primary caregiver, but also some children in institutions and in migration-related detention – will spend their early formative years deprived of liberty, which is very detrimental to beneficial health development. While a strong focus on early-life factors is warranted, the period of adolescence should also be acknowledged as being significant, not least because of its great importance for brain development and mental health (10). Pre-existing health conditions will also affect and, in many cases, exacerbate the negative health effects of adversities experienced while deprived of liberty.

Time during deprivation of liberty

Several factors contribute to the health effects of deprivation of liberty. Pre-existing concerns are either general to a great majority of children deprived of liberty or specific to those in different settings of liberty deprivation. Children in justice-related detention, for example, might share experiences of environments characterized by high degrees of violence and substance misuse. For many children in migration-related detention, traumatic experiences in the country of origin and a high risk of a missing personal network (as primary caregivers may be dead or otherwise absent) will have negative health impacts. Migration-related detention has no time limit in many states, which has a particularly damaging impact on children's mental health. In addition, the health status of children living with their parents in migration-related detention could deteriorate as a direct result of the negative impacts of detention on parenting and parents experiencing mental ill health (11). Children in mental health hospitals and social care institutions have pre-existing health concerns, while those in institutional care will share the experience of a missing family network (12). Type of deprivation of liberty will interact with duration of detention and age at liberty deprivation: a longer cumulative duration is associated with worse health outcomes, and age-specific needs will also determine the short-term and long-term effects of deprivation of liberty.

Contextual factors related to resources and practices at the institution or detention centre are important. Lack of nutritious food, sanitation, education or health care in combination with limited physical activity, exposure to severe physical or emotional neglect, and high risk for substance misuse and exposure to physical, psychological and sexual violence will constitute



an extremely disadvantageous environment for child health development. Shedding more light on this situation is an important task for the future.

Time after deprivation of liberty

Deprivation of liberty has long-term health consequences on children, who are at the beginning of their lives. Adverse experiences during their confinement and missed educational, developmental and personal experiences that a life in liberty could have offered will have a negative effect on their health. The experience of early-life deprivation of liberty can be connected to factors that obstruct successful reintegration into society, including lack of education and professional experience, lack of human interaction, love and care, health problems acquired while deprived of liberty, and the stigma associated with all types of deprivation of liberty. Access to effective rehabilitation measures is crucial in preventing social and health-related problems and subsequent episodes of deprivation of liberty.



Children deprived of liberty for migration-related reasons

Greece/European Union – many countries, including those in the European Union, hold children more or less captive in refugee camps. The organization Médecins Sans Frontières has reported overcrowding, violence and lack of safety in the Moria refugee camp on the Greek island of Lesbos. Conditions in the camp have led to severe psychosocial health conditions among children, including self-harm and suicide attempts. The Moria Camp was completely destroyed in a fire in September 2020.

Source: Médecins Sans Frontières (13).


WHAT IS THE IMPACT OF DEPRIVATION OF LIBERTY ON HEALTH?

Connecting the time before, during and after deprivation of liberty requires consideration of pre-existing health conditions. Psychosocial health conditions are perhaps the central issue, as they overlap with so many other health concerns. Substance dependence, cognitive dysfunctions, suicidal behaviour, sexually transmitted infections and blood-borne infectious diseases are also among the concerns raised in the publications reviewed by the Global Study (14–18). Psychosocial health conditions, intellectual and psychosocial disabilities or substance misuse may be the reason for confinement in institutions or in justice-related detention. Various pre-existing conditions, such as those related to health (including mental health) and to disabilities (intellectual and psychosocial disabilities, for instance) may affect children's vulnerability to potential adverse exposures and experiences during the deprivation of liberty.

The main focus of the Global Study was to identify health problems emerging while children are being deprived of liberty. The reviewed publications¹ report a range of concerns, including psychosocial health conditions and impaired cognitive development, substance-use disorders, neurodevelopmental disabilities and traumatic brain injuries, self-harm and suicidal behaviour, oral health conditions, malnutrition, chronic illness, sexually transmitted infections, other infectious diseases and injuries related to violence. As an emerging infectious disease, COVID-19 also poses a threat to populations deprived of liberty who often live in narrow confinement without the option of engaging in physical distancing. The United Nations Office on Drugs and Crime (19) and the Alliance for Child Protection in Humanitarian Action (20) have each released technical notes on the protection of children deprived of liberty in the COVID-19 pandemic. Both notes argue that the pandemic provides an additional reason for states to prioritize diversion and find alternative measures to established judicial proceedings and detention of children.

