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TITLE

The health of children deprived of liberty: A neglected human rights issue

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The United Nations Global Study on Children Deprived of Liberty, which launched its final report this week in Geneva, estimated that between 3.5 and 5.5 million children are living in institutions for reasons related to care, administration of justice, migration, armed conflict, or national security.¹ As part of the Study, we undertook a global review of the literature on the health of children in each of these settings. We found that children deprived of liberty are distinguished by a high prevalence of physical and mental health problems. These conditions are often co-occurring, undiagnosed and un(der)-treated, and frequently occur in the context of entrenched disadvantage and trauma. We also found evidence that deprivation of liberty can compound these problems and contribute to the development of new problems, particularly related to mental health and developmental disability. The Convention on the Rights of the Child (CRC) recommends that deprivation of liberty be used only “as a measure of last resort and for the shortest appropriate period of time” (Article 37[b]).² The picture painted by the Global Study is one of excessive, and often harmful, deprivation of liberty in diverse settings. There is much work to be done.

Reducing deprivation of liberty at the global level will take time, political will, and a coordinated, multi-sectoral response. Meanwhile, millions of children around the world are being deprived of liberty each year. Even in settings where there is already considerable commitment to prevention and diversion, deprivation of liberty remains an unfortunate reality for a profoundly marginalised minority. As such, efforts to minimise deprivation of liberty must be paralleled by efforts to mitigate the harms of detention when it does occur, including by identifying and responding effectively to the health needs of children who are detained.

However, there appears to be an unfortunate and pervasive tendency in the global human rights sphere to focus *exclusively* on reducing deprivation of liberty, to the unnecessary exclusion of efforts to understand and improve health status and health services in places where children are detained. The reasons for this are rarely articulated, but for some may reflect a fear that engaging in discussions about health services in detention may be perceived as tacit endorsement of these institutions. This fear is both misplaced and harmful. Just as attempts to prevent hospitalisation are complemented by efforts to optimise the quality of hospital care,³⁻⁵ efforts to reduce deprivation of liberty are not incompatible with efforts to improve health services in detention. However, this reality is too often ignored. Perhaps symptomatic of this devaluation of health in places of detention, CRC General Comment 24⁶ enshrines a lower standard of healthcare for children in criminal justice detention, requiring signatories to provide “adequate” medical care rather than striving for the “highest attainable standard” of health.

Agencies advocating for the rights of children deprived of liberty may also have a limited understanding of their health needs, in part due to a striking lack of data to inform advocacy and decision making. In most settings we know almost nothing about the health status of children deprived of liberty, or the systems in place to respond to their health needs. There is an urgent need for routine monitoring and public reporting on health status and health services, in all places where children are deprived of liberty. A model for such monitoring already exists: In 2016/17 the WHO (Europe) Health in Prisons Programme undertook a survey of prison health in Europe, collecting information on health status, systems and services in 39 countries.⁷ Expansion of this survey to other WHO regions and to settings where children are deprived of liberty is technically feasible, but will require both engagement from WHO regional offices and member states, and funding. It would be unfortunate if potential funders elected not to support this important work due to a misperception that it conflicts with efforts to reduce deprivation of liberty. It does not.

The UN Global Study on Children Deprived of Liberty has, for the first time, provided a robust estimate of how many children are deprived of liberty each year globally. This is a watershed moment in quantifying the scale of the problem. These marginalised and often traumatised children

often have complex, under-served health needs, such that detention represents a rare, albeit regrettable, opportunity for diagnosis and treatment. Given the harms associated with deprivation of liberty, every effort should be made to minimise its occurrence, and invest in community alternatives. However, while deprivation of liberty continues to be a reality around the globe, these efforts should not come at the expense of a commitment to the highest attainable standard of health in detention, through investment in detention health services and routine monitoring to inform quality improvement. To do otherwise would be to compound the health inequalities experienced by our most vulnerable young people.

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