CHAPTER 1
INTRODUCTION

1.1 CHILDREN DEPRIVED OF THEIR LIBERTY: A GLOBAL ISSUE

Deprivation of liberty is a limitation of a child’s fundamental right to liberty of the person, as acknowledged under International Human Rights Law. Children are deprived of their liberty for different reasons and in different ways. Many are in pre-trial detention or sentenced to prison, others are placed in (closed) institutions because they are considered in need of alternative care or suffer mental health problems. Child refugees or (un)accompanied children seeking asylum are detained for reasons related to their specific status, while street children end up in the police station for violating curfews or disturbance of public order. The different reasons for deprivation of liberty, legitimate or not, are linked to different (legal) systems with different backgrounds, objectives and (legal) grounds. Consequently, there are different forms of deprivation of liberty such as detention in (public or privatized) prisons, police stations, detention centres, remand homes, treatment centres, (mental) health clinics, deportation centres, work camps, borstals or re-education facilities.

Deprivation of liberty of children is a global issue. It is estimated that at least one million children are deprived of their liberty worldwide. These children often are confronted with (gross) violations of their human rights. They are detained for obscure reasons and held for long periods of time in inadequate, overcrowded facilities together with adults; they are denied family contact, legal or other assistance, health care and education; and they are subjected to violence, abuse and neglect by guards or other inmates. Children deprived of their liberty, often adolescents, are at serious risk of being damaged for the rest of their lives.1

In 2006, the United Nations Study on Violence against Children (hereinafter: UN Violence Study) observed that ‘[m]illions of children, particularly boys, spend substantial periods of their lives under the control and supervision of care authorities or justice systems, and in institutions such as orphanages, children’s homes, care homes, police lock-ups, prisons, juvenile detention facilities and reform schools. These children are at risk of violence from staff and officials

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responsible for their well-being. Corporal punishment in institutions is not explicitly prohibited in a majority of countries. The study points to the fact that the risk of violence is heightened due to ‘[o]vercrowding and squalid conditions, societal stigmatization and discrimination, and poorly trained staff’ and the absence of ‘[e]ffective complaints, monitoring and inspection mechanisms, and adequate government regulation and oversight’. The ‘[l]ong-term effects can include severe developmental delays, disability, irreversible psychological damage, and increased rates of suicide and recidivism’.2

Many children are deprived of their liberty in the context of juvenile justice, many of them are in pre-trial detention. In 2007 the Committee on the Rights of the Child (CRC Committee) noted in its General Comment on Juvenile Justice ‘with concern that, in many countries, children languish in pretrial detention for months or even years’.3 Unfortunately, a lot of these children are charged with minor offences or status offences, and are first-offenders. In addition, a lot of them are detained because of truancy, vagrancy or homelessness, which raises serious questions regarding the legality of their deprivation of liberty.4

Local reports provide similar worrying indications. Human Rights Watch for example observed in its report ‘No Minor Matter’ in 1999 on children in jails and detention centres in Maryland (United States; US), that children were detained in inadequate facilities (sometimes even considered inadequate for adults) for long periods of time, while being exposed to (very) negative influences of adults or subjected to arbitrary and excessive punishments.5 In South Africa there are serious worries about the number of children in prisons and the conditions under which they are detained. For example, a report concerning a Johannesburg prison, in which children were awaiting trial, inter alia stated that the facility was crowded, that there was insufficient staffing (1 warden per 116 inmates) and that children were only allowed out of their cells once a week. In addition, there were no recreation facilities and there was no difference in treatment between children in pre-trial detention and those already convicted.6 In 2007, the Cambodian League for

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4 Pinheiro 2006, p. 191. There actually is little reliable data on the number of incarcerated children worldwide. The UN Violence Study also mentions that ‘[a]s many as 8 million of the world’s children are in residential care’ (UN Violence Study 2006, p. 16), but it is unclear how many of these children are deprived of their liberty. For more on the definition of deprivation of liberty see para. 3.2.
6 Dissel 2006, p. 119-120. In addition, there were indications that adults were placed together with juveniles.
the Promotion and Defense of Human Rights, LICADHO, reported on children in adult prisons in Cambodia due to the absence of a separate juvenile justice system and separate prisons for children. In addition, there are no alternatives to imprisonment for minors.7

Children deprived of their liberty have no or low priority.8 In the first place, because incarcerated children are generally the most stigmatized: street children who are deemed a nuisance; youth gang members who jeopardize public safety; children with disabilities or mental health problems in systems lacking adequate facilities; ethnic or racial minorities; girls who have been severely assaulted. This is particularly true for children in the (juvenile) justice system, which was characterized in 2001 as the ‘unwanted child of state responsibilities’.9 Second, children deprived of their liberty are often out of sight, due to the lack of transparency of (closed) institutions. Out of sight often means out of mind: out mind of the child’s family and of society as a whole.