The interplay between mental and physical health problems and developmental trajectories in all categories of children who are deprived of liberty is complex. Some health concerns are related to context-specific exposures and vulnerabilities. Children in justice-related detention, for example, are at high risk of facing substance-misuse problems. Young children living with their primary caregivers – usually their mothers – in prison are at high risk of impaired cognitive development and mother-to-child transmission of blood-borne diseases, including HIV and syphilis. Children deprived of liberty in the context of war and conflict may be at higher risk of experiencing the

¹ For the full list of publications reviewed, see footnotes on pages 130–165 of the Global Study (7).



extraordinary horror of torture, which in addition to physical injuries will lead to psychological problems, including post-traumatic stress syndrome, apathy, disrupted sleep and cognitive issues.

The Global Study situates the population deprived of liberty in its surrounding context. It emphasizes the importance of investments in the social determinants of health and early-life conditions for the general population (those not living deprived of liberty). An illustrative case in point is the revealing finding from some studies that positive health effects associated with deprivation of liberty (particularly institutionalized care) can be attributed to the critical need to invest in health-promoting infrastructure in economically deprived communities. The fact that basic provision of nutrition, shelter, health care and immunizations put some institutionalized children at a comparative advantage compared to peers in the surrounding community should not be interpreted as evidence that institutional care is good for health; rather, it indicates a need for increased social protection in the noninstitutionalized population.

Adopting a life-course perspective on health and well-being also means considering the long-term health effects of institutionalization or detention in childhood (21). A central goal must be to break consecutive chains of deprivation of liberty. While making distinctions between the situations of liberty deprivation, the Global Study highlights the fact that the study populations are not mutually exclusive. Children in institutional care, for example, are at higher risk of subsequent justice-related detention and involuntary inpatient treatment for psychosocial disabilities. Appropriate rehabilitation measures are of the essence. In many cases, deprivation of liberty will have lasting health effects and the Global Study refers to evidence linking justice-related detention to an increased risk of poor general health, functional limitation, hypertension, and higher prevalence of overweight and obesity later in life.



Children living in prison with their primary caregiver

India – as the female proportion of the total adult incarcerated population is growing, the number of children living in prison with their primary caregiver – usually their mother – is of concern. Research in the *Indian Pediatrics* journal revealed that children living with their mothers in prison have problems in relation to cognitive and social development. Exposure to violence is common and the specific medical needs of the children cannot be addressed.

Source: Sukhramani & Gupta (22).

POLICY ACTION AREAS AND RECOMMENDATIONS

From a public health perspective that attributes particular weight to health equity and the importance of early-life conditions for future health and well-being, it is difficult to imagine a more damaging situation than depriving children of their liberty. The Global Study draws an illuminating parallel with the Global Study on Violence against Children and points out that places of detention should be regarded as settings of structural violence. As such, places of detention should be accounted for in relation to states' obligations to protect children from "all forms of physical and mental violence", as stated in the Convention on the Rights of the Child, Article 19 (23).


In relation to the practice of institutionalizing children with intellectual or psychosocial disabilities, special attention should also be given to the Convention on the Rights of Persons with Disabilities (24), particularly: Article 7 on states' obligations to "take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights"; Article 14, which states that "the existence of a disability shall in no case justify a deprivation of liberty"; and Article 19, which emphasizes the "equal right of all persons with disabilities to live in the community".

As children deprived of their liberty are often referred to as the most invisible or silenced group of children, particular efforts are needed to include their voices through ensuring their involvement in determining and influencing policies and reforms in this area.

Taking the conclusions of the Global Study into consideration, a number of policy action areas and recommendations can be identified. The six recommendations of the Global Study on impacts on health of children deprived of their liberty are discussed below.

Abolition of all justice- and migration-related measures depriving children of liberty

A child deprived of liberty will have a very long way to go to attain a healthy life. From a public health perspective, it is impossible to argue for anything but complete abolition of the option of child imprisonment, detention or institutionalization. Diversion, deinstitutionalization and eradication of migration-related detention are important structural public health priorities. With a solid evidence base illustrating the damaging health effects of justice-related detention and political momentum advancing the abolitionist view on justice-related deprivation of liberty for children and young people, including a high level of commitment among nongovernmental organizations, there are no reasons to stop pushing this decisive agenda (25,26).



Consideration and evaluation of alternatives to justice-related and migration-related detention should be prioritized in relation to their short- and long-term effects on health and well-being. Although not formally part of the penal system, migration-related detention exposes children and young people to a prison-like environment that is strongly detrimental to healthy child development, even if the deprivation of liberty is for a short period and carried out in what might be considered child-friendly facilities that may not appear prison-like. Rehabilitation programmes and interventions based in families, schools and communities should be combined with investment in health-promoting resources and infrastructure in the wider community (27). Migration-related detention should be replaced by noncustodial community-based arrangements that ensure family unity.

Prevent children from entering facilities depriving them of liberty

The deinstitutionalization and eradication of justice- and migration-related detention should be combined with measures that prevent children from entering situations in which they could be deprived of liberty through current regulations. The Global Study highlights the importance of investing in appropriate community health services to prevent children from entering various forms of detention (see Global Study Recommendation 1 on improving the health of children deprived of their liberty). Health services, in this context, may be understood broadly as including a range of services promoting social determinants of health, including social services, family counselling, health care and a wide range of other community-based services substituting for institutional care (12).

