



**ESTIMATING
THE NUMBER OF
CHILDREN DEPRIVED
OF LIBERTY IN THE
ADMINISTRATION
OF JUSTICE**



© United Nations Children's Fund (UNICEF), Division of Data, Analytics, Planning and Monitoring, November 2021

Permission is required to reproduce any part of this publication. Permission will be freely granted to educational or non-profit organizations. To request permission or for any other information on this publication, please contact:

UNICEF Data and Analytics Section
Division of Data, Analytics, Planning and Monitoring
3 United Nations Plaza
New York, NY 10017, USA
Email: data@unicef.org
Website: data.unicef.org

All reasonable precautions have been taken by UNICEF to verify the information contained in this publication. For any data updates subsequent to release, please visit data.unicef.org.

SUGGESTED CITATION

United Nations Children's Fund, *Estimating the Number of Children Deprived of Liberty in the Administration of Justice*, UNICEF, New York, 2021.

ACKNOWLEDGEMENTS

The preparation of this publication was led by Claudia Cappa (Data and Analytics Section, UNICEF Headquarters), with inputs from Munkhbadar Jugder and Nicole Petrowski (Data and Analytics Section, UNICEF Headquarters) and Kirsten Di Martino and Vijaya Ratnam Raman (Child Protection Programme Team, UNICEF Headquarters). Valuable feedback was provided by Rena Ramkay (independent consultant). Gratitude goes to UNICEF staff in regional and country offices for their assistance with the identification of the data and data sources used in the analysis.

The publication was edited by Tina Johnson and designed by Era Porth (independent consultants).

COVER PHOTO

© UNICEF/UN0185849/Tremeau

CONTENTS

1. Introduction	4
2. Respecting, protecting and fulfilling the rights of children in conflict with the law	6
3. Data sources	8
4. Data availability	11
5. Global and regional estimates of children in detention	14
6. Conclusion	17
7. Technical annex	18
Endnotes	19

1. INTRODUCTION

Children in conflict with the law – children alleged as, accused of or recognized as having committed a criminal offence – are guaranteed protection and fundamental human rights through several international and regional instruments concerned with child justice.¹ Under the Convention on the Rights of the Child (CRC), they have the right to treatment that promotes their sense of dignity and worth, considers their age and aims at their reintegration into society (articles 37 and 40). Yet, children are often held in police custody, detention centres, prisons and other custodial settings in violation of international treaties, norms and standards. Children in conflict with the law usually face multiple challenges in their social and economic environments; thus, multi-sectoral prevention and response efforts are needed to provide adequate protection and support to these children through justice and broader child protection systems and other allied systems such as education, health and social protection.

While there is wide recognition of the devastating impact that even one day in detention and incarceration has on a child's physical, emotional and mental development, the actual number of children in conflict with the law who are deprived of liberty, both globally and in many countries, is unknown. Accurate and reliable figures of the size and basic characteristics of this population are crucial to inform policies and programming at the country level and to ensure that the standards set in international, regional and national legal frameworks are upheld. Insufficient data on children in the justice system make it impossible to understand the extent to which children are exposed to different forms of detention and to effectively monitor and evaluate the impact of related policies and programmes. On the other hand, estimates of children in detention may offer guidance to governments on where to focus juvenile justice and child protection reforms, including efforts to standardize indicators and strengthen systems of

administrative record keeping as well as to promote and provide noncustodial measures.

According to the 2019 UN Global Study on Children Deprived of Liberty, between 160,000 and 250,000 children were detained on any given day in 2018 and approximately 410,000 children were held in remand centres (pre-trial detention) and prisons throughout the year.² As explained in the study's annex, these estimates were made on the basis of data obtained from 124 countries using a mix of sources, including responses to a specific questionnaire as well as databases such as the World Prison Brief and the World Bank Data Portal. The study also estimated that approximately 1 million children were detained in police custody, a figure that was derived using data from a sample of 25 countries and unspecified extrapolation methods.³

Another estimate refers to more than 1 million children being detained through justice systems worldwide at any moment.⁴ This was based on an analysis of data from 81 countries obtained from a range of sources, including UNICEF regional and country surveys and reports on juvenile justice, the UN Survey on Crime Trends and the Operations of Criminal Justice Systems,⁵ national and international databases such as those from the Council of Europe and the European Sourcebook of Crime and Criminal Justice Statistics, the World Prison Brief, Transformative Monitoring for Enhanced Equity (TransMonEE) and reports and studies commissioned by Defence for Children International.⁶ Regional estimates were also provided for Organisation for Economic Co-operation and Development (OECD) countries, East Asia and the Pacific, Central and Eastern Europe and the Commonwealth of Independent States, and Latin America and the Caribbean.

