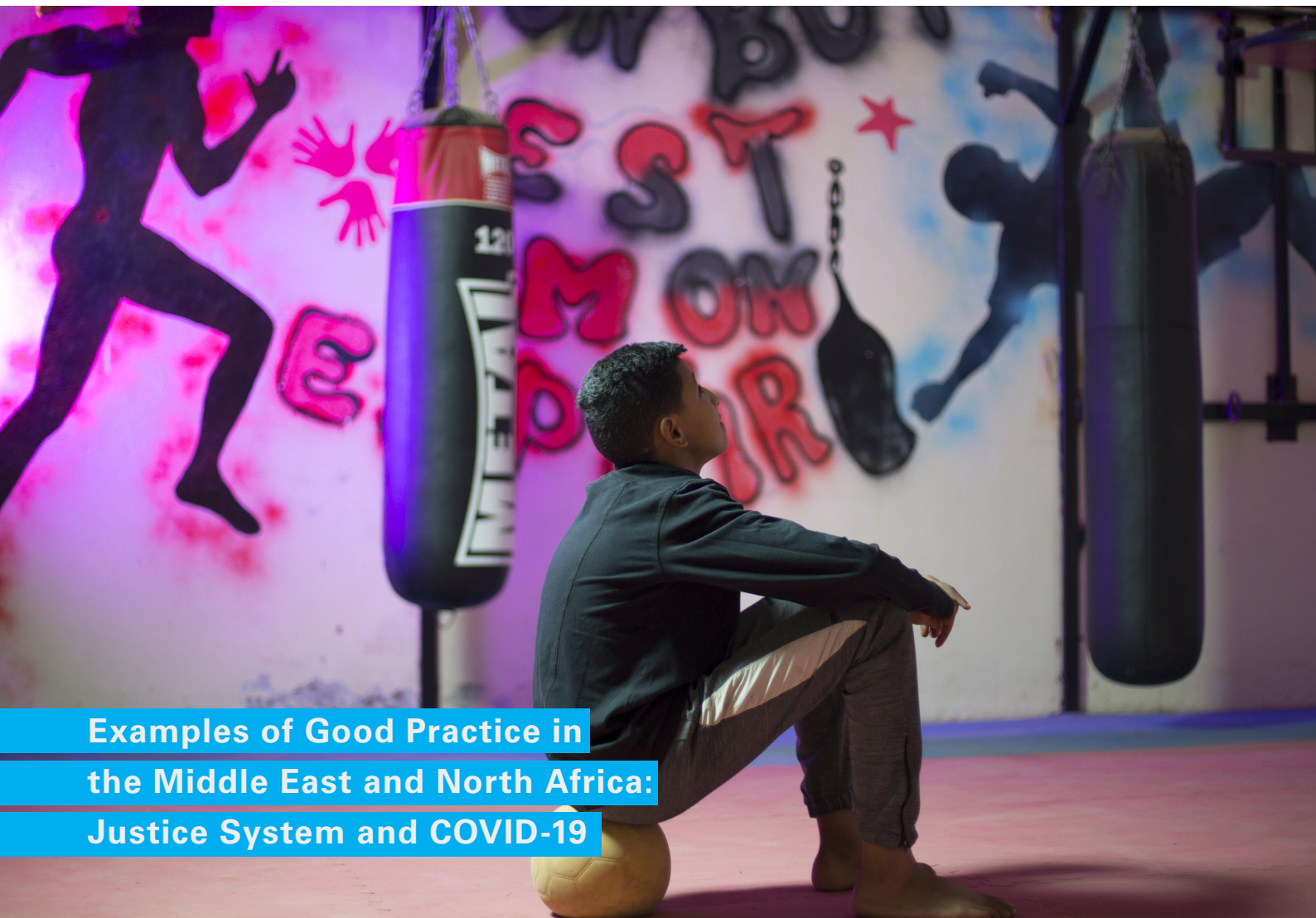


Release of Children Deprived of Liberty in Morocco in Response to COVID-19

Harnessing the leadership of the Executive Branch and the Judiciary



Examples of Good Practice in
the Middle East and North Africa:
Justice System and COVID-19

1. Context

For the past decade, Morocco has been engaged in a process of justice reform to reinforce the rule of law and the independence of the judiciary. With financial support from the European Union, UNICEF has supported justice for children partners over the past four years to ensure better protection of children in contact with the law in the context of this reform.

As a result of these efforts, there has been a gradual increase in the number and proportion of children benefiting from alternative measures to detention. In 2018, a total of 26,684 children were accused of having infringed the penal law, but 76 per cent benefited from alternatives to deprivation of liberty at pre-trial and 62 per cent at trial (excluding fines and suspended prison sentences).

