



APPREHENSION, ARREST AND DETENTION

ROLES AND RESPONSIBILITIES OF UN POLICE

Module **7**



**Department of
Peacekeeping Operations**

Learning Outcome



01 Be able to explain the key principles of international standards on juvenile justice with regards to arrest and detention

02 Be able to explain alternatives to police custody

03 Be able to explain international standards regarding conditions of detention

04 Be able to advise host State police forces on the application of international standards



International Standards of Arrest

UN Standard Minimum
Rules for the Administration
of Juvenile Justice
(“Beijing Rules”),
UN General Assembly,
29 November 1985

Rule 5: The juvenile justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence;



International Standards of Arrest

UN Standard Minimum
Rules for the Administration
of Juvenile Justice
(“Beijing Rules”),
UN General Assembly,
29 November 1985

Rule 4: Each country should
establish an age of criminal
responsibility, based on culture
and age of maturity;

Rule 10: Notification of parents
or guardian as soon as possible.



International Standards of Arrest

Other issues to consider

- ❑ The age of the child should be assessed. When there is doubt that the suspect is a child, he/she should be nevertheless be treated as a child.
- ❑ Preventive detention should only be applied when it is in the best interests of the child, for example when the child is in danger or poses an immediate danger to others or to self.



International Standards of Arrest

Other issues to consider

- ❑ The child should be brought before a judge within 24 hours.
- ❑ Arrest procedures should be proportional to the situation, for example a child should not be handcuffed if not posing a threat, and should at no time be mistreated.



International Standards of Arrest

Other issues to consider

- ❑ The child should be informed of his or her rights and given prompt access to legal aid during the police interview and custody.
- ❑ Any alleged incident of ill treatment against children by the police should be independently investigated and reported in a timely manner.

The apprehension and/or detention of a child by United Nations military or police peace operations personnel shall only be used as a measure of last resort, for the shortest possible period of time, and in line with international norms and standards in relation to the deprivation of liberty of children. In all decisions, the best interests of the child shall be the primary consideration and alternatives to detention shall be prioritized;....

DPKO Policy on Child Protection in UN Peace Operations



DPKO Policy on Child Protection in UN Peace Operations

At no time shall a child aged 14 years or below be apprehended and/or detained by United Nations military or police peace operations personnel. Children 14 years or below shall be handed over within a maximum of 48 hours from United Nations peace operations personnel to government child protection authorities or humanitarian child protection actors for interim care until the time of family reunification or other durable solution;

International Standards



Pre-trial Detention



1

UN Standard Minimum Rules for the Administration of Juvenile Justice (“Beijing Rules”), UN General Assembly, 29 November 1985, Rule 13

2

UN Rules for the Protection of Juveniles Deprived of their Liberty (“Havana Rules”), General Assembly, 14 December 1990, Rules 17 and 18

3

UN Standard Minimum Rules for Non-custodial Measures (“The Tokyo Rules”), UN General Assembly, RES/45/110, 14 December 1990, Articles 6.1 to 6.3

International Standards



Pre-trial Detention



- Pre-trial detention of children should only be used as a measure of last resort and for the shortest possible time.
- Alternative measures to detention should be used whenever possible.
- Children must be detained separately from adults at all times, and girls separately from boys.
- Accused children must be detained separately from convicted children.
- Children in pre-trial detention should be provided with protection and care.
- Pre-trial detention shall last no longer than necessary to achieve the objectives.



International Standards: Alternatives to Police Custody and Preventive Detention

Alternatives to police custody and preventive detention:

- Permitting the child to remain free until a verdict is issued
- Placing the child under house arrest / supervision of parents or guardian
- Placing the child in an open detention facility
- Referring the child to social services / supervision

International Standards: Diversion **vs** Alternatives to Detention

Diversion measures

- Issuing a verbal warning to the child
- Imposing a fine on the child or its parents
- Compensating the victims of the offence
- Requiring the child to perform community service
- Surrendering the child to his/her parents or those that have guardianship rights over the child

Alternatives to detention in sentencing

- Placing the child under house arrest
- Placing the child in an open detention facility
- Imposing a conditional suspended sentence (probation)
- Issuing a suspended verdict



Treatment of children in police custody

- Children must be kept separately from adults.
- Girls and boys must be kept separately.
- Children in custody must be provided medical attention as needed.
- Children in custody must be provided adequate food, water and shelter.
- Children should never be placed in solitary confinement.
- Children should not be held for intelligence gathering purposes.



International Standards of Detention of Children

UN Rules for the Protection of Juveniles Deprived of their Liberty (“Havana Rules”), General Assembly, 14 December 1990, Rule 32:

The design of detention facilities for juveniles and the physical environment should be in keeping with the rehabilitative aim of residential treatment, with due regard to the need of the juvenile for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities.