Given the need for recent and accurately documented figures on children in detention,



this publication has two main objectives: The first is to provide an overview of the availability of administrative records of children deprived of liberty in the administration of justice; and the second is to present global and regional estimates using the existing country-level data. The publication also discusses data challenges and includes suggestions on how to strengthen available records.

There are numerous circumstances under which children are deprived of their liberty. These include migration-related detention; detention for

national security reasons or during armed conflict, such as captured child soldiers; confinement while being treated for drug or alcohol use or for mental health conditions; confinement due to disabilities; institutionalization due to risk of abuse and exploitation, including children in street situations; and detention along with their parents. In many instances, these children are placed in administrative detention that does not result from a judicial or court decision. However, the focus here is on children in conflict with the law; other situations where children are deprived of their liberty are beyond the scope of this report.

2. RESPECTING, PROTECTING AND FULFILLING THE RIGHTS OF CHILDREN IN CONFLICT WITH THE LAW

Article 37 of the CRC asserts that children may be detained or imprisoned only as a measure of last resort and for the shortest appropriate length of time. Under no circumstances are children to be treated in a cruel or harmful manner. The article specifies that children in detention/incarceration facilities should be separated from adult populations unless this is not in the child's best interest. It also guarantees children the right to prompt access to legal assistance and to challenge the legality of detention/incarceration before an impartial authority.⁷

The International Covenant on Civil and Political Rights (ICCPR) extends protections beyond due process and asserts that the conditions and nature of detention for children must be appropriate to their age and legal status.⁸ The UN Standard Minimum Rules for the Administration of Juvenile Justice ('Beijing Rules') reiterate that the deprivation of liberty should be brief and its use limited to cases where the child has committed "a serious act involving violence".⁹ Additionally, the UN Human Rights Committee and the Committee on the Rights of the Child have both repeatedly emphasized the duty of States to ensure that alternatives to detention/incarceration, such as transitional or restorative justice measures, are considered in good faith when assessing the necessity, proportionality and appropriateness of detaining children.¹⁰

Children in conflict with the law usually come from challenging socio-economic backgrounds. A significant number of them enter the criminal justice system as a result of deficiencies in the response of welfare and social services. Poverty is also associated with increased criminalization and custodial sentencing of children.¹¹ The disproportionate criminalization of children in street situations is largely due to 'status offences' (such as begging, alcohol consumption, truancy or running

away from home), minor offences (petty theft) and exploitation (such as commercial sexual exploitation and drug-related offences).¹² Consequently, multi-sectoral responses tailored to a child's individual circumstances that brought him or her into conflict with the law are required. The criminal justice system, and especially custodial options, should not be used as a substitute for weak child protection systems.¹³

The adverse impacts of detention and incarceration on children are well documented by the available literature. Research across diverse settings has shown the mental health and psychosocial needs of minors to be negatively affected by experiences of deprivation of liberty.¹⁴ Adolescents in detention face disproportionately higher morbidity and higher mortality compared to the general population.¹⁵ The detention of young offenders has also been shown to lead to ongoing negative behavioural and mental health consequences, including continued engagement in offending behaviours and contact with the justice system.¹⁶ Additionally, detention exacerbates pre-existing psychological conditions, and the negative effects appear to worsen according to the length of the stay.¹⁷ A lack of resources impedes access to care for child prisoner populations with pre-existing and emerging physical and mental health conditions.¹⁸ Education is often interrupted for detained children, especially those who live in low- and middle-income countries, reinforcing the sustained adverse effects of detention.¹⁹ There is also evidence that detained children experience increased exposure to gangs and violence, exacerbating the risk factors that contribute to worsened health and social functioning across the life course in these populations.²⁰ Furthermore, experiences of unlawful arrests and detentions have been shown to have additional extreme negative impacts on physical, mental and social well-being.²¹

In 2008, the UN Secretary-General composed a guidance note on the United Nation's approach to justice for children to ensure that children "are better served and protected by justice and related systems".²² More recently, the 2019 UN Global Study on Children Deprived of Liberty, commissioned by the UN Secretary-General, found that children around the world continue to be deprived of their liberty in detention facilities.²³ They are denied family care and access to justice, often unable to challenge the legality of their detention. These children are exposed to further human rights violations, enduring cruel, inhumane and/or degrading conditions. Furthermore, they are often denied the right to education and health care and do not benefit from tailored and long-term rehabilitation and reintegration support. These issues point to the need for greater investments in justice for children, ensuring the full application of international standards for all children who encounter justice systems as victims, witnesses or alleged offenders, including through contact with the security and social welfare sectors.