The move from institutional care and justice-related detention to community care is critical. To deprive children of their liberty under the pretence of protection or care is possible only in a context in which no other options are available. Development and continuous evaluation of diversion mechanisms should be prioritized (see Global Study Recommendation 2 on improving the health of children deprived of their liberty).

The approaches above are examples of upstream measures. Neglecting the essential need for deinstitutionalization and prevention while spending all resources on health promotion within the institutions depriving children of liberty is like putting out small fires and ignoring that the forest is burning. Nonetheless, as millions of children currently are being deprived of liberty, upstream measures should be combined with efforts to ensure their access to the highest attainable standard of health.



Health promotion within facilities depriving children of liberty

Promoting health in a setting of structural violence is in many ways deeply contradictory, which reinforces the need for immediate government action to abolish deprivation of liberty in children as the top priority. This will not happen overnight. In the interim, measures need to be put in place to protect the rights of children deprived of liberty and ensure they have access to the highest attainable standard of health. Provision of food, shelter, sanitation facilities, health-care services and protection against violence (see Global Study Recommendation 3 on improving the health of children deprived of their liberty) are required. The United Nations Standard Minimum Rules for the Treatment of Prisoners (known as the Nelson Mandela Rules) provide valuable guidance for addressing the health needs of children in justice-related detention. For those living in prison with their primary caregiver, the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) underline that children are not to be treated as prisoners and must be provided with adequate child and health care.

Children deprived of liberty spend their formative years in highly unfavourable circumstances. During this time, social determinants of health must be promoted within the institutions. Schooling and other educational services are central in this regard. Acknowledging that many children deprived of liberty come from environments characterized by poor social determinants of health and high prevalence of various health conditions means the need for inclusive education or other types of tailored measures, reasonable accommodation and accessibility provisions may be high. Mental health promotion and preventive mental health interventions also need to be implemented in settings of detention (28).



Children deprived of liberty in institutions

Children in institutions are the largest group of children deprived of liberty. Many are institutionalized because of psychosocial disabilities and lack of options for community care. A WHO report on the rights for children with psychosocial disabilities draws attention to the high prevalence of psychosocial and behavioural health conditions, disability and mortality in institutionalized child populations. In a study of 33 European countries, the most common reason for a child with disabilities to leave the institutions in the study was death. A Georgian orphanage for children with disabilities had a 30% mortality rate over 18 months. Many of the children experienced painful and agonizing deaths because of lack of medication and failure to treat medical conditions.

Source: WHO & the Gulbenkian Global Mental Health Platform (12).



Appropriate follow-up of children after deprivation of liberty

Adopting a life-course perspective to the health needs of children deprived of liberty means it is necessary to consider conditions after detention or institutionalization. Transitional care requires health-focused and child- and family-focused support services that assist previously institutionalized or detained children and young adults to reintegrate into their families and communities (see Global Study Recommendation 4 on improving the health of children deprived of their liberty). The development and evaluation of such programmes should be regarded a public health priority (29,30).

Improve the evidence base

Human rights and public health concerns demand that children should not be deprived of their liberty. For as long as this practice continues, however, evidence of its negative impact on individuals, communities and societies should be collected to shed light on the problem and move the abolitionist agenda forward.

Children who are deprived of their liberty are a hidden population. There is no doubt that deprivation of liberty is harmful to a child's health and development, but lack of data makes it difficult in many cases to look beyond the general picture. Improved access to data on children living deprived of liberty and appropriate comparison populations is therefore very important, as is continued monitoring and reporting (see Global Study recommendations 5 and 6 on improving the health of children deprived of their liberty). Information on the circumstances around deprivation of liberty and demographic data such as gender, age, disability and minority status are also important in identifying particularly pressing health needs. Mechanisms should be in place to ensure that children's voices are heard in any research or data-gathering efforts.

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² All weblinks accessed 1 June 2021.

³ The report was not published by the U.S. Department of Justice, but the Department has made this federally funded grant report available electronically via its website.

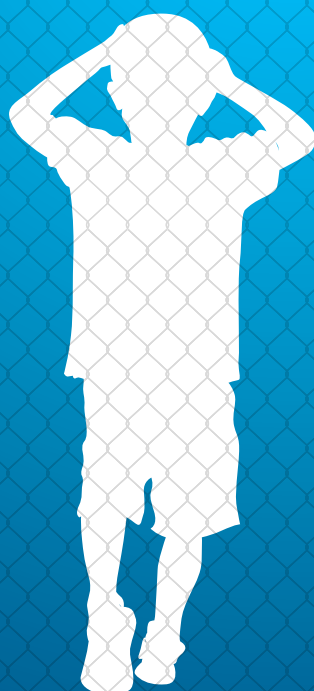
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