



UNODC

United Nations Office on Drugs and Crime



INTRODUCING THE UNITED NATIONS MODEL STRATEGIES
AND PRACTICAL MEASURES ON THE

Elimination of Violence against Children

IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE

**A New Tool for Policymakers,
Criminal Justice Officials
and Practitioners**



UNITED NATIONS OFFICE ON DRUGS AND CRIME
Vienna

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Introduction

- ▶ IS YOUR JUSTICE SYSTEM DOING EVERYTHING IT CAN TO PREVENT VIOLENCE AGAINST CHILDREN?
.....
- ▶ IS YOUR JUSTICE SYSTEM RESPONDING TO INCIDENTS OF VIOLENCE AGAINST CHILDREN IN AN EFFECTIVE AND APPROPRIATE MANNER?
.....
- ▶ IS YOUR JUSTICE SYSTEM DEALING WITH CHILDREN IN CONFLICT WITH THE LAW IN A MANNER WHICH REDUCES THE RISK THAT THEY MAY BE FURTHER ABUSED OR VICTIMIZED?
.....
- ▶ IS THERE ANYTHING ELSE THAT YOU, YOUR COMMUNITY OR YOUR GOVERNMENT CAN DO TO PREVENT AND RESPOND TO VIOLENCE AGAINST CHILDREN?
.....

Whether you are a legislator, a policymaker, a judge, a prosecutor, a law enforcement officer, a detention facility official, a child rights advocate or a child protection professional, these are questions you must have asked yourself time and time again. The *United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice*, or the Model Strategies, were developed for people like you who may at times feel frustrated by the slow pace of change and the alarming incidence of violence against children around you and are always eager to find more effective ways to protect children from violence.

The Model Strategies were developed to support a comprehensive, system-wide and strategic approach, in the field of crime prevention and criminal justice, to effectively prevent and respond to violence against children. Experience shows that nothing less than a strategic, comprehensive and well thought out approach will succeed in mobilizing the full power and authority of the justice system to eradicate violence against children. Much has been learned, particularly in the 25 years since the adoption of the Convention on the Rights of the Child (CRC), about the most effective strategies to achieve that goal. The Model Strategies bring that knowledge together with a clear understanding of the issues to propose a comprehensive action framework.

This booklet introduces the Model Strategies and describes 17 broad strategies that you will immediately relate to the difficult challenges faced by every society and community trying to eliminate violence against children. It focuses specifically on the role of the criminal justice system, in cooperation with other sectors, in preventing and responding to violence against children. The booklet aims to help you to become familiar with the Model Strategies and to give guidance on how you can make use of them in your daily life to bring significant and lasting improvements to your justice system. The

booklet is also meant to help you and the people working with you to address the huge and persistent problem of violence against children in a more strategic and effective manner and identify your own reform and capacity-building agenda.

The justice system is definitely not the only system that has responsibilities for protecting children. Its responsibilities however are enormous. Its role is absolutely crucial. Reflecting the reality in the field, a constant theme in the Model Strategies is the need to more effectively mobilize the justice system and ensure that it responds to violence against children as the serious crime that it is. Another theme is the crucial need for cooperation among the justice system and other key sectors such as education, health and child protection. That kind of cooperation is always important, but it is particularly important in designing comprehensive and effective prevention strategies.

There are many ways to use the Model Strategies. They can certainly offer a quick reference tool for any individual, group or agency facing a specific challenge with respect to violence against children. For example, one could use the Model Strategies and related tools to review existing legislation or to find some ideas about how to establish an effective mechanism for people to report incidents of violence against children. However, the most effective use of the Model Strategies is probably as part of an effort to identify gaps in existing strategies and mechanisms or to develop a comprehensive plan for improving existing laws, policies, institutions and practices throughout the justice system.

This booklet is accompanied by a *Checklist*. You are invited to use them together as part of a strategic planning exercise to identify gaps in present laws and in current criminal justice policies, mechanisms and practices, to set priorities for action and devise a realistic action plan.

