

PROTECTING CHILDREN DEPRIVED OF LIBERTY DURING THE COVID-19 OUTBREAK

UNODC Technical Assistance Services

I. BACKGROUND

Despite the obligation of States to ensure that children are deprived of their liberty only as a measure of last resort and for the shortest appropriate period of time,¹ research shows that there is an increasing number of children being deprived of liberty worldwide, and that there is an **increased risk of violence, abuse and neglect** that arises simply from being deprived of one's liberty.²

Children deprived of liberty³ are at greater risk to contract the coronavirus disease (COVID-19). An outbreak of any communicable disease presents particular risks for detention facilities due to the vulnerability of the population and the difficulties in containing an outbreak. Children are more vulnerable because of the confined conditions in which they live and the additional challenges they face in accessing a range of services, including health care, mental health and psychosocial support and education. During the current pandemic, children in detention are also more likely to have limited or zero access to information about the outbreak, including much needed information about how to protect themselves, identify symptoms, and seek treatment.⁴

In many countries, **detention facilities for children do not meet the minimum requirements** set forth in international and regional legal instruments. A lack of adequate space, drinking water, food, poor sanitation, lack of natural light and fresh air are characteristic features of many institutions worldwide. Conditions are particularly poor in facilities with overcrowding and in pre-trial detention facilities. Limited access to sanitary products is of special concern as simple prevention measures such as regular handwashing and keeping a safe physical distance are at the core of COVID-19 prevention strategies.

Healthcare services in facilities where children are deprived of liberty, where they exist, are generally substandard, under-funded, and characterized by a shortage of staff and essential medications. Often, healthcare in these institutions works in complete isolation from general health care systems, which hinders the quality of health care and continuity of care after release. **The lack of adequate healthcare services in facilities can also lead to the spread of the coronavirus disease (COVID-19) in detention facilities**, putting at severe risk not only children but also staff (police officers, correction officers, care givers, social workers, health workers, etc.) working in these facilities, their families and communities.

As the coronavirus disease has spread, many countries are enacting strict measures in order to ensure physical distancing with the objective of containing the pandemic. These new measures are requiring the closures of courts, suspension of criminal trials, limitations on movement of lawyers and access to their clients as well as visits to detention facilities by family members. Such measures are likely to have a negative impact on the situation of children deprived of their liberty **due to an extension of the period of detention, or in many**

¹ Article 37(b), Convention on the Rights of the Child.

² See UN Global Study on Children Deprived of Liberty: <https://www.ohchr.org/EN/HRBodies/CRC/StudyChildrenDeprivedLiberty/Pages/Index.aspx>

³ As per Rule 11 (b) of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113 of 14 December 1990), "deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority."

⁴ See Inter-agency technical guidance on COVID-19 and Children Deprived of their Liberty.

cases, a delay in the release of those children. In addition, the inability for a child to maintain regular contact with her or his family, including to overcome current circumstances, may have a serious impact on the child's mental health and well-being, in particular for those who experience distress and fear regarding COVID-19.

Therefore, it is urgent that **when responding to the coronavirus outbreak, States take measures to ensure that the human rights of every child who is deprived of her or his liberty are fully respected, protected and fulfilled**, including in emergency situations, that they are provided with adequate care and protection from harm, including by taking concrete steps to decongest all facilities in which they are detained, and that all decisions and actions concerning children are guided by the principle of the best interest of the child. In this regard, it is recommended that States conduct an immediate review of all cases in which children are deprived of liberty, and the timely implementation of safe and humane non-custodial alternatives to ensure that deprivation of liberty is indeed used only as a measure of last resort for children.

II. UNODC WORK TO PROTECT CHILDREN DEPRIVED OF LIBERTY

UNODC has the mandate and works all over the world to support countries in **preventing crime and violence and strengthening justice systems**, including in relation to **children in contact with the law**, as alleged offenders, victims and witnesses of crime. UNODC's objective is to ensure that children – defined by the Convention on the Rights of the Child as all persons under the age of eighteen⁵ – are better served and protected by justice systems, and that international standards and norms are applied to safeguard the rights of children in the administration of justice.