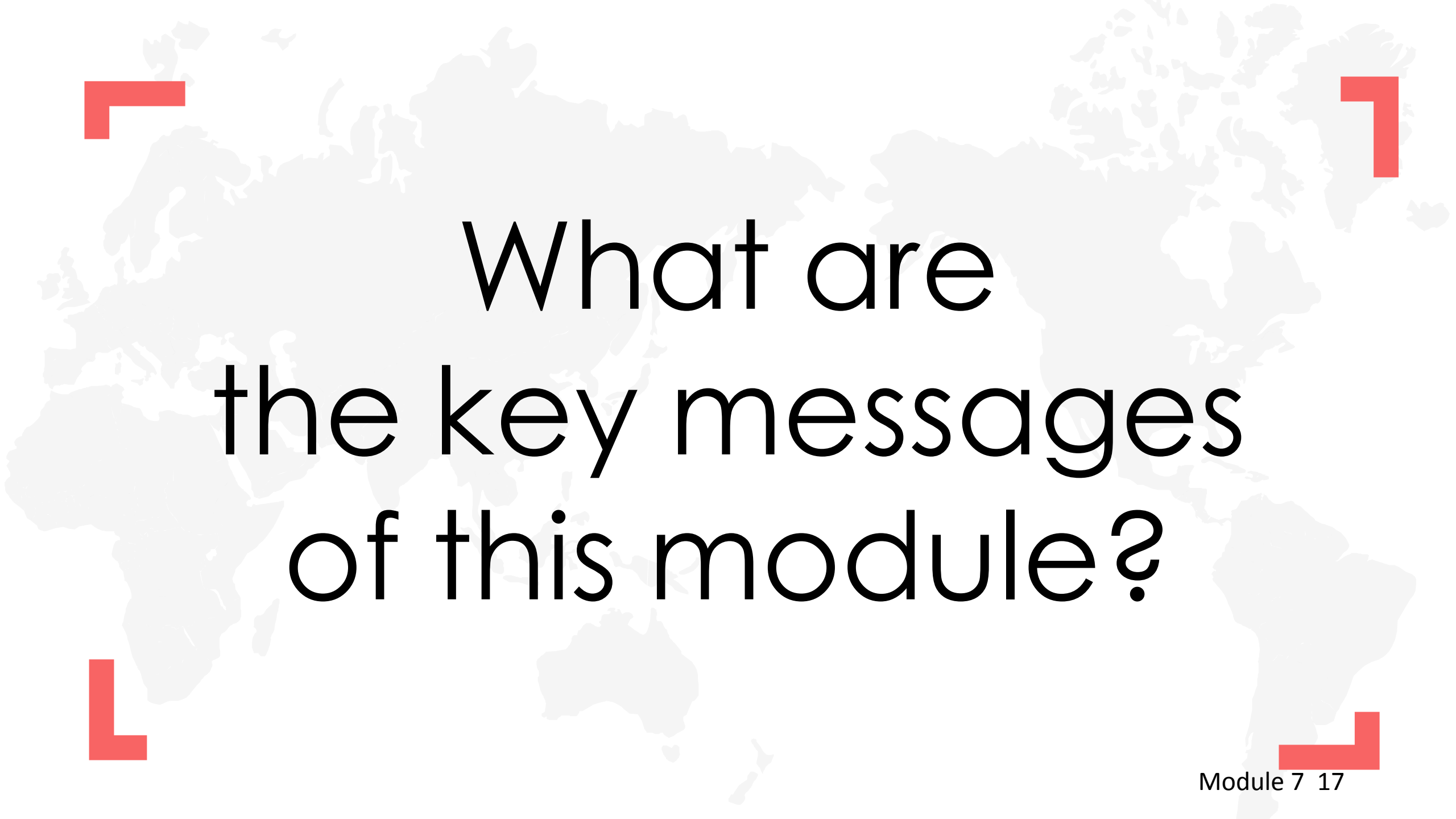
International Standards of Detention of Children

- Rules 38 to 42 on right to education and vocational training in juvenile detention centers
- Rules 43 to 46 on rights to work and remuneration
- Rule 47 on right to recreation activities
- Rule 48 on right to practice religion
- Rules 49 to 55 on right to appropriate medical care





Questions?



What are
the key messages
of this module?

Key Messages

1

In exceptional situations, the mission's mandate may include operational support to apply apprehension, arrest and detention, while most mandates focus on supporting reforms, restructuring and capacity building efforts of host State police in these actions.

2

Detention (including preventive detention) should only be applied as a measure of last resort.

3

International standards exist to guide UN police's mentoring role to the host State police in regards to the apprehension, arrest and detention of children (Beijing Minimum Standards, the UN Model strategy and the Havana Rules).

Key Messages

4

These international standards relate to, for instance, the length of detention, the assessment of the age of the child, the right of the child to silence, the right to be considered innocent until proven guilty, and the right to maintain a regular contact with his or her family and access to a legal representative.

5

Diversion measures include: Issuing a verbal warning to the child, imposing a fine on the child or its parents or compensating the victims of the offence.

6

Alternatives to detention include: Placing the child under house arrest, placing the child in an open detention facility or imposing a conditional suspended sentence (probation).