Child-friendly justice systems operate in the best interest of the child and take into account the child's age and development stage. They include not only processes and procedures that are child-friendly and gender-sensitive but also cooperation between justice, child protection and allied systems to respond to violence, abuse and the exploitation of children. Achieving such systems requires investment in increased awareness of children's legal rights and the provision of legal aid, representation and services for children, particularly those involved in justice and welfare systems. It also requires prioritizing prevention and early intervention in child offending – including through the child protection system, community engagement

and stronger linkages with allied systems – and the promotion of restorative justice approaches, diversion programmes and the integration of mental health and psychosocial support throughout juvenile justice systems. Increased support to children in street situations and youth experiencing homelessness needs to be prioritized so that every child in conflict with the law can be diverted from the justice system.

Ending the detention of children in conflict with the law also requires legal reforms (including of the minimum age of criminal responsibility), the provision of child protection services, the use of non-custodial measures and therapeutic approaches, the elimination of inhumane and degrading treatment and conditions and the strengthening of post-release reintegration support. Specialized children's courts are a critical component, but so is increased investment in traditional/informal transitional justice and alternative dispute-resolution mechanisms to ensure that they are child-friendly and gender-responsive and provide appropriate remedies for violations of children's rights to protection.

Justice for children also acknowledges that underpinning all of these elements is the value of and demand for the creation and maintenance of national databases on the nature and extent of crimes by and against children. To ensure children's rights and protection in the administration of justice, it is necessary to understand the use of child detention, including its scope and frequency. Without good data on children deprived of liberty, it is impossible to ascertain whether children's best interests are considered and diversion and noncustodial alternatives are effectively employed when children come into conflict with the law.

3. DATA SOURCES

Children in conflict with the law may be detained through police detention, pre-trial detention and custodial sentence. Police detention is a process of administrative custody used by police forces with a child suspected of having committed a crime prior to charging that child with a criminal offence.²⁴ Pre-trial detention, also known as remand or provisional detention, is the process of detaining a child who has been arrested and charged with an offence but who has not yet been convicted by the decision of a judicial court proceeding.²⁵ It can thus also refer to a child's confinement during a trial before judgment and sentencing are rendered. Custodial sentence refers to the detention of a child who has been convicted of an offence and received a sentencing decision by an official judicial process such as a trial or court proceeding.²⁶

Data on children in the three settings of detention may be collected and collated at the local, regional or national level, often by different agencies or government ministries. While some of this information can be gathered through surveys and questionnaires directed at children who have been in contact with the law and their families, the bulk of it is found in pre-existing administrative databases. The primary sources of administrative data on justice for children are the key government ministries and agencies responsible for protecting children who come into contact with the justice system, including the judiciary/courts, prosecutors, police and social welfare officers.

Among the different types of data on justice for children, figures on the judicial detention of children may be the most available and accessible as a

result of regular and routine record keeping by the police, the judiciary and institutions responsible for the custody of child offenders. Nevertheless, despite their importance, accurate statistics on the number, characteristics and well-being of children in detention settings remain scarce. Challenges include inconsistencies in data collection methods (that is, how administrative data are recorded at sub-district, district and provincial levels) and in the data's accuracy, completeness and coverage.²⁷ Many countries have high levels of missing or incomplete data, inconsistent or limited data quality assurance processes and inconsistencies in how data are collated and reported from the various levels. Since data collection is not the primary aim or function of service-providing or criminal justice agencies, the quality of data is often weak and inconsistent. Another obstacle is that government agencies, service providers and private entities often do not have record-keeping systems that regularly collect these data.