There may be many more reasons for the low ranking of these children on the (political) agendas of States or the international community. Deprivation of liberty of children is a particularly complex issue, related to major social issues, such as juvenile delinquency, poverty, social exclusion and discrimination.

Since the adoption of the UN Convention on the Rights of the Child (CRC) in 1989 the child has been acknowledged in International Human Rights Law as a human being equally entitled to human rights and fundamental freedoms as any other (adult) individual. At the same time, the CRC has led to the recognition that a child’s age and maturity provide reason for a special approach, special protection or special entitlements. In addition, the child’s relation to his parents (and family) has been recognized and awarded special protection and assistance, in accordance with his evolving capacities (arts. 18 and 5 CRC).

The almost universally ratified CRC has explicitly recognized the special position of the child within the (juvenile) justice system (art. 40 CRC) and the child deprived of his liberty (art. 37 CRC). It codified standards that were previously embodied in the 1985 UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) and reaffirmed and adapted provisions of general Human Rights Law. In 1990, the CRC was supplemented by the 1990 UN Rules for the Protection of Juveniles Deprived of Their Liberty (JDLs) and UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines).

These developments of International Human Rights Law and Standards represent a ‘growing awareness’ for the rights of the child in juvenile justice and the children deprived of liberty in that context. The particularly vulnerable position

8 See also Pinheiro 2006, p. 181.
of these children is reflected in the call for the utmost restraint regarding deprivation of liberty of children and a full recognition of the human rights of children who are arrested, detained or imprisoned.

Growing awareness is also visible at the domestic level. In South Africa, for example, the number of children awaiting trial in prison has decreased\(^{10}\) and prison conditions have increasingly been subject to litigation before High Courts.\(^{11}\) In addition, the 1996 South African Constitution makes explicit reference to the principles of the CRC that detention and imprisonment must be used only as a last resort and for the shortest appropriate period of time.\(^{12}\)

Another example of growing awareness is the reform project ‘Juvenile Detention Alternatives Initiative (JDAI)’ launched by the Annie E. Casey Foundation in the 1990s, which has drawn the attention to excessive (and unnecessary) use of pre-trial detention, disproportionate confinement of children belonging to ethnic minorities, and very poor conditions of detention throughout the United States.\(^{13}\)

Finally, an example of the domestication of International Human Rights Law and Standards can be found in the Netherlands where in 2001 specific statutory legislation was adopted for children deprived of their liberty in youth institutions, which to a certain extent was prompted by the wish to implement international human rights provisions, \textit{inter alia} from the CRC.

Despite two decades of efforts to establish an administration of juvenile justice in compliance with the CRC, ‘many States Parties still have a long way to go in achieving full compliance with the CRC’, as the CRC Committee observed at the beginning of 2007.\(^{14}\) The findings of the 2006 UN Violence Study show that the road to full recognition of the rights of children deprived of their liberty is even longer.

\(^{10}\) Dissel 2006, p. 116-119.
\(^{11}\) Skelton 2006, p. 71-72.
\(^{12}\) Section 28 (1) (g); Sloth-Nielsen 2001, p. 469-470. Sloth-Nielsen also argues that the international legal framework was considerably taken into account during the drafting of the Child Justice Bill (see SALC 2000). However, she also argues that the significance of these developments ‘should perhaps not be over-estimated’. \textit{De facto} there remain worries – e.g. there has been an increase in the use of imprisonment for juvenile offenders after the abolition of whipping and there are reasons to question whether deprivation of liberty is really used as a measure of last resort; Sloth-Nielsen 2001, p. 471-472.
\(^{13}\) See \textit{inter alia} KIDS COUNT 2008 and Stanfield 1999, as part of the ‘Pathways to Juvenile Detention Reform Series’. This reform project is not explicitly based on the principles of International Human Rights Law, but is nevertheless interesting in this regard.
\(^{14}\) GC No. 10, para. 1.
1.2 FOCUS OF STUDY AND CENTRAL QUESTIONS