Violence against children

Violence against children is a widespread phenomenon that affects millions of children all over the world. Such violence takes a variety of forms and is influenced by a wide range of factors, from the personal characteristics of the victim and perpetrator to their cultural and physical environments.

In 2006, the United Nations Study on Violence against Children revealed the high incidence of various types of violence against children within the family, schools, alternative care institutions and detention facilities, places where children work and communities.¹ The study highlighted the particularly high risk of violence faced by many vulnerable groups of children, including children alleged as, accused of or recognized as having infringed the penal law. It suggested that criminal justice institutions could play a more effective role in preventing and responding to such violence.

You may be unfamiliar with the way the term “violence” is used here and in the Model Strategies and the broad manner in which it is defined. Your own laws and practices may be based on a narrower definition of the problem. You should know that the definition used in the Model Strategies is drawn from the Convention on the Rights of the Child [article 19 (1)] and other human rights instruments.

The multidimensional nature of violence against children calls for a multifaceted response and requires a range of strategies to respond to the diverse manifestations of violence and the various settings in which it occurs, both in private and in public life, whether committed in the home, the workplace, educational and training institutions, the community or society, in the criminal justice system or in situations of armed conflict or natural disaster.

In 2011, the Committee on the Rights of the Child issued a General Comment on the right of the child to freedom from all forms of violence.² The General Comment, with reference to article 19 of the Convention on the Rights of the Child, promoted holistic approaches to child protection and outlined some of the required legislative, judicial, administrative, social and educational measures. The Committee noted how isolated, fragmented and reactive initiatives to address child protection had had limited impact on the prevention and elimination of all forms of violence.

In 2012, a joint report of the Office of the High Commissioner for Human Rights, the United Nations

Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children was released which dealt specifically with the



“Violence” means all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.

question of violence against children within the juvenile justice system.³ It identified the many risks of violence to which children are exposed in that system and the systemic factors that contribute to such violence.

Many States have adopted laws that define and condemn various forms of violence against children as crimes, but not all of them have insured that the police, prosecution services and other criminal justice institutions actually take these crimes seriously and accept their respective responsibilities with respect to child protection. Reducing crimes involving violence against children is not necessarily always identified as a crime prevention or law enforcement priority.

Criminal justice institutions must strengthen their efforts to prevent and respond to violence against children. They need to demonstrate greater diligence in investigating, prosecuting, convicting and rehabilitating perpetrators of violent crimes against children, so as to



Criminal justice institutions must strengthen their efforts to prevent and respond to violence against children.

¹ United Nations. *Report of the independent expert for the United Nations study on violence against children*. A/61/299, 29 August 2006. See also: UNICEF (2014). *Hidden in Plain Sight. A statistical analysis of violence against children*. www.unicef.org/publications/index_74865.html

² Committee on the Rights of the Child (2011). General Comment No. 13 – The right of the child to freedom from all forms of violence.

³ OHCHR/UNODC/SRSG-VAC (2012). *Joint Report of the Office of the High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary General on Violence against Children on prevention of and response to violence against children within the juvenile justice system*, June 2012, A/HRC/21/25.

effectively protect children against violence and prevent recidivism. They must also ensure that their own practices do not compound the problem and subject children to further abuses and trauma.

The Model Strategies

The Model Strategies articulate, for the first time in an international instrument, the responsibility of the criminal justice system, in cooperation with child protection and other agencies, to prevent and respond to violence against children. They promote child rights-based caregiving and protection measures.

As stated in the instrument itself, the Model Strategies were formulated in order to help States address the need for integrated violence prevention and child protection strategies and offer children the protection to which they are entitled under international law. The Model Strategies affirm the complementary roles of the justice system on the one hand, and the child protection, social welfare, health and education sectors, on the other, in creating a protective environment and in preventing and responding to violence against children.

The goal of the Model Strategies is to improve the effectiveness of the criminal justice system in preventing and responding to all forms of violence against children. The main purpose of that instrument is to offer a comprehensive and practical framework to assist governments in the review of national laws, procedures and practices and ensure that they effectively prevent and respond to violence against children and fully respect the rights of child victims of violence.