In countries with well-developed and functional administrative data management systems – as in most, but not all, upper-middle-income and high-income countries – administrative records can be a good source of data for research, monitoring programmes, evaluating performance and compiling statistics. Yet, many government agencies are data rich but information poor owing to the low prioritization of improving information systems and the limited use of administrative data for monitoring and research. Rarely do these agencies publish data about their performance, resulting in a missed opportunity to improve programming and services or to recognize agencies for excellent performance.²⁸



DEFINITIONS AND METHODS

For the purposes of this study, the search for available data focused on the identification of sources providing the overall number of children deprived of liberty in the administration of justice. The standard indicator used to report on these children reflects the absolute number of all children under age 18 detained in pre-trial, pre-sentencing or post-sentencing in any type of facility, including police custody, on a particular date, as reflected in national administrative data systems. Every effort was made to obtain national level data on children in police and pre-trial detention as well as those with custodial sentences; however, figures were accepted even if they reflected the number of children in only one of the three settings or if there were slight variations in the geographical coverage. This includes, for example, instances where national figures were only available for children serving custodial sentences but not for children in police or pre-trial detention, or if national figures only referenced children in detention as a result of being in conflict with the law but did not specify the detention setting. Data on children detained under administrative processes, including those in migration detention, those in protective custody such as victims/survivors or witnesses and those sentenced to alternative justice measures, including situations of semi-liberty, were excluded from the compilation.

Data were compiled from January 2017 to October 2021 through both web research and country-level solicitation. Data for 46 countries, predominantly in Western Europe, Eastern Europe and Central Asia and North America, were identified through independent data searches. Census data for Australia, Canada, Japan, the Republic of Korea, Singapore and the United States were sourced from government websites. Data for 32 countries in Western Europe and Eastern and Central Asia were obtained from Eurostat. The TransMonEE database (<http://transmonee.org>) provided data on more than 400 indicators relevant to the social

and economic well-being of children, young people and women, including deprivation of liberty, in 28 countries of Central and Eastern Europe and the European Union.

The United Nations Office on Drugs and Crime (UNODC) Data Portal and the World Prison Brief databases were also reviewed.

The primary sources of data included in this study were administrative records from government ministries mandated to oversee justice systems, such as ministries of justice, home affairs or social affairs; and websites maintained or national statistical reports distributed by national statistical offices.

For countries where data could not be identified through independent web searches, direct contact was made with national authorities or local experts to obtain the most recent data from existing and verifiable official sources. Country-level data were entered into an electronic database that included the reported number of children deprived of liberty (disaggregated by sex when available) as well as the specific age range and year the data refer to, definitional notes and details about the source.

Inclusion of data in the database was based on the following four criteria: (1) data reflected a number count of children detained in any of three settings, i.e., police detention, pre-trial detention and custodial sentence; (2) the reference year was known; (3) data were produced by an official source, i.e., a line ministry or a national statistical office; and (4) the source of the data was verifiable and supporting documentation was available. Data points that were missing these details – those that did not fit the conceptual definition of children detained in the administration of justice and for which additional searches did not produce the necessary information – were excluded from the database.

4. DATA AVAILABILITY

Information on data availability was obtained for 202 countries (Table 1), covering 100 per cent of the global population of children aged 0-17.

Figures on the number of children deprived of liberty as a result of being in conflict with the law were identified for 164 countries. The remaining countries include those for which official figures were either not available or were available but external access was restricted. Of these countries with missing data, sixteen were in East Asia and the Pacific, eight in Eastern and Southern Africa, eight in Middle East and North Africa, two in West and Central Africa, two in Western Europe, one in South Asia and one in Eastern Europe and Central Asia.

The most commonly reported reason for the absence of data was the lack of a centralized system for reporting disaggregated data on children. In some cases, data on other indicators related to justice for children were available but not on the number of

children deprived of liberty in the administration of justice. Data for 159 countries, covering 87 per cent of the global population of children aged 0 to 17, met the criteria for inclusion in the database. Of the countries for which data were excluded, three did not meet the definition of children in detention as a result of being in conflict with the law and two did not have verifiable sources of data. Among the countries with data that met the inclusion criteria, only 71 had sex-disaggregated figures. One fourth of the countries had data as recent as 2020, and another fourth provided data for 2019.

Of the 159 countries with data that met the inclusion criteria, 76 referred to children but a lower-bound of the age range for this population was not provided (Table 2). Of the 83 countries that specified an age range, 14-17 years was the most often observed. Twenty countries with a specified age range flagged that children younger than the legal age of criminal responsibility were also in detention.

