

Presentation at
**EUROPEAN CONFERENCE
CHILDREN'S RIGHTS BEHIND BARS**
**Human Rights of Children Deprived of Liberty:
Improving Monitoring Mechanisms**
15th February 2016 – Brussels, Belgium



OFFICE OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL ON

VIOLENCE AGAINST CHILDREN

Preventing and addressing violence against children deprived of liberty, with particular focus on girls



Defining “deprivation of liberty”

The 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. United Nations Rules for the Protection of Juveniles Deprived of their Liberty (“Havana Rules”, A/RES/45/113, paragraph 11 b)

Who are the children deprived of their liberty?

Children alleged as, accused of, or recognised as having infringed the penal law

- Mostly non-violent petty crimes
- Criminalization of status offences

Children in need of treatment and health services

- substance abuse problems or mental health problems

Children in need of care and protection

- Children working or living on the street
- Children with disabilities

Children who experience discrimination

- Ethnic and minority groups, migrant children and asylum seekers, due to their sexual orientation or gender

Violence against children deprived of liberty

Significant risk of all forms of torture and violence (physical, sexual and psychological) in all places where children are deprived of liberty

- Legally sanctioned violence
- Violence at the hands of staff
- Violence by adult detainees
- Violence by other children or young people
- Self harm
- Violence as a sentence (death penalty, inhuman sentencing, life imprisonment without parole, indeterminate sentences and mandatory minimum sentences)

Gender-based discrimination and violence against girls

- Minority that requires special protection due to their particular vulnerability
- Gender-stereotypes and expected gender-norms in society - influence how girls and boys are affected by violence and how the justice system responds to it.
- Harsh sentences that affect girls/women disproportionately; drug offences, including for transporting drugs, rape (penalizing the victim), adultery, breaching the dress code, curfew
- Girls exploited through prostitution and trafficking are also frequently arrested for “loitering” and deprived of their liberty.
- In some countries, girls are more often arrested for running away from home and immoral conduct than boys and may be detained for longer periods of time than boys.
- While in police custody and detention, particularly vulnerable to forms of sexual violence; rape, invasive body searches, being stripped naked, harassment

Protective custody

- Intended to provide a safe haven for victims of violence or those threatened with violence.
- Sometimes a form of administrative detention for offences against social norms relating to sexual behaviour
- Does not always offer the victim protection, but places her at risk of further violence or keeps her confined against her will. May serve to deter victims from reporting violence.
- A/HRC/27/48 Report of the Working Group on Arbitrary Detention to the HRC 2014 “In some countries, women and girls are placed in custody due to the risk of gender-based violence, such as honour crimes, and their release may be conditional upon the consent of a male relative and/or a guarantor.”
- Typically no legal basis for the detention, procedural guarantees not observed, and the detention will constitute discrimination. “The practice of protective custody should be eliminated and replaced with alternative measures that ensure the protection of women and girls without jeopardizing their liberty.”

How can violence against girls and boys deprived of liberty effectively be prevented and addressed?

Urgent need to bridge the huge gap between human rights obligations and practice.

- Make use of the Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, the Bangkok Rules and other internationally agreed standards.
- A child- and gender sensitive approach in legislation, policy, standards and practice
- A sound legal framework
- Specialized child- and gender units for comprehensive assistance, protection and services.

Cont; How can violence against girls and boys deprived of liberty be effectively prevented and addressed?

- Empower children through safe, child- and gender sensitive counseling, complaints and reporting mechanisms, widely available and easily accessible.
- Internal and external accountability
- Implement broad prevention programmes that build a protective environment and address the risk factors and causes of deprivation of liberty
- Make use of non-custodial alternatives and community-based programmes
- Political, technical and financial support to the development of the Global Study on Children Deprived of Liberty