The Model Strategies are an innovative instrument that reflects the complexity of the problem of violence against children and the need for comprehensive

strategies to address it. Not only do the Model Strategies address the question of violence prevention as a form of crime prevention, but also the need for more effective responses to incidents of violence against children and, very specifically, the urgent need to protect children against any violence that may result from their contacts with the justice system.

Each of the strategies included in that instrument addresses a practical aspect of child protection against violence and offers practical measures that reflect best evidence-based crime prevention and child protection practices.

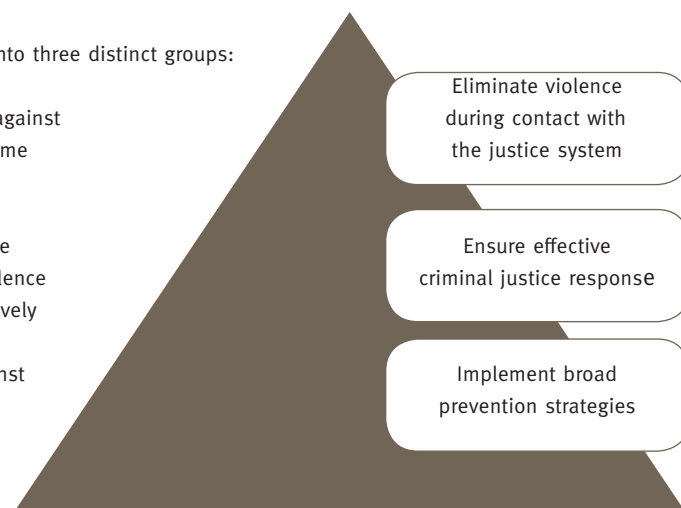
Each strategy is itself accompanied by a varying number of related “practical measures” that are named and listed rather than fully described or explained. Some of these measures are formulated in fairly general terms and they will need to be refined and adapted to national or local circumstances.

Not all strategies will necessarily have the same level of priority in the context in which you intend to apply them. The seriousness and prevalence of various risk factors will guide a priority setting exercise. Knowing what may facilitate or hinder the implementation of various strategies, you will be required to prioritize them, reflect on the order or sequence in which they can be implemented, and assess their feasibility.

The Model Strategies are not meant to be prescriptive. No attempt was made during their development to list every conceivable measure that should be considered. In fact, you may be able to identify local initiatives or some practical measures that are already producing some results. They may simply need to be strengthened or implemented on a broader scale. You may also explore creative approaches that, in the final analysis, appear to be more suitable to the local or national context than those already suggested in relation to a particular strategy. Finally, not every practical measure will necessarily be relevant to the

The tool proposes a total of 17 strategies organized into three distinct groups:

- General prevention strategies to address violence against children as part of broader child protection and crime prevention initiatives
- Strategies to improve the ability and capacity of the criminal justice system to respond to crimes of violence against children and to protect child victims effectively
- Strategies to prevent and respond to violence against children in contact with the justice system



situation you and your country is facing. For example, in a context where a functioning juvenile justice system does not exist, measures to protect children in contact with the criminal justice system, as accused, offenders, victims or witnesses will have to be designed and implemented differently to a context where such a system exists. In a context where much of the response to juvenile crime falls under the responsibility of a traditional or customary justice system, different kinds of measures and a distinct implementation strategy will be required.

State responsibility and guiding principles

Not everyone in the justice system is necessarily aware of the State's responsibility to protect children against violence and to respond effectively when it occurs. Some people may even dismiss that thought as they believe that such a responsibility belongs to families and that the State should not intervene. Similarly, some people may not readily recognize that the police and other criminal justice institutions have a very important role to play in protecting children against most forms of violence. They may not immediately understand the complementary roles of the justice system on the one hand, and the child protection, social welfare, health and education sectors on the other, in creating a protective environment and in preventing and responding to violence against children. Part of the task of implementing the Model Strategies obviously consists of mobilizing key actors and stakeholders and ensuring that they understand the key role of the criminal justice system.

It is also necessary to ensure that everyone involved in developing an action plan on the basis of the Model Strategies is committed to a rights-based approach and is familiar with the basic rights-based principles that must guide their implementation.