Table 1. Available data, by region

Region	Number of countries in the region	Countries with missing data	Countries with data		Population coverage for the countries with data that meet inclusion criteria	Year range of the available data
			Data meet inclusion criteria	Data do not meet inclusion criteria		
North America	2	0	2	0	100%	2019
Eastern Europe and Central Asia	21	1	20	0	95%	2017-2020
South Asia	8	1	7	0	100%	2004-2020
Western Europe	33	2	31	0	100%	2013-2018
Latin America and the Caribbean	37	0	35	2	96%	2010-2020
West and Central Africa	24	2	20	2	88%	2008-2020
Eastern and Southern Africa	25	8	16	1	45%	2008-2020
East Asia and the Pacific	33	16	17	0	93%	2004-2020
Middle East and North Africa	19	8	11	0	47%	2008-2020
World	202	38	159	5	87%	2004-2020

Table 2. Age ranges covered by the data, by region

Age range	North America	Eastern Europe and Central Asia	South Asia	Western Europe	Latin America and the Caribbean	West and Central Africa	Eastern and Southern Africa	East Asia and the Pacific	Middle East and North Africa	Total
Not specified but under 18	1	4	3	28	6	8	9	10	7	76
5-18								1		1
7-16						1				1
7-17			1		1					2
9-17							1		1	2
10-17				1	4		1	3		9
10-18								1		1
10-19							1			1
11-16					1					1
12-17	1	1	1		10	1	2		1	17
12-18			1						1	2
12-21					1					1
12-24					1					1
12-26			1							1
13-17					3	5	1			9
13-18					1					1
14-17		13		1	5	1	1	1		22
15-17		1		1	1	3				6
15-18									1	1
16-17		1			1	1				3
16-20								1		1
Total	2	20	7	31	35	20	16	17	11	159

Significant variation was observed in the scope of the detention settings included in the data. Of the 159 countries with data that met the inclusion criteria, 59 countries provided figures for children in detention as a result of being in conflict with the law but did not include a description of the detention setting (Table 3). Of the 100 countries with information on the settings, 51 countries

could produce figures for children in prisons, penal institutions or correctional institutions while 30 countries were able to provide figures for children in pre-trial and post-trial detention. Eleven countries provided a figure for children in post-trial detention only, one country provided data on policy custody only and just seven countries were able to produce figures for children in all three settings.



Table 3. Detention settings covered by the data, by region

Region	Number of countries with data that meet inclusion criteria	Children in detention	Police custody	Post-trial detention	Pre-trial and post-trial detention	Police custody, pre-trial and post-trial detention	Prisons, penal institutions or correctional institutions
North America	2	1			1		
Eastern Europe and Central Asia	20	1		8	6	4	1
South Asia	7	4			2		1
Western Europe	31	2			2		27
Latin America and the Caribbean	35	24			9		2
West and Central Africa	20	12	1		4	1	2
Eastern and Southern Africa	16	5		1	2	1	7
East Asia and the Pacific	17	9		1	2		5
Middle East and North Africa	11	1		1	2	1	6
Total	159	59	1	11	30	7	51



5. GLOBAL AND REGIONAL ESTIMATES OF CHILDREN IN DETENTION

Globally, 261,200 children were estimated to be in detention on any given day in 2020 (Table 4). Based on the available data, North America has the highest regional rate of children in detention at 137 per 100,000 children. Latin America and the Caribbean

has the greatest number of children in detention as well as the second highest rate of children in detention at 77 per 100,000 children. West and Central Africa has the lowest rate of children in detention at 8 per 100,000 children.

Table 4. Number and rate of children in detention per 100,000 population, by region

Region	Number of children in detention	Rate of children in detention per 100,000
North America	32,200	137
Latin America and the Caribbean	50,300	77
Eastern and Southern Africa	48,600	45
Western Europe	10,000	41
Eastern Europe and Central Asia	8,100	40
East Asia and the Pacific	40,700	37
Middle East and North Africa	18,300	28
South Asia	44,900	12
West and Central Africa	8,100	8
World	261,200	29

Notes: Figures in this table have been rounded. See technical notes for more details on estimation methods.

LIMITATIONS

The figures presented in this paper at both global and regional levels are based on underlying data that rely on the strength of a country's data systems and on the degree of coordination between the bodies and institutions that collect data. Overall, several limitations were found in the availability, consistency and coverage of underlying country data.

The types and coverage of the differing sources included in this review are generally representative of three categories of systems for gathering routine data on children deprived of liberty in the administration of justice: those that produce data and make such data accessible; those that produce data but do not make such data accessible (because these data are either embargoed or simply not ready for broader dissemination); and those that do not compile data on these children at all. The categories reflect a spectrum of system functioning that provides a framework for understanding the current state of administrative records on children deprived of liberty. Data limitations due to a lack of quality and/or availability persist even in the case of well-functioning systems when, for example, records are not comprehensive in coverage or consistent in definitions.