This study intends to contribute to further elaboration of the implications of International Human Rights Law and Standards for children (threatened to be) deprived of their liberty, and their implementation at the domestic level. It will elaborate on both the legal requirements regarding the decisions and decision-making process leading to deprivation of liberty, as well as the protection of the rights of children during their deprivation of liberty. Despite some significant and comprehensive handbooks on children’s rights and (parts of) the children’s rights framework on the one hand, and on the treatment of (adult) prisoners under international law on the other, there is little specific literature on the rights of children deprived of their liberty. This study also wishes to fill this gap and to provide a comprehensive analysis of the implications of the relevant provisions of International Human Rights Law and Standards on this specific issue.

Consequently, the first central question of this study is:

I. What are the implications of International Human Rights Law and Standards regarding deprivation of liberty of children, in particular for the legal status of children deprived of their liberty?

To illustrate the answer to this question the study will also address – as an example – domestic legislation specifically meant for children deprived of their liberty, the Dutch Youth Custodial Institutions Act (YCIA; ‘Beginselenwet justitiële jeugdinrichtingen’). The study’s original objective was to assess this piece of rather new legislation (September 2001) in relation to its compliance with the international human rights framework. However, the assessment of the YCIA in theory and practice, the conclusions of which will be addressed as well, has taught that this legislation could serve as an example for the implementation of international law and legal standards for children deprived of their liberty.

Juvenile justice reform has taken place in many countries all over the world. However, this reform focuses mainly on the criminal codes and/or codes for criminal procedure. There are very few countries with detailed statutory legislation that has been designed specifically for children deprived of their liberty. The Netherlands may be considered as one of the (few) pioneers in this regard.

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15 International Humanitarian Law does not fall within the scope of this study.
16 See e.g. Van Bueren 1995, Detrick 1999, Hodgkin & Newell 2002 or A. Alen et al. 2006 (Children’s Rights Series, including Schabas & Sax 2006 specifically regarding art. 37 CRC); see also Mijnarends 1999 (in Dutch).
18 Even though the Dutch prison system and penal policy is no longer free from criticism and seems to have lost its position as front-runner in penal policy; see, e.g. Boone & Moerings 2007.
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The YCIA can be interesting as an example how (open) norms of international law can be ‘translated’ into specific domestic legal provisions for the adequate protection of children deprived of their liberty – domestic legislation that can also serve as a tool for advocacy, awareness-raising or training. At the same time the YCIA provides examples of good practice, but also of difficulties and obstacles regarding its implementation. Where relevant, this study will also provide recommendations for the Dutch legislator and enforcing authorities.

The second central question of this study is:

II. To what extent is the Dutch Youth Custodial Institutions Act (and its practical implications) in accordance with International Human Rights Law and Standards? What lessons can be learned from the YCIA and its implementation? To what extent can the YCIA serve as an example for other domestic jurisdictions?

Particularly the final sub-question is significant because the primacy of domestic implementation of international law is not only prompted by State sovereignty, but also by the diversities of various cultures, economic resources and legal systems. Therefore, it is important to stress that this study does not aim to provide a detailed blueprint of the ideal or singular method of implementing International Human Rights Law and Standards into the domestic legal system. It merely serves as a modest example, providing for suggestions on how to create and implement legislation for the protection of children deprived of their liberty in conformity with the CRC and related standards of international law.

1.3 METHODOLOGY AND LIMITATIONS

In order to answer the central questions, this study includes an analytical study of the content and implementation of relevant International Human Rights Law and Standards based on international and regional legal sources, such as treaties, resolutions, recommendations or guidelines, (academic) literature and jurisprudence of international bodies, such as the Human Rights Committee (HRC)\(^9\) and regional human rights courts.\(^{20}\) In addition, the study takes into account other relevant sources, *inter alia* general comments and concluding observations of international treaty bodies, such as the HRC and the CRC Committee.

Regarding the second central question, this study is based on Dutch (academic) literature and jurisprudence, but particularly on the YCIA evaluation conducted in

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\(^{19}\) Not to be confused with the Human Rights Council established in 2006, replacing the Commission on Human Rights.

