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The health of children deprived of liberty: a human rights issue



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The UN Global Study on Children Deprived of Liberty launched its final report on Nov 19, 2019, in Geneva, estimating that between 3·5 and 5·5 million children worldwide are living in institutions for reasons related to care, administration of justice, migration, armed conflict, or national security.¹ As part of the Global Study, we reviewed 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 ones, particularly related to mental health and developmental disability. The UN Convention on the Rights of the Child (CRC) recommends that deprivation of liberty should be used

only “as a measure of last resort and for the shortest appropriate period of time”.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, multisectoral response. Meanwhile, millions of children around the world are 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 detention must be paralleled by efforts to mitigate its harms 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 global human rights to focus

solely 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 focus are rarely articulated, but for some might reflect a fear that engaging in discussions about health services in detention might 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 compatible with efforts to improve health services in detention. This reality is too often ignored. Perhaps symptomatic of this devaluation of health in places of detention, CRC General Comment 24 enshrines a lower standard of health care for children in criminal justice detention, requiring signatories to provide only “adequate” medical care, rather than striving for the “highest attainable standard” of health.⁶

Agencies advocating for the rights of children deprived of liberty might also have a limited understanding of their health needs, in part because of a scarcity of data to inform advocacy and decision making. In most settings, almost nothing is known about the health status of children deprived of liberty or the systems in place to respond to their health needs. Routine monitoring and public reporting on health status and health services is urgently needed in all places where children are deprived of liberty. A model for such monitoring already exists. In 2016–17, the WHO Health in Prisons Programme surveyed 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 it 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 because of the misperception that it conflicts with efforts to reduce deprivation of liberty. It does not.

The Global Study has, for the first time, provided a robust estimate of how many children are deprived of liberty each year globally. This is a turning point in quantifying the scale of the problem. These marginalised and often traumatised children typically 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 the most vulnerable young people.

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We declare no competing interests.

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