

UNHRC

United Nations Human Rights Council Imprisonment of Minors

Overview

The plight of minors in detention facilities has been a concern for several decades. The international community, under the aegis of the United Nations, has strived to protect children's rights through various treaties, notably the United Nations Convention on the Rights of the Child (UNCRC) adopted in 1989. This treaty urges governments to consider the detention of minors as a measure of last resort.¹ Over the years, the UNHRC has passed resolutions emphasizing rehabilitation and social reintegration of child detainees. Every country has its own laws on the minimum age, and severity of crime, necessary for imprisoning children. This committee's goal is to protect children's rights while also allowing countries to have their own sovereign judicial system. A key issue surrounding this matter revolves around the distinctions in punishment between children and adults for the same offense, as well as the responsibilities a country bears in rehabilitating incarcerated children once they have served their sentence.

The United Nations Human Rights Council

The United Nations Human Rights Council (UNHRC) is a United Nations body responsible for promoting and protecting human rights around the globe. Established on March 15, 2006, by the UN General Assembly, it replaced the former United Nations Commission on Human Rights (UNCHR), which had been frequently criticized for allowing countries with poor human rights records to be members. The Council's mandate includes addressing human rights violations, making recommendations, and providing a forum for dialogue on thematic human rights issues.² The UNHRC has several notable achievements, such as the establishment of commissions of inquiry into human rights violations in countries like Syria, North Korea, and Myanmar. The UNHRC continues to evolve in response to global human rights challenges. Its role in addressing complex contemporary issues – from the rights of migrants and refugees to the

¹ General Assembly Resolution 44/25. "Convention on the Rights of the Child." *United Nations Human Rights*, adopted November 1989, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

² United Nations Human Rights Council. "Welcome to the Humans Rights Council." *United Nations Human Rights*, <https://www.ohchr.org/en/hr-bodies/hrc/about-council>.

impact of climate change on human rights – remains an essential aspect of the international human rights framework.³

Overuse of Detention

The overuse of detention for minors is a significant concern in the field of juvenile justice. It refers to the practice of frequently resorting to incarceration as a response to juvenile offenses, often for non-violent or minor infractions. This method is usually enacted in response to global politics, to silence resistance against the government and out of a fear of increasing incarceration amongst adults, with the belief that punishing children young will stop them from committing crimes as they age.⁴

The United States has one of the highest rates of juvenile detention in the world, disproportionately affecting black and hispanic children compared to other races.⁵ Specifically, the United States is known to criminalize minor offenses such as under age drinking and breaking curfew, as well as constructing their juvenile facilities to mirror adult prisons.⁶ In some cases, courts send children to adult jails, which affects different communities disproportionately, with Latino youth being 40% more likely and Black youth being 35% more likely than White youth to be sent to an adult prison.⁷ In Brazil, the child detention rate is so high that they cannot accommodate everyone within their designated quarters, and they struggle with overcrowded prisons and insufficient supplies. In 2014, there were 22,000 children housed in a prison made for 18,000.⁸ In India, there was a surge in detention of minors for petty crimes as well, such as “stealing, burglary and inflicting harm” which now account for 72% of convicted crimes for

³ “Human Rights.” *United Nations*, <https://www.un.org/en/global-issues/human-rights>.

⁴ Bochenek, Michael. “Children Behind Bars: The Global Overuse of Detention of Children.” *Human Rights Watch*, <https://www.hrw.org/sites/default/files/childrenindetention.pdf>.

⁵ This interactive map shows rates of juvenile incarceration by state:

“America’s addiction to juvenile incarceration: state by state.” *ACLU*, <https://www.aclu.org/issues/juvenile-justice/youth-incarceration/americas-addiction-juvenile-incarceration-state-state>

⁶ This true crime podcast goes in depth into an interesting case of the US juvenile prison system in 4 episodes. It is very interesting and well done! Knight, Meriba. “The Kids of Rutherford County.” *New York Times and Serial Productions*, October 19 2023, <https://www.nytc.com/press/introducing-the-kids-of-rutherford-county-a-new-podcast-from-serial-productions/>.