The figures reflect the data from those countries for which an official source could be identified and verified after a reasonable search was conducted. One purpose of the study was to provide an overview of the global availability and coverage of administrative records on children deprived of liberty and, as such, data from verifiable, official governmental sources were evaluated to assess whether countries are able to produce data on these children and whether these data are accessible. Countries with well-functioning systems have data and metadata that are either publicly accessible through downloadable files on government websites or available through direct contact with relevant ministries or public officials. It remains very common, however, for record keeping on the number and characteristics of children in detention to be incomplete and unsystematic, which affects the reliability of available country data as well as of regional and global estimates based on them.

Although every effort was made to identify sources that adhered to the conceptual definition

of detention, there was wide variation in the types of detention (police custody, pre-trial detention and custodial sentences, for example) each country reported on. The data points thus do not all correspond to the same detention settings – or to the same reference year or the same age ranges of children. The figures are also limited by the coverage of the administrative records available for review. In countries with young administrative systems, records are limited by the ability of distinct bodies responsible for the collection of records to consolidate data for reporting at the national level.

The compilation also depended on and was limited by the willingness of governments to share data or provide explanations on the sources. It was assumed that a non-response from national counterparts after multiple attempts meant that no reliable source of data on children in detention could be located. While reasonable efforts have been made to verify country estimates, detailed documentation on the nature of the available data, including the methods of data collection and definitions, was limited overall and the actual coverage of figures could not always be verified. All these conditions may introduce biases that impact the comparability of estimates between countries and the accuracy of the regional and global estimates.

While it would have been reasonable to explore the possibility of developing statistical models to offset the general lack of robust data, the main purpose of the present study was to document the limitations in the available data and, by so doing, provide a glimpse into how different country systems are functioning. The figures presented here are best interpreted as giving an indication, albeit approximate, of whether, and how well, a country's data system is able to generate and make available a count of children deprived of liberty. Rather than an indication of a larger population, higher reported figures may actually reflect a more comprehensive and well-functioning system of identifying and monitoring such children and greater capacity for the systematic collection of data. Regional estimates should be interpreted with consideration of the wide variation in the number of children in detention and the capacity of record keeping and reporting systems among countries in the same region.



6. CONCLUSION

Understanding the current status of justice for children is essential to call attention to immediate and long-term measures that need to be put in place to prevent child offending and ensure that the rights of children in conflict with the law are respected, including their safety and well-being.

Though the results presented here may be limited by undeveloped administrative data systems and restricted data availability, the study has several strengths. The global and regional estimates are the result of a comprehensive and systematic effort to locate and compile data on children in detention from as many countries as possible. The identified data underwent a basic quality check, including the review of available supporting documentation and source material, and adherence to inclusion criteria was maintained throughout.

The primary purpose of the compilation of data on children in detention was to provide an overview of the availability and coverage of administrative records of children deprived of liberty in the administration of justice. The strength or weakness of these records can indicate whether countries have the information needed to understand the situation of these children. With some countries currently undergoing reforms of their juvenile justice systems, the ability to produce official statistics and baseline numbers of these children is a crucial piece of information in the reform process. An important contribution of this review is that it raises awareness of the urgent need to strengthen the capacity of countries to more accurately and systematically count, monitor and report on these children by improving administrative data systems. Such improvements are essential to monitor countries' adherence to national, regional and international standards, treaties and norms as well as to develop evidence-based solutions and policy responses that aim to eliminate the detention of children and ensure that justice system responses to children consider their best interests, are aligned with their rights and provide them with protection

in recognition of their vulnerability and stage of development.

The compilation of comprehensive data on children in detention, at both the national and subnational levels, is useful for stakeholders throughout the justice and child protection systems, including juvenile correction administrators, juvenile court judges, law enforcement officers and agencies, social service workers/social workers working in juvenile justice and child protection, civil society and lawmakers and policymakers at the national level. These actors may use the data to align decisions with evidence-based practices, identify opportunities for the improvement of policy and programmes and ensure age-appropriate implementation of laws and sentencing guidelines. Disparate record keeping impedes the availability of a comprehensive investigation into the well-being of children in conflict with the law.

Failure to reliably and uniformly record, manage, retain and analyse data on children who interact with the justice system cannot ensure adequate protection for children and cannot hold accountable the individuals and institutions responsible for protecting them. For instance, in many countries, children can spend months and even years lingering in pre-trial detention while they wait for a formal court proceeding and trial. Without comprehensive and updated data on children detained in the administration of justice, it is impossible to assess whether decisions by law enforcement and courts are being made in the best interests of the child or whether detention sentences are truly used as a measure of last resort and for the shortest appropriate period of time. Strategic investments can improve the availability, quality and use of administrative data on justice for children, while also demonstrating the country-level potential to take definitive steps towards strengthening the judicial system – and thereby fulfilling the rights of every child who comes into contact with the law.