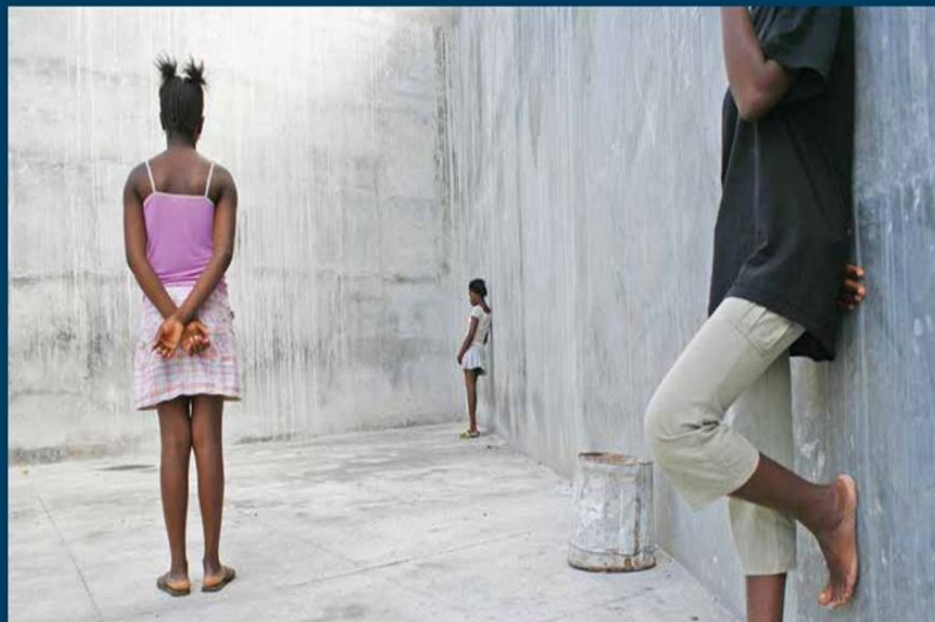
**Safe and child-sensitive
counselling, complaint
and
reporting mechanisms
to address violence
against children**



**Prevention of and responses to
violence against children within the
juvenile justice system**

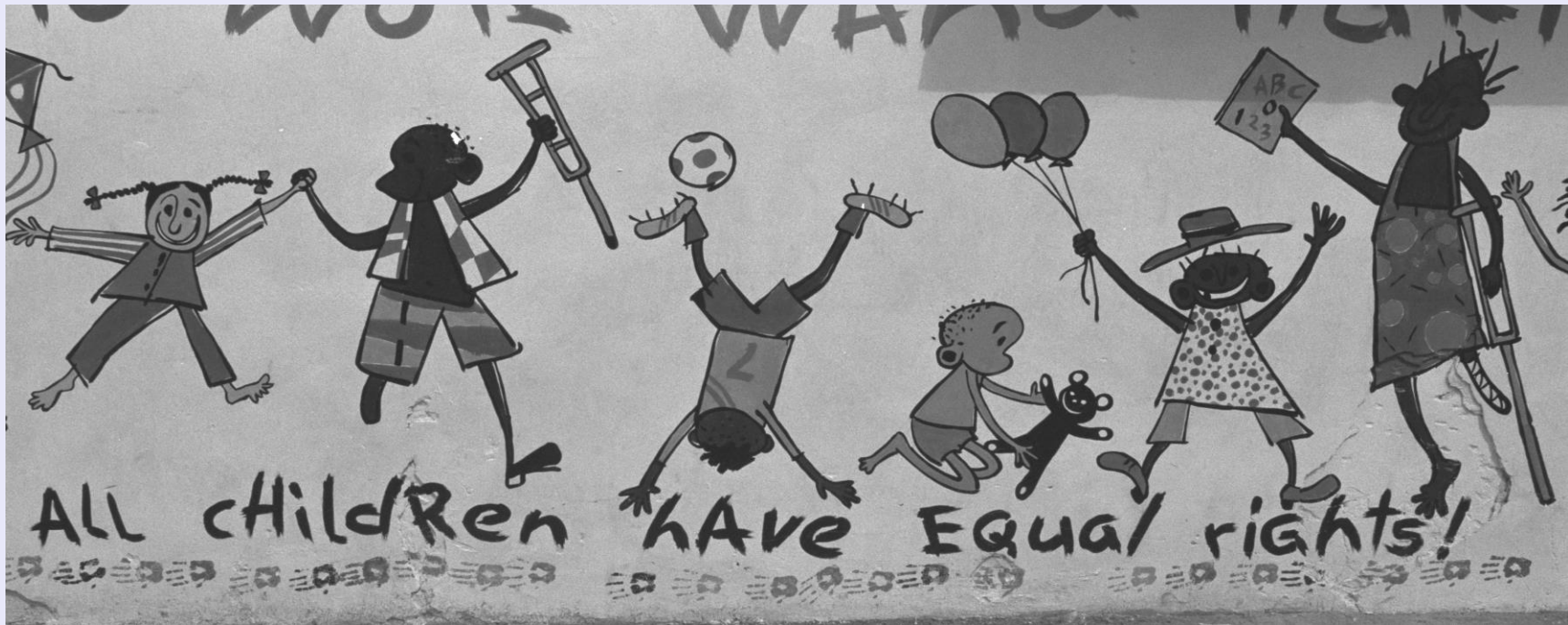
**Safeguarding the rights of girls in
the criminal justice system**

Preventing violence, stigmatization and deprivation of liberty



Promoting Restorative Justice for Children

[http://srsg.violenceagainstchildren.org/
publications](http://srsg.violenceagainstchildren.org/publications)



Thank you!