\(^{20}\) This study will not focus on the implications of International Humanitarian Law for children deprived of their liberty.
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2003 and 2004. This evaluation focused on the implementation of the YCIA and included a legal study regarding the Act and its implications, and data collection and analysis regarding *inter alia* the application of competences concerning limitations of children’s rights and freedoms, and complaints procedures. In addition, an empirical study was conducted in eight (out of the then fifteen) youth institutions on the basis of qualitative questionnaires and interviews with staff, directors and children.

Together with the parliamentary history and (supplementary) research based on the jurisprudence of the Appeals Committee of the Council for the Administration of Criminal Justice and Youth Protection (‘Beroepscommissie van de Raad voor Strafrechtstoepassing en Jeugdbescherming (RSJ)’; hereinafter referred to as the Appeals Committee and the Council, respectively) and relevant publications after the completion of the YCIA evaluation, this study aims to provide a detailed analysis of the YCIA, its implications both in theory and in practice.

This study was concluded on 1 July 2007, although occasionally, reference will be made to later developments.

There are a number of limitations to this study that must be taken into account when using its outcome. First, it primarily focuses on deprivation of liberty of children in the context of the juvenile justice system; arrest, police custody and (pre-trial) detention, and imprisonment as a disposition. The last form can imply a placement in a (youth) prison, but for example also placement in a treatment centre on the basis of a court order under penal law.

Despite this limitation, many of the implications of International Human Rights Law and Standards are of equal value for other forms of deprivation of liberty (i.e. outside the juvenile justice system). Even though there are different forms and contexts of deprivation of liberty (including deprivation of liberty as part of, e.g. the child protection system, mental health system or immigration system) they share some significant key characteristics. The JDLs, one of the most important legal standards in this study, contains a broad definition of deprivation of liberty (rule 11 (b) JDLs; see para. 2.7.3.5). Thus, many of the conclusions and findings presented in this study can have similar implications for other forms of deprivation of liberty.

However, there are also significant differences, primarily related to the objectives of deprivation of liberty, which go beyond the scope of this study to address in detail. This also implies that deprivation of liberty within the juvenile justice system should be interpreted in light of the system’s objectives and main

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21 Bruning, Liefaard & Volf 2004 (hereinafter: YCIA Evaluation 2004). This study was commissioned by the Dutch Ministry of Justice and the Research and Documentation Centre (‘Wetenschappelijk Onderzoeks- en Documentatiecentrum (WODC)’).
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characteristics, while taking into account the nature of the specific form (e.g. pre-trial detention or post-trial imprisonment).  

In addition, the study of the Dutch legal system primarily focuses on deprivation of liberty within the juvenile justice system executed in the specialized youth institutions, operating under the responsibility of the Ministry of Justice. This implies that less attention will be given to other forms of deprivation of liberty in the Netherlands. However, since youth institutions also accommodate children deprived of liberty in the context of (civil law) child protection, the analysis of the YCIA will be relevant for this group of children as well. Furthermore, attention will be given to children under arrest and held in police custody, even though their legal status is not protected by the YCIA.

Finally, the study’s focus is on the European part of the Kingdom of the Netherlands. The Dutch Antilles and Aruba are not addressed.

1.4 Central Terminology and Definitions

Before providing for the content and structure of this study, it is important to clarify the terminology used in order to avoid misinterpretation. A number of central terms or concepts will be defined in the following chapters, because they require further analysis. One of these concepts is deprivation of liberty (see para. 3.2).

As mentioned above, the main focus in this study focuses on deprivation of liberty in the context of juvenile justice. ‘Juvenile justice’ covers primarily the legal system under which children are alleged, accused or recognized as having infringed the penal law and can be prosecuted, tried and sentenced (art. 40 (1) CRC). Although the term, juvenile justice is generally used, this does not exclude from this study children deprived of liberty under the general (non-child specific) criminal justice system; children may be prosecuted as adults and detained under adult penal law. There also are domestic legal systems that have no specialized juvenile justice system. The implications addressed in this study apply to children under these systems as well.

