

[Excerpt from UNICEF CD ROM "How to Communicate on Child Protection"]

Children in Conflict with the Law

THE ISSUE

Most children in jail or prison do not belong there

An estimated one million children are detained worldwide, the vast majority of whom have committed petty crimes or minor offences. Many are detained simply for being a nuisance or perceived as a threat. Most have not been convicted of a crime and are yet to be brought to trial.

Children in detention suffer severe violations of their rights

Children are often kept in deplorable and inhumane conditions and detained alongside adult prisoners. Physical and sexual abuse is common. In many cases, even the most fundamental principles of due process are violated. Arrest, detention and sentencing are often arbitrary and sometimes even illegal. Parents are commonly denied visitation rights.

The misuse and overuse of detention and lack of alternatives put large numbers of children at risk

In addition to being exposed to the poor conditions of overcrowded prison facilities, children are at risk of abuse and assault. They lose the guidance and support of their families and communities, get criminal records which follow them for the rest of their lives, and have their education interrupted. In short, their lives can take a turn for the worse when they have only just begun.

Imprisoning children for minor crimes decreases their chances to become productive, contributing adults, and is a disservice to communities

Laws, policies and resources should focus on preventing children from coming into conflict with the law in the first place by addressing the care and protection challenges these children face. Children should not be imprisoned for simply trying to survive, and should always be diverted away from the criminal justice system when having committed minor crimes. Detention should only be used as a last resort and for those children who have committed very serious crimes.

Points to emphasize:

- **Children should not be behind bars.** The vast majority of children who are imprisoned have been accused of minor or non-violent crimes and do not belong there.

Relevant articles of the Convention on the Rights of the Child

Article 37(b):

“No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;”

Article 40(1):

“States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.”