A State that has ratified the Convention on the Rights of the Child (CRC) may also have become party to other international conventions and protocols that call for the criminalization of various forms of violence against children. In addition to its obligations under the CRC, when

a State becomes party to some of these other conventions, it accepts an obligation for law enforcement and criminal justice institutions to prevent, investigate and punish these crimes. This is the case for example of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography⁴ and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.⁵ Has your government ratified such a convention? If so, this may be an opportunity to ensure that the national law complies with the State's obligation to criminalize certain specific forms of violence against children.

A rights-based approach to the strategies

- The inherent rights of the child to life, survival and development must be protected
- The right of the child to have his or her best interests taken into account must be a primary consideration in all matters involving or affecting him or her, whether the child is a victim or a perpetrator of violence, as well as in all measures of prevention and protection
- Every child must be protected from all forms of violence without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status
- A child must be informed of his or her rights in an age-appropriate manner and that the right of the child to be consulted and to express his or her views freely in all matters affecting him or her, is fully respected
- All strategies and measures to prevent and respond to violence against children must be designed and implemented from a gender perspective, specifically addressing gender-based violence
- The specific vulnerabilities of children and the situations they find themselves in must be addressed as part of comprehensive violence prevention strategies and identified as a priority for action
- Measures to protect child victims of violence are non-coercive and do not compromise the rights of these children

⁴Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, General Assembly resolution 54/263, annex II

⁵Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, General Assembly resolution 55/25, annex II.

I. Prohibiting violence against children

A first important strategy relates to the prohibition by law of all forms of violence against children and the need to specifically criminalize many serious forms of violence. This is because of the obvious importance of the existence of a sound legal framework that prohibits violence against children and empowers authorities to respond appropriately to incidents of violence. It is an area where child rights advocates, civil society organizations and others have an opportunity to play an important role. In promoting systematic legislative reviews and concrete amendments to the law, they can draw attention to the responsibility of the State and the justice system to protect children. Legislators and policymakers must then ensure that the law, and in particular criminal law, denounces, prohibits, and where appropriate, criminalizes all forms of violence against children. In doing so, they also reaffirm the primacy of human rights law and offer legal protection to children.

The strategy involves ensuring the prohibition of cruel, inhumane or degrading treatment or punishment of children in all settings, something which is already an obligation for State parties to the Convention of the Rights of the Child and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, the strategy does not necessarily require the criminalization of all forms of violence. It is important to acknowledge that some forms of violence should not necessarily be defined as crime and can sometimes be prohibited through other means. For example, some forms of neglect or improper disciplinary practices in the home included in the broad definition of violence may call for other forms of interventions than criminalization. Support for families, education, training on good parenting practices, or supervision may be more appropriate responses in some cases than treating the incompetent parent as a criminal.

Prohibition of harmful practices against children

Another component of the same strategy involves establishing by law a clear and comprehensive prohibition of all harmful practices against children. Such a prohibition must be supported by detailed provisions in relevant legislation to secure the effective protection of girls and boys from those practices, to provide means of redress and to fight impunity. Legislation may be required in your country to ensure the investigation of such incidents and establish the accountability of perpetrators of harmful practices against children, including those advising, attempting to, aiding or

condoning those practices. In addition, agreements or payments to exempt the perpetrator from criminal or civil proceedings or sanctions should be prohibited by law.

This particular aspect of the strategy may be particularly controversial in your country because it essentially affirms the supremacy of international human rights law over cultural, traditional and sometimes religious practices. You can find a useful discussion of these issues in the report of the Special Representative of the Secretary-General on Violence against Children on “Protecting Children from Harmful Practices in Plural Legal Systems with a Special Emphasis on Africa”.⁶ That report refers explicitly to the importance of safeguarding the supremacy of human rights standards and the need for States to ensure that “domestic legislation relevant to children’s protection from violence and harmful practices, foreseen in statute, customary or religious laws, is in full conformity with human rights standards”.⁷

Law reform

The goal is to ensure that the laws are comprehensive and effective in prohibiting all forms of violence against children. This involves reviewing all laws (including penal law and criminal procedure law) to remove all provisions that justify, allow for or condone violence against children or may increase the risk of violence against children. That includes the removal from national legislation of any legal provision that justifies or allows for consent to harmful practices against children. It also means ensuring that resorting to informal justice systems does not jeopardize children’s rights or preclude child victims from accessing the formal justice system.