The work of UNODC regarding **justice for children** has been implemented since 2015, through its **Global Programme to End Violence against Children** (Global Programme to END VAC), and places a strong **focus on protecting the rights of children deprived of liberty**. Some children find themselves in this situation because they are alleged offenders, others are in detention for supposedly protective reasons, including when they are victims of crime, and recently, many children end up in detention on national security grounds for their alleged association with terrorist and violent extremist groups.

More broadly, **UNODC works to support States in strengthening justice systems for children** and protecting the rights of child alleged offenders by:

- Promoting alternative measures to formal judicial proceedings (i.e. diversion) and alternative measures to detention;
- Ensuring that, when children are in contact with justice systems, they are treated in a manner that upholds their sense of dignity and worth, which reinforces the child's respect for the rights and freedoms of others, takes into account their age, promotes reintegration efforts, is free from all forms of violence, is child-friendly and gender-sensitive;
- Ensuring that deprivation of liberty is a measure of last resort and used only for the shortest appropriate period of time;
- Ensuring that whenever deprivation of liberty is necessary, conditions of detention and the treatment of children are conducive to their rehabilitation and social reintegration.⁶

⁵ Art. 1, Convention on the Rights of the Child.

⁶ For further information of the UNODC Global Programme to End Violence against Children, see: <https://www.unodc.org/unodc/fr/justice-and-prison-reform/endvac.html>

III. HOW UNODC CAN SUPPORT COUNTRIES IN PROTECTING CHILDREN DEPRIVED OF LIBERTY DURING THE COVID-19 OUTBREAK

In March 2020, UNODC took part in an inter-agency process and contributed to the development of an *Inter-Agency Technical Guidance on COVID-19 and Children Deprived of Liberty*.⁷ The interagency group is composed of UN entities and CSOs and is a joint effort with the Alliance on Child protection in Humanitarian Action. It was in response to the recent guidance issued by UNICEF and the Alliance on COVID-19 and Child Protection, and the identified need for more specific guidance in relation to children deprived of their liberty.

The Inter-Agency Technical Guidance is aimed to provide States with recommendations on how to ensure the well-being of children in detention during the COVID-19 outbreak. In addition to this Guidance, UNODC, through its Global Programme to END VAC, offers a number of *Technical Assistance Services* to support Member States, upon request, in better protecting the rights of children in detention during the COVID-19 outbreak. UNODC's work is guided by a broad range of international legally binding instruments and a set of United Nations standards and norms on justice for children.

In order to complement the guidance included in the *Inter-Agency Technical Note on COVID-19 and Children Deprived of their Liberty*, UNODC developed this Menu of Services with the objective to provide more concrete guidance to UNODC Field Offices on the initiatives that could be taken to support the efforts of counterparts in better protecting children deprived of liberty during the COVID-19 pandemic. It also aims at supporting UNODC's efforts in positioning within UN country teams and as part of the overall COVID-19 response at national level.

In drafting this Menu of Services, due account has been taken of existing publications and guidance developed by UNODC and other relevant stakeholders (see *Inter-Agency Technical Note on COVID-19 and Children Deprived of their Liberty*). Field Offices are encouraged to closely coordinate technical assistance aimed at addressing COVID-19 in facilities where children are deprived of their liberty with the World Health Organization (WHO), UNICEF and other relevant partners.

The Menu of Services is not meant to be exhaustive or to take into account specificities of different contexts with regards to the pandemic. As such, UNODC Field Offices are requested to carefully select and adjust intervention and proposals according to local context and needs. Examples of services are outlined below and the team at HQ stands ready to support the efforts of all relevant partners in this regard, including by elaborating project proposals.

⁷ See *Inter-Agency Technical Note on COVID-19 and Children Deprived of their Liberty*.