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22 The issue of children of imprisoned parents does not fall within the scope of this study; see, e.g. Wolleswinkel 2002.
23 Children can also be placed in other institutions (not protected by the YCIA), such as borstals, reformatories or the recently (on 1 January 2008) established institutions for closed youth care, falling under the responsibility of the Ministry of Health Care, Welfare and Sports; this study does not primarily focus on these institutions.
24 Since 1 January 2008, these children have been transferred from youth institutions to facilities of closed youth care.
25 See in this regard, e.g. Slot 2006 (in Dutch).
26 Juvenile justice is sometimes referred to as ‘child justice’, which is defendable in light of the CRC; see, e.g. Gallinetti, Kassan & Ehlers 2006 or Van Bueren 2006; cf Dohrn 2007, p. 33. However, juvenile justice is a term that can count on global recognition. Children within the juvenile justice
Arrest, police custody, pre-trial detention and imprisonment are the terms used to refer to the different forms of deprivation of liberty in the context of juvenile justice. Obviously, this study also uses the general term: deprivation of liberty. Provisions of International Human Rights Law or Standards refer to different terms by (apparently) using different definitions.\textsuperscript{27} For example, detention is used for either pre-trial detention or any kind of deprivation of liberty and imprisonment seems to stand for all forms of deprivation of liberty as a disposition, although in some countries it refers to deprivation of liberty in an adult prison or jail. Both the CRC and JDLs use ‘deprivation of liberty’ as the general term – the CRC also makes reference to ‘arrest, detention or imprisonment’, aiming at forms of deprivation of liberty in the context of juvenile justice (art. 37 (b) CRC).\textsuperscript{28}

In this study the terms arrest, (pre-trial) detention or imprisonment refer to deprivation of liberty within the juvenile justice system only, unless explicitly stated otherwise. Respectively, arrest means the act of apprehending a child (or an individual in general) for example, to bring him before the competent authority or to place him in police custody or (subsequent) detention, both forms of pre-trial deprivation of liberty, and to imprisonment as any sentence after disposition resulting in deprivation of liberty.\textsuperscript{29} In addition, police custody is the term used for deprivation of liberty that generally follows arrest and precedes pre-trial detention, and is executed at the police station.

The term ‘juvenile justice’ refers to the criminal justice system regarding juveniles, which can be justified by the fact that many of the persons affected by the juvenile justice system are adolescents. In addition, this study generally refers to children, since the ‘child’ (defined in article 1 CRC as ‘every human being below the age of 18 years unless the law applicable to the child, majority is attained earlier’) is the addressee of the CRC framework. If not stated otherwise the term ‘child’ also includes ‘juvenile’ or ‘adolescent’, even though these terms may also include persons of eighteen years or older.\textsuperscript{30} This has serious limitations but is defendable \textit{inter alia} in light of the fact that all juveniles, adolescents or children deprived of their liberty in the context of juvenile justice are under suspicion of or convicted for having committed offences when they still were of an age that would have considered them a child falling under the definition of article 1 CRC.\textsuperscript{31}

\textsuperscript{27} Cf Nowak 2005, p. 221.
\textsuperscript{28} For the question whether art. 37 (b) CRC should be interpreted this narrowly, see para. 2.7.3.4.
\textsuperscript{29} Cf the definitions provided by the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
\textsuperscript{30} Despite the definition of juvenile in rule 11 (a) JDLs: ‘every person under the age of 18’.
\textsuperscript{31} For practical reasons, the child is used as a masculine term and by referring to ‘he’, ‘his’ or ‘him’, generally implies reference to both girls and boys. Technically the verb ‘child’ is neutral, but that seriously undermines the recognition of the child as human being independently entitled to human rights.
Moreover, it prevents losing sight of the fact that this study is about children – young people, juveniles or adolescents who may commit (serious) offences, but remain entitled to be treated in conformity with their rights and in a manner that takes into account their age and maturity. This *inter alia* implies that it should be recognized that they are ‘categorically lesser culpable’, which has implications for the imposition of deprivation of liberty as a disposition and justifies the administration of a separate juvenile justice system, and that they have particular needs and rights, such as the right to legal and other appropriate assistance and to maintain contact with their family.

