Opening statement of
Mr. Manfred Nowak
Lead Author and Independent Expert on the Global Study on
Children Deprived of Liberty

Geneva, 23 November 2016
Excellencies,
Distinguished delegates,
Ladies and gentlemen,
Friends of the Global Study on Children Deprived of Liberty,

During my six year term as UN Special Rapporteur on Torture, I carried out 18 official fact finding missions on the invitation of Governments in all regions of the world as well as 3 joint investigations with other special procedures. I visited hundreds of detention facilities and interviewed thousands of torture victims, survivors and detainees around the world. I saw a lot of misery and suffering. But to see children behind bars, many of them tortured, neglected, isolated, crying for help, is heart breaking and most difficult to bear.

Just to give you a few examples: The youngest unaccompanied child in detention I saw was a 3 year old boy. He was detained together with some hundred other boys up to the age of 16 in a special detention facility for children and juveniles. His head had been shaved as had the heads of all his fellow detainees. As an orphan, he was put together with street children, children with mental disabilities and children in conflict with the law. The atmosphere in this institution was terrifying. When individually interviewed, all children told us exactly the same story they had been instructed by the headmaster and guards to tell us in case we should visit this institution: that they were well treated, free to leave the place whenever they wished, allowed to play soccer and to engage in other sport and recreation activities. When we ensured them that there were no video cameras and similar means of surveillance, they slowly dared to tell the truth: that they were never allowed to leave the building, that they had no opportunity for sports and recreation activities, that they were subjected to an extreme disciplinary regime and beaten on a daily basis for minor infractions of the rules.

In another country, I found children as young as 11 years, put together with approximately one-hundred men and a few women in a special room called the “torture room” at the criminal investigation department of a large police station. Most of these detainees had been subjected to extreme forms of torture and were compelled to witness the torture applied to their fellow detainees. Some were slowly dying as a result of the injuries inflicted by torture. Others were starving. One boy whom I started to interview was simply too weak to stand up. He was so tired, afraid and weak that he was no longer able to speak with me. He only whispered: “Please help us”.

In various countries with a very low age of criminal responsibility, sometimes as low as 7 or 8 years, I visited child prisons. Children below the age of 10 who had been sentenced for criminal offences were incarcerated in small cells and only allowed out of their cells a few hours per day. Far too many children, who, for whatever reasons, came in conflict with the law, spent many months or even years in pre-trial detention and very often in overcrowded cells which lack the minimum of hygienic conditions and sanitary facilities. Their parents often live far away and are either not allowed or simply too poor to visit their children deprived of liberty.

I also visited many migration detention centres in rich countries where refugees seek protection from persecution, serious human rights violations, poverty or armed conflicts. Many of these police detention centres were overcrowded and in a deplorable state difficult to describe. There were entire families with babies and small children from war-torn countries
who hoped that they would be treated in a dignified manner as soon as they would reach one of those affluent countries that they had long dreamed of to live in. Instead of being provided with proper shelter, health care and protection after a long and dangerous journey, they found themselves in overcrowded and dirty cells where they had to fight for a place to sleep on the floor. I also interviewed many unaccompanied children not older than 14 years of age who had either lost their parents during the flight or who had been sent away by their parents in order to start a better life. Now they were detained, hopeless and afraid to be deported to another country.

In 2009, I devoted an entire chapter of my annual report as Special Rapporteur on Torture to the United Nations General Assembly to the phenomenon of children in detention. International human rights law, above all Article 37(b) of the Convention on the Rights of the Child, is very clear: The deprivation of a child's liberty shall always be a measure of last resort and, if absolutely necessary, then only for the shortest possible time. My own experience as Special Rapporteur on Torture has taught me that the reality in all world regions is far from living up to this universally accepted human rights standard. Conservative estimates suggest that roughly 1 million children are deprived of liberty worldwide. This figure only includes children in conflict with the law. There is no reliable data available on other types of deprivation of liberty, including institutionalisation of children for purposes of education or drug rehabilitation, migration detention, detention of children with disabilities in psychiatric or other closed institutions, detention of children in armed conflicts etc. We know that children have a much stronger need and desire than adults to move freely, to play, to engage in sports, educational and recreational activities, in order to develop their personalities. If we put them in detention, we destroy their young lives and hopes.

Unfortunately, the situation did not improve since I left this mandate. In 2015, my successor Juan Mendez published a special report on torture and ill-treatment of children deprived of their liberty, in which he primarily addressed the harmful effects of institutionalisation on children.

Ladies and gentlemen,

It is for all these reasons that the United Nations General Assembly by Resolution 69/157 of 18 December 2014 requested the Secretary-General to commission an in-depth global study on children deprived of liberty. I am very honoured and delighted to take up the position of Independent Expert leading the Global Study.

The Global Study will build upon the experiences from two previous well-known UN Studies on children: The Report of Graça Machel on the Impact of Armed Conflict on Children as well as the UN Study on Violence against Children, led by Paulo Sérgio Pinheiro, which provide us with a good blueprint for undertaking the Global Study. It is my vision that the Global Study will be carried out in close cooperation with Governments, civil society and different UN agencies, including OHCHR, UNICEF, UNODC, UNHCR, through national and regional consultations, taking into account views from all around the world, as well as working closely with the Committee on the Rights of the Child, and the offices of the Special Representative of the Secretary-General for Violence against Children, Marta Santos Pais, and of the Special Representative of the Secretary-General for Children and Armed Conflict, Leila Zerrougui. The views of all stakeholders are incredibly important if the Global Study is to be a success and shall lead to meaningful recommendations.
The main objectives will be:

1. To assess the magnitude of this phenomenon, including the number of children deprived of liberty (disaggregated by age, gender, ethnic, social and national origin, disability and other grounds), as well as the reasons invoked, the root-causes, type and length of deprivation of liberty and types of places of detention.
2. To document good practices and experiences and capture the views and experiences of children, to inform the Global Study’s recommendations.
3. To promote a change in stigmatizing attitudes and behaviour towards children at risk or who are deprived of liberty.
4. To provide recommendations for law, policy and practice to safeguard the rights of children concerned, as well as to prevent the detention of children and to significantly reduce the number of children deprived of liberty through effective non-custodial alternatives guided by the best interest of the child.

The key focus areas of the Global Study will be on the deprivation of liberty of:

- children in conflict with the law
- refugee and migrant children
- children in need of protection (disability, health, drug abuse and related reasons)
- children living in prison with their parents
- children associated with armed conflict
- children accused of terrorism or other crimes related to national security.

Ladies and Gentlemen,

I look forward to working with all of you and to develop a comprehensive, human rights-centered methodology that examines all areas of children deprived of liberty and identifies possible protection gaps. The Global Study will aim to identify children that remain invisible and the hardest to reach and will be key to tracking the situation of children deprived of liberty to inform the rights-based implementation of the Sustainable Development Goals identified in the 2030 Agenda for Sustainable Development.

I am pleased to see such interest from within the international community and all the various stakeholders. I have been assured by the High Commissioner for Human Rights that I have the full support of his office. I would like to thank you all for coming and I look forward to answering any questions you might have after the other panel member presentations.

I thank you for your attention and look forward to a fruitful debate.