Menu of Services



Support to strategic planning to the public sector

Services

Example of Initiatives

1 Provision of advisory services and technical input to design, implement and monitor **strategies and plans aimed to decongest juvenile detention facilities** and reduce the number of children deprived of their liberty during the COVID-19 emergency

Assistance can be rendered to:

- develop schemes to promote alternatives to pre-trial detention and the commutation or temporary suspension of certain sentences to reduce new admissions to detention facilities;
- develop early release schemes for specific categories of children, such as children who are deprived of their liberty for status offences (i.e. offences not considered a crime if committed by adults); children at highest risk of complications due to COVID-19 infection, including those with pre-existing physical and mental health conditions; children arrested, accused, charged or sentenced with nonviolent, minor or petty offenses; children detained under national security grounds for association with a terrorist or violent extremist group;
- provide advisory services to judges, prosecutors, lawyers and all other relevant actors of the justice system to promote the use of alternative measures to formal judicial proceedings (e.g. diversion), which may be sought during all stages of proceedings, including for children currently in pre-trial detention;
- develop strategies and establish mechanisms of coordination between governmental and non-governmental institutions and actors to apply early release of children to their families and communities or into appropriate health care facilities or alternative care;
- develop procedures and management of legal aid programmes for children, with a particular focus on children currently deprived of their liberty, to ensure children's access to legal counsel during the COVID-19 outbreak in order to allow them to prepare and file petitions for early release or alternative measures to formal proceedings and deprivation of liberty;
- provide advisory services in order to ensure that children's rights are upheld in cases where court hearings are postponed or held by video-conference.



Services

Example of Initiatives

2 Provision of advisory services and technical input to design, implement and monitor **strategies and plans aimed to combat the COVID-19 outbreak within locations where children are deprived of their liberty** in accordance with international human rights law and standards

Assistance can be rendered to:

- develop strategies and establish mechanisms of coordination among governmental and judicial institutions, including by involving health professionals in strategic planning to prevent disease outbreak in closed settings and provide psychosocial support and health education;
- develop procedures and management of legal aid programmes for children;
- improve inspection procedures, including health and well-being checks for detained children;
- establish and improve complaint and request mechanisms that are confidential, age-appropriate, gender-sensitive and accessible to children deprived of liberty.

3 Provide advisory services and technical input to design, implement and monitor **strategies and plans aimed to minimize risks of violence, exploitation and abuse** which either may be exacerbated by the disease or may be a secondary consequence of it

Assistance can be rendered to:

- develop comprehensive, multi-sectoral and coordinated plans to ensure well managed implementation and responses across government to the COVID-19 pandemic;
- establish and implement child safeguarding policies, procedures, complaint and request mechanisms, including for the prevention of violence, abuse and exploitation;
- develop procedures to allow every child deprived of their liberty to have regular access and contact with legal representatives, guardians and family members, including through the use of technology to facilitate interactions while respecting the applicable social distancing measures and the child's right to privacy;
- develop guidelines and procedures to respect the rights and respond to the specific needs of girls in detention during the COVID-19 outbreak.

Institution and Capacity Building

Services

Example of Initiatives

4 Support to **improve conditions of detention and the treatment of children deprived of their liberty** during the pandemic for the exceptional cases in which children are kept in detention

Assistance can be rendered to:

- develop COVID-19 management programmes that are child-sensitive and age-appropriate;
- support enhanced access to water, sanitation, and hygiene services, particularly soap and water to help prevent and manage spread of the infection;
- improve on-entry health screening measures relevant to preventing the spread of COVID-19 and ensuring the physical and mental well-being of detained children;
- develop and implement programmes aimed to increase and improve the availability of necessary services to enable the continued health and wellbeing of children in detention during the pandemic, including healthcare, to address COVID-19 related needs, as well as education, counselling, group therapy, physical education, sport, social and cultural activities, ensuring the necessary health and sanitary requirements, and preparation for release;
- provide treatment for COVID-19 and other health conditions, and ensure referral to specialized treatment facilities for cases that require intensive treatment and care, and ensure that support is provided to special categories and vulnerable groups of children, such as migrant/refugee/stateless children, indigenous children, children from ethnic minority communities, children with disabilities, children with mental healthcare needs, drug users, LGBTQ+ children.