⁷ C. Johnson, Delia & Jill Ryan. “‘Super-predator’ legacy: How children end up in the adult justice system.” *News 21*, August 21 2020, <https://kidsimprisoned.news21.com/super-predator-kids-tried-adults/>.

⁸ Griffin, Jo. “Is brutal treatment of young offenders fuelling crime rates in Brazil?” *The Guardian*, March 3, 2017, <https://www.theguardian.com/global-development/2017/mar/03/brazil-crime-rates-brutal-treatment-young-offenders>

minors.⁹ Scandinavian countries, such as Norway, Denmark, Finland and Sweden stand out for their low rates of detention; in 2015, there were only 13 children, aged 15-17 that were imprisoned in all of Scandinavia. Their governments tend to put more resources into prevention of gangs exploiting youth at risk and into rehabilitation of youth accused of crimes.¹⁰

Mental Health Impacts

The mental health of incarcerated youth is a significant concern in the juvenile justice system. Young people in detention are often at a higher risk for a range of mental health issues compared to their non-incarcerated peers, with as many as 70% of incarcerated youth having some form of mental health crisis.¹¹ Pre-incarceration, many youth that commit crimes experience trauma at home, live in a low income community, or struggle with substance abuse. Depending on the country, incarcerated youth may experience abuse *while* imprisoned such as isolation for days at a time, racism from guards and other prisoners, or a lack of physical and mental support that will worsen pre-existing problems.¹²

Solitary confinement is a punishment for prisoners where they are locked in a small cell, usually with low lighting, minimal or no meaningful interaction, limited or no access to recreational activities for 6-23 hours a day. For youth, this may mean they are “deprived of the services, programming, and other tools that they need for healthy growth, education, and development”.¹³ In the Australian state, Queensland, 30,200 youth were held in solitary confinement in under a year from 2021-2022, with 2800 instances with children under 14 years old and 83 instances where youth were held for over 24 hours. Studies also saw an

⁹ Banerji Oishika “Juvenile crimes in India.” *LawSikho*, January 17 2022,

<https://blog.ipleaders.in/juvenile-crimes-india/>

¹⁰ “Calling for radical ‘Scandinavian-style’ reforms to youth justice system.” *Children’s Commissioner*, December 22 2020,

<https://www.childrenscommissioner.gov.uk/news/calling-for-radical-scandinavian-style-reforms-to-youth-justice-system/>.

¹¹ “Intersection between Mental Health and the Juvenile Justice System.” *Office of Juvenile Justice and Delinquency Prevention*, July 2017,

https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/intsection_between_mental_health_and_the_juvenile_justice_system.pdf.

¹² Mendel, Richard. “Why Youth Incarceration Fails: An Updated Review of the Evidence.” *The Sentencing Project*, March 1 2023,

<https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/>.

¹³ Watch this video of formerly incarcerated youth talking about their experiences with solitary confinement: Kysel, Ian. “Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons across the United States” *ACLU*, 2012,

<https://www.aclu.org/report/growing-locked-down-youth-solitary-confinement-jails-and-prisons-across-united-states>

overrepresentation of indigenous youth, with 84% of the cases being with native children.¹⁴ With high rates of juvenile detention, the United States specifically contains elevated circumstances of abuse in their system, with one report finding “that almost one in ten incarcerated juveniles reports experience sexual abuse in juvenile correctional facilities.”¹⁵ In Nigeria, juvenile detention centers lack medical, psychological and educational resources, leaving incarcerated youth neglected and suffering from mental health issues.¹⁶

Abuse within juvenile prison systems is a critical issue that has drawn significant attention globally. This abuse can take various forms, including physical, sexual, emotional abuse, and neglect, and often has long-lasting impacts on the mental and physical well-being of young inmates.