Specific criminalization

Under this strategy, it is also important to ensure that certain forms of violence against children are specifically criminalized. In some instances, the criminalization of the conduct is already required by the Convention on the Rights of the Child or by another convention or protocol to which a State may or may not be a party. For example,

⁶ Special Representative of the Secretary-General on Violence against Children & Plan (2012). *Protecting Children from Harmful Practices in Plural Legal Systems with a Special Emphasis on Africa*. New York: Office of the Special Representative of the Secretary General on Violence against Children.

⁷ *Ibid*, p. 40.

article 35 of the Convention on the Rights of the Child specifies that “States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form”. Similar criminalization requirements are also found in article 1 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, article 18 of the Council of Europe 2007 Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse; and article 3 of the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

The following are some of the conducts that should be specifically criminalized:

- Engaging in sexual activities with a child using coercion, force or threats, abusing a position of trust, authority or influence over a child, including within the family, and abusing a particularly vulnerable situation of a child, because of a mental or physical disability or a situation of dependence
- Committing sexual violence against a child, including sexual abuse, sexual exploitation and sexual harassment using new information technologies including the Internet, such as online solicitation (“grooming”) of children, cyber enticement, sharing of self-generated sexually explicit content (“sexting”) with children
- The sale of or trafficking in children for any purpose and in any form
- Offering, delivering or accepting, by whatever means, a child for the purpose of sexual exploitation of the child, transfer of organs of the child for profit or engagement of the child in forced labour
- Offering, obtaining, procuring or providing a child for child prostitution
- Producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography
- Slavery or practices similar to slavery, debt bondage and serfdom and forced labour, including forced or compulsory recruitment of children for use in armed conflict; and, committing gender-related violence against a child and, in particular, gender-related killing of girls

II. Implementing general prevention measures



The prevention of violence against children must be identified as a crime prevention priority.

The prevention of violence against children must be identified as a crime prevention priority. Prevention offers the greatest return in the long term. Criminal justice agencies, working together with child protection, social welfare, health and education agencies and civil society organizations, have an important role to play in developing effective violence prevention programmes. The strategy identifies the need for both broad and context-specific measures to prevent violence against children and challenge the ways in which such violence is tolerated. National and local governments must exercise their leadership in developing effective crime prevention initiatives and in creating and maintaining an institutional framework for their implementation and review.

Comprehensive prevention plan

Does your country, region or city have a comprehensive plan for the prevention of violence against children in all of its forms? Effective prevention requires a comprehensive approach that mobilizes people and agencies from many sectors. A strategic approach is required, as well as effective leadership and sufficient resources. Such an approach must rest on an understanding of the factors that give rise to violence against children and address the risks of violence to which children are exposed. It is necessary to identify the specific vulnerabilities and risks faced by children in different situations and to adopt proactive measures to reduce those risks and take appropriate actions to support and protect all children.

In some instances, it may also be possible to integrate specific violence prevention objectives with a broader crime prevention strategy. The Guidelines for the Prevention of Crime may help you develop a comprehensive action plan.⁸

⁸ Economic and Social Council resolution 2002/13, annex. UNODC also offers a useful guide: *Handbook on the Crime Prevention Guidelines—Making them work*. New York: United Nations, 2010.

Protective environment for children

There is a general need to strengthen the existing child protection system and to help create a protective environment for children. The level of development of the child protection system in your country will determine whether it will be a significant partner in preventing violence against children. To the extent that child protection agencies exist, they must be encouraged to work collaboratively with the criminal justice system. In many instances, collaboration protocols can facilitate on-going inter-agency cooperation.

