



## JUSTICE FOR ALL: STOP VIOLENCE AGAINST CHILDREN! CHILDREN IN CONFLICT WITH THE LAW

### DEFINITION

- **The term ‘children in conflict with the law’ refers to anyone under 18 who comes into contact with the justice system as a result of being suspected or accused of committing an offence.**

### FACTS AND FIGURES – GLOBAL <sup>1</sup>

- More than 1 million children globally are deprived of their liberty by law enforcement officials at any one time.
- More than half of children in detention have not been tried or sentenced.
- 80 percent of children will only commit one offence in their lifetime.
- In many prisons and institutions, children and young persons are often denied the right to medical care, education and individual development.
- Juvenile justice systems in many countries do not aim sufficiently to ensure the dignity of children and reintegrate them into the community. Juvenile justice systems are not distinct from adult systems.
- There is grave lack of data on juvenile justice. Poor data collection systems, along with a lack of transparency and data sharing, mean that there is much we simply do not know.

### WHO ARE THESE CHILDREN?

- Children who commit petty crimes or minor offences such as vagrancy, truancy, begging or alcohol use. These are known as ‘status offences’ and are not considered criminal when committed by adults.
- Children who engage in criminal behaviour including theft, gang fights, peddling or using drugs or causing bodily harm to another person. In many of such cases, children have more than likely been used or coerced by adults.
- Children who seek asylum in another country or is an unaccompanied refugee, without formal documentation.
- Children of a certain race, ethnicity or social and economic status as detention is based on prejudice. These children may come in to conflict with the law even when no crime has been committed, and may experience harsh treatment by law enforcement officials.
- Children being born to a parent while in detention.
- Children accompanying a parent to detention.
- Children with disability or special needs as there may not be appropriate alternative care for them.

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<sup>1</sup> UNICEF Progress for Children No. 8: Child Protection, 2009

## CHILDREN IN DETENTION

- Deprivation of liberty remains a common form of punishment for juvenile offenders, in violation of the child rights principle that this should be a measure of last resort.
- Children in detention often suffer severe violations of their basic rights. Arrest, detention and sentencing are often arbitrary and sometimes even illegal - the results of extrajudicial proceedings by police or military systems in which no civil protections exist. Children are remanded for inordinately long periods without trial.
- Detained children can be below the age of criminal responsibility and kept with adult prisoners who may abuse them.

## HUMAN RIGHTS AND LEGAL FRAMEWORKS

- The **Convention on the Rights of the Child** (CRC), the most widely ratified UN agreement, rests on four foundation principles: non-discrimination (article 2); best interests of the child (article 3); the child's right to life, survival and development (article 6); and respect for the views of the child (article 12). Specific articles relating to children in justice systems are:
  - **Article 37:** Children who break the law should be protected from torture and inhuman or degrading treatment and should not be treated cruelly. They should not be put in prison with adults and should be able to keep in contact with their families.  
  
The Convention prohibits the imposition of the death penalty and sentences of life imprisonment for offences committed by persons under the age of 18.
  - **Article 40:** Children who are accused of breaking the law should receive legal help. Prison sentences for children should be avoided whenever possible. If it has to be applied, it should only be used as a measure of last resort and for the most serious offences.
  - **Article 19:** Children have the right to be protected from being hurt and mistreated, physically or mentally. Governments should ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents, or anyone else who looks after them.
- In addition to the CRC, specific UN standards have been adopted for handling cases of children in conflict with the law. These include the:
  - **Standard Minimum Rules for the Administration of Juvenile Justice**, known as 'the Beijing Rules', adopted in 1985. This offers guidance on the administration of justice in such a way as to provide for the protection of children's rights and respect for their developmental needs.
  - **UN Guidelines for the Prevention of Juvenile Delinquency** (the Riyadh Guidelines), adopted in 1990.
  - **UN Rules for the Protection of Juveniles Deprived of their Liberty** (the JDL Rules), adopted in 1990.