Politics at Play: How Juvenile Detention is Influenced by Greater Problems

Juvenile imprisonment is not merely a matter of individual behavior but is deeply entwined with broader societal, political, and economic factors. Understanding these influences is essential for creating effective juvenile justice systems that not only address criminal behavior but also tackle the underlying issues *leading* to such behavior.

Gang involvement often exacerbates the challenges faced by juvenile justice systems, influencing both the reasons for youth incarceration and the dynamics within detention facilities. In El Salvador, gangs like MS-13 and Barrio 18 wield significant influence and recruit vulnerable young people. The government’s response has varied over time, including controversial “mano dura” (iron fist) policies that lead to the mass incarceration of gang members, including juveniles. Recently, the decision that “children who are convicted of committing a crime as part of a criminal group ... between 12 and 15 years of age [can] face up to 10 years in prison” has received criticism as not addressing the root of the gang-violence

¹⁴ Gillespie, Eden. “First Nations children account for 84% of Queensland Youth Detainees put in Solitary Confinement.” *The Guardian*, Sept. 27 2022, <https://www.theguardian.com/australia-news/2022/sep/28/first-nations-children-account-for-84-of-queensland-youth-detainees-put-in-solitary-confinement>.

¹⁵ Stephens, Ronnie K. “Trauma and Abuse of Incarcerated Juveniles in American Prisons.” *Interrogating Justice*, May 28 2021, <https://interrogatingjustice.org/prisons/trauma-and-abuse-of-incarcerated-juveniles-in-american-prisons/>.

¹⁶This study looked at a Nigerian juvenile detention center in detail and reported its findings: Ib, Ann. “Children within the Juvenile Justice System in Nigeria: Psychopathology and Psychosocial Needs.” *National Library of Medicine*, June 2010, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4138769/>

issue.¹⁷ In Mexico, issues with drug cartels and street gangs often lead to young people becoming involved in drug trafficking, extortion, and other gang-related crimes. This, in turn, increases the number of youth being detained and reduces the amount of resources and support within juvenile prisons.¹⁸

Political resistance can lead to juvenile detention in various global contexts, particularly in regions where governments adopt strict measures against dissent or in countries experiencing political unrest or conflict. Youth, who are usually at the forefront of resistance movements, find themselves imprisoned for non-violent crimes, like protesting or striking. Following the military coup in Myanmar in 2021, there was a significant increase in political resistance, including widespread participation by youth and students. Numerous reports have emerged of young people being detained for their involvement in peaceful anti-coup protests.¹⁹ During the Hong Kong protests in 2019-2020, which involved large-scale resistance against the Chinese government's policies, 517 students were arrested and detained. The Chinese Security Bureau promised that "young people sentenced to a training order would be subject to rigorous discipline and tough physical exercise".²⁰

Suggested Reforms: Education and Rehabilitation

Education and rehabilitation in juvenile prison systems are crucial components for the successful reintegration of young offenders into society. The focus on education and rehabilitation reflects a shift from a punitive approach to a more restorative and rehabilitative model in dealing with juvenile delinquency. This approach acknowledges that many young offenders come from backgrounds of disadvantage and that education and skill development can

¹⁷ Statement made in response to El Salvador's Gang Violence at a UNICEF (the United Nations International Children's Emergency Fund) meeting: M'jid, Najat Maalla. "Imprisoning Children is not the Solution to Gang Violence in El Salvador." *UNICEF* April 7 2022, <https://www.unicef.org/lac/en/press-releases/imprisoning-children-is-not-the-solution-to-gang-violence-in-el-salvador>

¹⁸ Yagoub, Mimi. "Abuse and Institutional Failures Plague Mexico's Juvenile Prisons: Report." *InSight Crime* March 3 2016, <https://insightcrime.org/news/analysis/abuse-institutional-failures-plague-mexico-juvenile-prisons-report/>.