Other terms that deserve clarification are ‘closed youth institutions’ or ‘youth institutions’. There are many ways of naming the places where children can be deprived of their liberty. In the juvenile justice context the most common places are the police station, detention centre and prison. These terms are used in this study as well, but *de facto* include (public or private) institutions, such as: a correctional facility, a training school, a youth centre, a treatment centre, etc. In addition, reference is made to ‘closed youth institutions’ or ‘youth institutions’, as places where children can be detained or imprisoned. Again, if not stated otherwise (closed) youth institutions refer to places where children are deprived of their liberty in the context of juvenile justice. This also is of significance for the part of this study regarding the Dutch legal system, since in the Netherlands ‘youth institutions’ (‘justitiële jeugdinrichtingen’) is the common term used for places where children are detained or imprisoned under the juvenile justice system, furthermore divided in remand homes (‘opvanginrichtingen’) and treatment centres (‘behandelinrichtingen’).

Finally, ‘International Human Rights Law and Standards’ refers to the relevant set of provisions that can be found in binding legal instruments (i.e. treaties and conventions) and instruments of ‘soft international law’ (i.e. resolutions, recommendations, etc.), respectively. In addition, a distinction is made between law and standards at the global or ‘international’ level (i.e. from the UN) and the regional level (European, Inter-American and African), although they are together also referred to as ‘international’. In addition, human rights include children’s rights, since the children’s rights framework acknowledges children as human beings independently entitled to human rights, while taking into account and fully respecting their special characteristics.


33 Note that for deprivation of liberty a child need not to be placed in a *closed* institution; see para. 3.2.
1.5 CONTENT AND STRUCTURE

Chapter 2 of the study addresses the set of instruments of International Human Rights Law and Standards regarding deprivation of liberty of children. A brief description of the history of International Human Rights Law and the children’s rights framework at the global and regional level is followed by the development of instruments relevant to deprivation of liberty, in particular of children. After highlighting the general aspects of implementation of International Human Rights Law, this chapter presents the relevant human rights provisions for children deprived of their liberty. The main objective of Chapter 2 is to introduce the relevant provisions of International Human Rights Law and Standards and to highlight their main characteristics, interdependence and (added) value. This also contributes to the establishment of the rights legal framework of reference for the analysis of the implications for children deprived of their liberty.

Chapter 3 analyzes the implications of International Human Rights Law for children (threatened to be) deprived of their liberty (Central Question I). After discussing the concept of deprivation of liberty (differences in context, definitions and common characteristics) and the general and special principles regarding deprivation of liberty of children in the context of juvenile justice, Chapter 3 first aims at the legal requirements of deprivation of liberty of children. It successively addresses the prohibition of unlawful or arbitrary deprivation of liberty, the requirements of last resort and shortest appropriate period of time and procedural safeguards, such as the rights to legal and other appropriate assistance and the right to challenge the legality of deprivation of liberty (art. 37 (b) and (d) CRC). A significant part of chapter 3 focuses on the quality of treatment and legal status of children deprived of liberty in light of every child’s right to be treated with humanity and with respect for the inherent dignity as a human being, and in a manner that takes into account the needs of children (art. 37 (c) CRC). This part can roughly be divided into administrative aspects of placements, conditions of deprivation of liberty and the enjoyment of rights, measures to maintain order, and procedural safeguards and remedies. The quality of treatment of children deprived of their liberty is also affected by a number of separation issues (e.g. separation of children from adults or of unconvicted children from convicted children) and by the prohibition of torture or other forms of cruel, inhuman or degrading treatment or punishment. Finally, Chapter 3 pays attention to the realization of the objectives of juvenile justice and makes some general remarks regarding States’ positive obligations concerning the implementation of International Human Rights Law and Standards.

After having addressed the implications of International Human Rights Law and Standards and ordered them according to category and subject, Chapter 4 addresses the second central question concerning deprivation of liberty of children in the Netherlands. This chapter basically follows the same pattern as Chapter 3 in order to facilitate comparison. As mentioned before, the main focus is on children
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deprived of their liberty in youth institutions governed by the YCIA. Yet the other forms of deprivation of liberty in the context of juvenile justice will not be neglected and addressed particularly in light of the legal requirements regarding the use of arrest, police custody, pre-trial detention and imprisonment. Obviously, some general remarks regarding the Netherlands and its domestic legal system will be made first.

Finally, Chapter 5 highlights the key findings of this study. In addition, recommendations will be presented for the international community and domestic (including the Dutch) legislators and enforcing authorities, particularly regarding the further development of the international human rights framework and the implementation of its provisions at the domestic level.