By the end of 2019, approximately 1,600 children were deprived of liberty, including 1,088 held in prison, and approximately 500 in child protection centres.

In November 2019, with the support of UNICEF, the newly independent Public Prosecution Office and the Royal Foundation for the Rehabilitation of Detainees held the first national conference on 'Alternatives to Institutionalization/Detention of Children', marking an opportunity to review progress and consolidate the vision for the future.

During the same month, the Public Prosecution Office published the first instructions to all prosecutors of the Kingdom of Morocco on giving primary consideration to the best interests of the child in judicial proceedings.

This groundwork has been instrumental in guiding justice for children partners in their responses to the Coronavirus Disease 2019 (COVID-19) pandemic.

2. Government decisions and practices enabling release of children deprived of liberty and increased use of alternatives to detention

Releasing children deprived of liberty from child protection centres

On 16 March 2020, within a week of the onset of the COVID-19 pandemic in Morocco, the Ministry of Culture, Youth and Sports, which is responsible for child protection centres (CPCs, which house, amongst others, children in conflict with the law), called for the judiciary to review the current measures applied to children placed in CPCs to support their release and prevent the risk of spreading the virus.

On 18 March, the Office of the Public Prosecutor and the Higher Council of the Judicial Power, publicly and through official instructions, requested prosecutors and tribunals to review cases of children placed in CPCs and consider the handover of children to their families wherever possible, based on their best interests.

This coordinated action resulted in the release of 307 children (173 girls and 134 boys) within a few weeks. This represented approximately 60 per cent of children deprived of liberty and held in CPCs (approximately 500 children in total).

The dialogue between the Executive Government and the judiciary was the first of its kind since the beginning of the justice reform process. It demonstrated that authorities in charge of children deprived of liberty have a key role to play in the release of children by alerting the judicial authorities to their situation and supporting alternative measures where possible.

These actions and results also demonstrated the benefit of having a specialized justice system for

children, as is the case in Morocco. Specialized prosecutors and judges were able to respond rapidly and effectively to the crisis through specialized procedures for children placed in dedicated institutions.

Releasing children deprived of liberty from prisons

In the second stage, judicial authorities released children deprived of liberty from prisons. This release also applied to certain adult prisoners and responded to the 25 March call of the United Nations High Commissioner for Human Rights, Michelle Bachelet, for governments to work quickly to reduce the number of people in detention,¹ and the 13 April Statement from the UNICEF Executive Director, calling for the urgent release of all children who can safely return to their families or an appropriate alternative.²

Accordingly, from 1 March to 15 May, 256 children were released from prisons, including 38 released through royal pardons and 218 released through a change of measure. The number of children released amounted to approximately 23 per cent of the overall number of children in prisons (total of approximately 1,100).

UNICEF Morocco Country Office continued to advocate for the release of children from detention, and sent letters to 14 high-level institutions, including the judiciary, parliament, Human Rights Council and the Chief of Government. The content was based on the Inter-Agency 'Technical Note: COVID-19 and Children Deprived of their Liberty'³ and the Statement from the UNICEF Executive Director.

As a result, on 18 May 2020, the Office of the Public Prosecutor issued a second instruction to all prosecutors of the Kingdom on protecting children's rights during the COVID-19 pandemic,

based directly on the recommendations of the Technical Note. This was the first legal document in Morocco calling broadly for the release of children from detention and for the protection of children's rights during the pandemic.

Encouraging use of alternatives and preventing new placement in places of deprivation of liberty

Instructions published by the Public Prosecution Office for the release of children deprived of liberty included a call for the use of alternatives and prevention of new placement in places of deprivation of liberty, wherever possible.

As early as 18 March, the Public Prosecution Office called on prosecutors to work throughout each stage of the reception of cases to avoid placement in CPCs, except in cases of extreme necessity.

Following the UNICEF Morocco Country Office advocacy efforts in May, the Public Prosecution Office reminded all prosecutors of the relevance of its November 2019 instructions on the best interests of the child in judicial proceedings. It explicitly called on prosecutors to avoid arresting juveniles when violating the measures of the state of health emergency, and limit measures to hand over the juveniles to their legal guardian at the current stage, in order to preserve their health and safety, as well to make clear and precise petitions to decide on alternative measures to detention and prevent the separation of the child from her or his family and parents.

The efforts of the judiciary to prevent deprivation of liberty have been confirmed by many justice for children partners. The UNICEF Morocco Country Office is currently collecting data to analyse the trends since March 2020.

3. UNICEF engagement in post-release reintegration and follow-up processes

The sudden nature of the public health crisis required a rapid and coordinated response among justice for children actors to ensure follow-up and reintegration support for the released children and their families. This response came first from a renewed partnership with the Mohammed VI Foundation for the Rehabilitation of Detainees, one of UNICEF's national partners.