5 Support the provision of **legal aid and legal representation programmes for children deprived of liberty**

Assistance can be rendered to:

- develop procedures and mechanisms to ensure the extension of visitation times and staggering of visits to increase physical distancing or use of technology to facilitate interactions, in line with WHO guidelines and while respecting the child's right to privacy;⁸
- develop and implement mechanisms of reporting and monitoring about the number of attorneys available, the delivery of legal aid services; contact information of legal representatives and frequency of visits and contact.

6 Support the establishment and strengthening of **probation services or other supervision/monitoring systems of non-custodial sanctions and measures**

Assistance can be rendered to:

- develop schemes of cooperation of multidisciplinary teams to ensure an effective plan and outcome in the supervision of children;
- develop data collection systems to analyze trends and provide targeted services;
- provide support to establish the roles, responsibilities, functions, and duties of probation officers in child-related cases in the pre-trial and trial stage, and upon conditional release.

⁸ [WHO Interim Guidance on the prevention and control of COVID-19 in prisons and places of detention](#) (March 2020), pp. 8, 15 and 21-22.

Services

7 Support the establishment and strengthening of **independent inspection bodies**

8 Provide for **technology solutions** that uphold children's rights in order to enable courts to sit and to avoid postponement of court hearings, extension of pre-trial detention periods, and release of children deprived of their liberty

9 Develop **national and local professional capacities** and skills relevant to support States to comply with international human rights standards on justice for children. Target audience includes law enforcement officers, prosecutors, judges, magistrates, lawyers, personnel of detention facilities for children, probation service staff, and social workers

Example of Initiatives

Assistance can be rendered to:

- develop standards and procedures for independent inspection bodies;
- develop a system for responding and follow-up to recommendations from independent inspection bodies.

Assistance can be rendered to:

- develop and implement technology solutions to enable remote hearings;
- develop and implement technology solutions to enable access to legal representatives for children deprived of liberty;
- provide support in advising on ways that children's rights be upheld in virtual procedures.

Assistance can be rendered to develop training curricula and deliver training programmes relevant to:

- manage planning, research and information systems;
- child psychology, impact of violence on children, child welfare and international standards and norms of human rights and the rights of the child, including the Havana Rules;
- child-friendly interviewing and communication;
- preventative and alternative conflict resolution mechanisms;
- the treatment of children upon arrest;
- widening the use and application of alternative measures to formal judicial proceedings (diversion) and alternative measures to detention;
- the treatment of children during adjudicatory phase;
- the social reintegration of offenders and ex-offenders;
- improving inspection procedures.



Information, Advocacy and Awareness raising

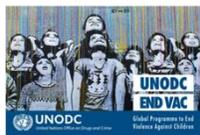
Services

10 Develop **communication strategies, public information/education programmes to raise awareness**

Examples of initiatives

Assistance can be rendered to:

- map the tools, activities and products / channels / timeline to establish an online, audio-visual and printed communication to raise awareness, enhance comprehension and improve communication about 'how to protect children deprived of liberty during the COVID-19 outbreak';
- implement communication tools and activities related to the COVID-19 outbreak, to support the dissemination of information, including the symptoms of the disease, how to protect themselves from it, treatment options and other health-related information;
- develop an information campaign to raise awareness about the harmful effects of child detention and the heightened risk of contraction of COVID-19 by children in detention;
- develop a specialised approach in building information architecture and reporting on the rights of children deprived of their liberty;
- implement local communication activities and cluster channels to raise awareness and communicate about the advantages of widening the use and application of alternatives to detention, especially during the COVID-19 crisis;
- develop media and multimedia materials to enable the concept of social reintegration needs of child offenders and ex-offenders to gain understanding and visibility amongst the various actors.



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