7. TECHNICAL ANNEX

Calculation of country-level rates

For each country with available data, the rate of children deprived of liberty in the administration of justice was calculated using the reported number of children detained in any (or all) of the three settings and the population of children in the year the data refer to. The proportions of the regional population of children covered by the available data were calculated to allow for a comparison of data coverage across regions. When the specific age range was not available for a country, the country's minimum age of criminal responsibility (MACR), as reported by Child Rights International Network,²⁹ was used as the lower bound of the submitted figure (Table 5), with 17 years as the upper level. If the available data covered an age range smaller than that of the population of children who can be legally detained, a rate was imputed for younger/older children either by applying the available rate or by extrapolating the rate on the basis of the observable age patterns for countries where age-disaggregated figures were available. The country's MACR was also used to determine the cut-off point for imputing zero values in case of missing or incomplete information on children across the entire age spectrum. This decision assumed that no children could be detained if they were of an age that is below the country's MACR. However, in cases where they are unable to prove their age – due, for instance, to the lack of a birth certificate or other proof of legal identity – many children may end up in detention even when they are younger than the MACR. Additionally, the risks of this assumption are in not counting children under the MACR who are 'institutionalized' due to 'behavioural' concerns or perhaps even 'mental health' issues when they commit crimes but cannot be held responsible. Anecdotally, parents are known to ask the police to hold 'bad' or misbehaving children in a cell overnight or sometimes for longer in order to teach them a lesson. The police may also hold children in street situations under the MACR, allegedly for their 'protection'. This method is therefore susceptible to underestimation of the total number of children in detention.

Global and regional estimates

Weighted regional rates were produced using the population estimates in the year 2020. Demographic data are from the UN Department of Economic and Social Affairs, Population Division.³⁰ Regional numbers were produced separately for each of the nine regional groupings displayed in Table 4. Regional rates were applied to countries with missing data in each region. For the global estimate, the preferred method was to calculate a weighted average of regional data (as opposed to a weighted average of country data).

Table 5. Minimum age of criminal responsibility

Child age in years	Number of countries
7	18
8	6
9	3
10	16
11	1
12	21
13	12
14	32
15	11
16	22
17	1
18	10
Unknown	6
Total	159