¹⁹ Naing, Shoon & Simon Lewis. "Myanmar journalists and Youth Activists Protest Jailing of Reuters Reporters." *Global News*, September 16 2018, <https://globalnews.ca/news/4454716/myanmar-journalist-arrest-protests/>.

²⁰ Ho, Kelly. "Almost 3,000 people, including 517 minors, prosecuted so far over 2019 Hong Kong protests." *Hong Kong Free Press*, 27 October 2022, <https://hongkongfp.com/2022/10/27/almost-3000-people-including-517-minors-prosecuted-so-far-over-2019-hong-kong-protests/>.

offer a pathway to a more positive future. One main difference member nations may encourage between adult and child prisons is a focus on rehabilitation rather than punishment, to try and teach incarcerated youth how to be functioning members of society. Another goal of education and rehabilitation is to reduce recidivism, which is when formerly incarcerated people return to prison later in life. Recidivism rates in adult prisons are at an all time high, with Australia, Canada and the United States experiencing 30-50% of its former prisons being re-incarcerated.²¹

In Singapore, they have set up a system with multiple phases that includes drug rehab, counseling, supervision, and volunteering with the goal of helping youth stay out of prison.²² Norway has led in innovative rehabilitation programs that include individualized plans for each child.²³ In South Africa, where they struggle with high rates of juvenile detention, with ¼ of their 140 000 imprisonments being juvenile, they are looking to build more rehabilitive reforms, such as the creation of the Usethubeni school, which focuses on keeping children at the right level academically while they are imprisoned.²⁴

Questions to Consider

1. How does your country's adult imprisonment differ from their juvenile imprisonment?
2. What systems does your country have in place for education and rehabilitation in their juvenile prisons?
3. What role do socioeconomic factors, such as poverty and social exclusion, play in the incarceration rates of minors, and how can member states address these root causes?
4. What measures have been taken in your country to address and reduce the overuse of detention for minors, especially for non-violent offenses?

²¹ "Recidivism Rates by Country 2023." *World Population Review*, 2023, <https://worldpopulationreview.com/country-rankings/recidivism-rates-by-country>.

²² "Release on Supervision (ROS)." *Singapore Prison System*, [https://www.sps.gov.sg/learn-about-corrections/community-transition/youth-offenders/#:~:text=Community%20Rehabilitation%20Centre%20\(CRC\)&text=For%20the%20first%20six%20months,the%20CRC%20during%20this%20period](https://www.sps.gov.sg/learn-about-corrections/community-transition/youth-offenders/#:~:text=Community%20Rehabilitation%20Centre%20(CRC)&text=For%20the%20first%20six%20months,the%20CRC%20during%20this%20period).

²³ Leonardsen, D., & Andrews, T. "Youth Justice Reforms in Norway: Professional Support for the Panopticon Society?" *Youth Justice*, vol 22 issue 1, 85-100. <https://doi.org/10.1177/1473225421995265>

²⁴ Olaoluwa, Ola. "South African prison youth school proving rehabilitation is possible." *Teens Going for Gold Network*, April 23 2021, <https://www.tgfgnetwork.org/south-african-prison-youth-school-proving-rehabilitation-is-possible/>

5. What strategies has your country employed to provide adequate mental health services to incarcerated youth, considering the high prevalence of mental health issues among this population?
6. What is the impact of solitary confinement on the mental and physical well-being of minors, and does your country think its use should be restricted or abolished in juvenile detention centers?
7. How can member states effectively address and prevent the abuse and mistreatment of minors in juvenile detention facilities?

Useful Delegate Resources

[United Nations Rules for the Protection of Juveniles Deprived of their Liberty | OHCHR](#)

[Human Rights | United Nations](#)

[Welcome to the Human Rights Council | OHCHR](#)

[Juvenile justice | United Nations For Youth](#)

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