The response reinforced collaboration among the ministries, the judiciary and non-governmental organizations (NGOs) to allow for follow-up and reintegration support for the first children released from CPCs.

UNICEF signed a humanitarian programme document with the Mohammed VI Foundation to follow up on all released children, provide them with multi-sectoral assistance and to undertake risk communication and community engagement, and communication for development activities, also addressing discrimination or stigmatization risks.

During lockdown measures, most of the support was provided remotely through a unique call centre platform accessible to all beneficiaries. Families of children released were provided with food, sanitary kits, guidance on how to prevent and control infection and a telephone number for reaching social workers from the Mohammed VI Foundation. Depending on needs, social workers could facilitate access to financial aid from the government, psychosocial support, health and medical support, and vocational and educational training and reintegration.

In addition, social workers traced released children when they left their homes and facilitated judicial measures of protection and multi-sectoral

cooperation between NGOs, the government and the judiciary. Where necessary, local social workers could be sent on site, mostly to facilitate access to medical services for physical or mental health issues.

4. Impact on children

A total of 563 children deprived of liberty were released from CPCs and prisons within a short timeframe between March and mid-May. Many others are believed to have been prevented from being deprived of liberty due to Public Prosecution Office instructions.

Actions by responsible stakeholders also generated some good precedents that have potential to influence positive practices in the future. Communication between the executive and judicial branches of the government triggering the process of releasing children is one such example. This demonstrates the role executive government agencies can play in the interests of children. Instructions by the Public Prosecution Office calling openly to prevent new instances of deprivation of liberty is another example.



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5. Lessons Learned

The rapid release of 563 children deprived of liberty was facilitated by various factors, all demonstrating the importance of government leadership combined with pre-existing resources in the child protection system. The successful outcome revealed unprecedented opportunities to enhance child protection mechanisms and responses for children in conflict with the law. Six key lessons can be learned from this experience:

1. Strong leadership among the executive and judicial branches of the government was instrumental for the release of children deprived of liberty as part of the COVID-19 emergency, and for prevention of new placement in closed institutions.
2. A specialized justice system, including specialized prosecutors, judges, procedures and institutions, allowed a coordinated and efficient response that gave primary consideration to the interests of the child.
3. Groundwork to support cooperation and dialogue among government services, judicial authorities and civil society organizations ensured a favourable context within which to improve the quality of case management during the crisis.

4. Based on their positive experience during the implementation of the COVID-19 response, several justice for children partners are calling for a more permanent forum for cooperation, improvement of case management systems and follow-up of cases post-release.

5. The establishment of strong referral systems at local level for child protection across the territory (as planned in the 2015 Child Protection Policy) must be accelerated in order to strengthen prevention and protection of the most vulnerable children.

6. The COVID-19 pandemic, which started as a health emergency and quickly evolved into a multi-layered socioeconomic crisis, revealed to leaders and the public the importance of mental health and psychosocial support as an integral part of the child protection response for the most vulnerable children, especially children released from or held in places of deprivation of liberty. UNICEF currently advocates for structural reform to improve the accessibility and quality of psychosocial services through formal cooperation mechanisms between governmental entities and professional associations or civil society.

Endnotes

- 1 Statement by United Nations High Commissioner for Human Rights Michelle Bachelet, *Urgent action needed to prevent COVID-19 “rampaging through places of detention”*, March 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25745&LangID=E>, accessed 8 October 2020.
- 2 Statement by UNICEF Executive Director Henrietta Fore, *Children in detention are at heightened risk of contracting COVID-19 and should be released*, April 2020, <https://www.unicef.org/press-releases/children-detention-are-heightened-risk-contracting-covid-19-and-should-be-released>, accessed 7 October 2020.
- 3 Alliance for Child Protection in Humanitarian Action and United Nations Children’s Fund, *Technical Note: COVID-19 and children deprived of their liberty*, ACPHA and UNICEF, 2020, <https://alliancecpa.org/en/child-protection-online-library/technical-note-covid-19-and-children-deprived-their-liberty>, accessed 7 October 2020.

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Child Protection Programme, Programme Division

Website: www.unicef.org

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Cover photo: © Mustapha Meskine

Contact:

Nicolas Sauvage, UNICEF Morocco Country Office:
nsauvage@unicef.org

Teona Aslanishvili, UNICEF Middle East and North Africa Regional Office:
taslanishvili@unicef.org



Published by UNICEF
3 United Nations Plaza
New York, NY 10017, USA

© United Nations Children's Fund (UNICEF)
December 2020

www.unicef.org