ENDNOTES

- 1 The key international instruments for the administration of juvenile justice are the Convention on the Rights of the Child (CRC) and the International Covenant on Civil and Political Rights (ICCPR). Alongside these treaties, there are four main supporting juvenile justice instruments: the UN Guidelines for the Prevention of Juvenile Delinquency ('Riyadh Guidelines'); the UN Standard Minimum Rules for the Administration of Juvenile Justice ('Beijing Rules'); the UN Rules for the Protection of Juveniles Deprived of their Liberty ('Havana Rules'); and the Guidelines for Action on Children in the Criminal Justice System ('Vienna Guidelines'). Guidance on interpreting these guidelines and rules has recently been updated by the Committee on the Rights of the Child. See: Committee on the Rights of the Child, 'General Comment No. 24 (2019) on Children's Rights in the Child Justice System', CRC/C/GC/24, 18 September 2019.
- 2 Nowak, Manfred, *United Nations Global Study on Children Deprived of Liberty*, November 2019, <www.ohchr.org/EN/HRBodies/CRC/StudyChildrenDeprivedLiberty/Pages/Index.aspx>, accessed 1 November 2021.
- 3 Ibid.
- 4 United Nations Children's Fund, *Progress for Children: A report card on child protection*, UNICEF, New York, September 2009, <www.unicef.org/publications/files/Progress_for_Children-No.8_EN_081309.pdf>, accessed 1 November 2021.
- 5 United Nations Office on Drugs and Crime, 'United Nations Survey on Crime Trends and the Operations of Criminal Justice Systems' (seventh survey 1998–2000, eighth survey 2001–2002, ninth survey 2003–2004).
- 6 *Progress for Children: A report card on child protection*.
- 7 United Nations General Assembly, Convention on the Rights of the Child, A/RES/44/25, 1989.
- 8 United Nations General Assembly, International Covenant on Civil and Political Rights, Treaty Series 999, 1966.
- 9 United Nations General Assembly, 'United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")', United Nations, New York, 1985.
- 10 See, for example, Committee on the Rights of the Child, 'General Comment No. 24 (2019)'; United Nations Children's Fund, *Administrative Detention of Children: A global report*, UNICEF, New York, 2011.
- 11 Nowak, *United Nations Global Study on Children Deprived of Liberty*, pp. 287, 289; Rook, John, and Samantha Sexsmith, 'The Criminalization of Poverty', in *Crime Prevention: International perspectives, issues and trends*, edited by John A. Winterdyk, CRC Press, Boca Raton, 2015, pp. 317-344.
- 12 United Nations Human Rights Committee, 'Joint Report of the Office of the High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence Against Children on Prevention of and Responses to Violence against Children', A/HRC/21/25, 27 June 2012, para. 5; Committee on the Rights of the Child, 'General Comment No. 21 (2017) on Children in Street Situations', CRC/C/GC/21, 21 June 2017, para. 26.
- 13 Santos Pais, Marta, 'Children's Rights, Freedom from Violence and Criminal Justice', in *Child-friendly Justice: A quarter of a century of the UN Convention on the Rights of the Child*, edited by Said Mahmoudi, et al., Brill Nijhoff, Leiden, 2015, pp. 14-29.
- 14 Nowak, *United Nations Global Study on Children Deprived of Liberty*, pp. 117-180; Ehntholt, Kimberly A., et al., 'Mental Health of Unaccompanied Asylum-Seeking Adolescents Previously Held in British Detention Centres', *Clinical Child Psychology*, vol. 23, no. 2, 2018, pp. 238-257; Dudley, Michael, et al., 'Children and Young People in Immigration Detention', *Child and Adolescent Psychiatry*, vol. 25, no. 4, 2012, pp. 285-292.
- 15 Barnert, Elizabeth S., Raymond Perry and Robert Morris, 'Juvenile Incarceration and Health', *Academic Pediatrics*, vol. 16, 2016, pp. 99-109.
- 16 Lambie, Ian, and Isabel Randell, 'The Impact of Incarceration on Juvenile Offenders', *Clinical Psychology Review*, vol. 33, no. 3, 2013, pp. 448-459.
- 17 Lynch, Cathrine, Richard Matthews and Robyn Rosina, 'Health as a Mediator of Change in the Trajectory of Young People in Contact with the Criminal Justice System', *International Journal of Adolescent Medicine and Health*, vol. 19, no. 3, 2007, pp. 269-276; González, Thalia, 'Youth Incarceration, Health, and Length of Stay', *Fordham Urban Law Journal*, vol. 45, no. 1, 2017, pp. 45-80.
- 18 Barnert et al., 'Juvenile Incarceration and Health'.
- 19 Rowcliffe, Christine, Redvers Stellenberg and Sarah Cherian, 'The Impact of Detention on Children and Adolescents', *Journal of Paediatrics and Child Health*, vol. 52, no. 9, 2016, pp. 912-913.
- 20 Barnert et al., 'Juvenile Incarceration and Health'.
- 21 Brooks, Samantha K. and Neil Greenberg, 'Psychological Impact of Being Wrongfully Accused of Criminal Offences: A systematic literature review', *Medicine, Science and the Law*, vol. 61, no. 1, 2021, pp. 44-54.
- 22 United Nations Secretary General, 'Guidance Note of the Secretary General: UN approach to justice for children', United Nations, New York, 2008.
- 23 Nowak, *United Nations Global Study on Children Deprived of Liberty*.
- 24 *Administrative Detention of Children: A global report*.
- 25 United Nations Children's Fund, *Toolkit on Diversion from Judicial Proceedings and Alternatives to Deprivation of Liberty*, UNICEF, New York, 2010.
- 26 *Administrative Detention of Children: A global report*.
- 27 United Nations Children's Fund, *Achieving Justice for Children: Review of innovative data initiatives around the world*, UNICEF, New York, 2021.
- 28 Ibid.
- 29 Child Rights International Network, 'Minimum Ages of Criminal Responsibility Around the World', 2018, <<https://archive.crin.org/en/home/ages.html>>, accessed 1 November 2021.
- 30 United Nations, Department of Economic and Social Affairs, Population Division, *World Population Prospects: The 2019 revision*, United Nations, New York, 2019 (DVD version).

United Nations Children's Fund
Data and Analytics Section
Division of Data, Analytics, Planning and Monitoring
3 United Nations Plaza
New York, NY 10017, USA
Email: data@unicef.org
Website: data.unicef.org

unicef 

for every child