Cultural acceptance

Prevention includes public health and other measures to positively promote respectful child-rearing practices, free from violence, for all children, and to target the root causes of violence at the levels of the child, family, perpetrator, community, institution and society. In that respect, public awareness-raising and community involvement in the implementation of prevention policies and programmes will be necessary to the success of the strategy.

One of the key elements of this strategy consists of adopting measures to address the cultural acceptance or tolerance of violence against children. This is a difficult task. It cannot be accomplished without strong advocacy and the help of social, cultural and religious organizations.



Challenging the cultural acceptance or tolerance of violence against children is a difficult task. It cannot be accomplished without strong advocacy and the help of social, cultural and religious organizations.

Creative approaches must be found to challenge the many ways in which violence against children is tolerated. Targeted activities are required to challenge attitudes that condone or normalize violence against children, including the tolerance and acceptance of corporal punishment and harmful practices or the acceptance of violence.

Vulnerable children

In every society, there are groups of children that are especially vulnerable to violence and are in need of special protection. A higher level of vigilance is required when it comes to protecting children from various marginalized groups. It is easy to come up with a long list of potentially vulnerable groups of children. Such a list may include children working or living on the streets, children with disabilities, children suffering from mental illness, children of minority groups, unaccompanied children, migrant children, children who are refugees or asylum seekers, indigenous children, children living with HIV/AIDS, children with substance abuse problems, children engaged in survival behaviours (e.g., prostitution), children of incarcerated parents, or children exposed to violence and harassment due to their sexual identity.

Anyone can put together a list of vulnerable groups. That list may vary depending on the situation or on which part of a country is being considered. More importantly perhaps, one should pay careful attention to how existing protection measures actually reach these children, or perhaps fail to do so. One must also consider whether violence prevention programmes take into account the special circumstances in which these children live and the unique challenges they face. For example, particular measures are suggested in the Model Strategies to reduce the specific risks of violence to which are exposed migrant children, children who are refugees or asylum seekers.



A higher standard of vigilance is required when attempting to protect children from various vulnerable and marginalized groups.

Civil society organizations, researchers and other professionals have a role to play in identifying and studying the specific risk of victimization that different vulnerable groups of children are facing. Law enforcement agencies can also play an important role by using multi-agency intelligence to identify local risks of violence and direct enforcement and prevention activities.

The risk of violence against children committed by children

Sometimes, sadly, children are themselves the source of violence against other children. A comprehensive prevention approach must take that factor into account and pay attention to the fact that bullying, sexual exploitation and other forms of violence against children is sometimes perpetrated by other children. In particular, the violence related to youth gangs may be a concern in a community. The recruitment, use and victimization of children, in particular girls, by gangs dictate the use of targeted prevention measures.

Risk of exploitation of children by criminal groups

Specific prevention measures are also required to address the risk associated with trafficking in children, the sale of children, child prostitution, pornography and various forms of child exploitation by criminal groups. Your country may already be a party to international conventions and protocols that require the implementation of such preventive measures.

The risk that children may be recruited, used and victimized by criminal groups, terrorist entities or violent extremist groups must be addressed by targeted initiatives.

In many instances, the risks manifest themselves across borders and various forms of international cooperation are required to mitigate them and prevent children from falling prey to dangerous groups.

Participation of children in preventing violence

The participation of children in the prevention of crime and the development of prevention strategies should always be a key programmatic component. Whenever possible, children should be consulted in the formulation of policies and prevention strategies.

III. Knowledge-based approach

The Model Strategies should be implemented through knowledge-based measures, programmes and interventions. For that purpose, it is necessary to promote research as well as systematic data collection, analysis and dissemination to support that process. The related strategy identifies specific types of data and research that should be encouraged as a practical basis for developing evidence-based policies and interventions and for monitoring the success of existing programmes.

For decision makers to be able to rely on a solid knowledge base upon which they can make decisions and design prevention activities, various forms of data must be collected, analysed and made broadly available. However, reliable information and data will not become available unless measures are taken to support, encourage and fund research and systematic data collection.

Programme evaluations, population-based surveys, performance indicators and monitoring mechanisms are all part of a knowledge generation and dissemination strategy that can support effective actions against violence against children.

Information about the risk of violence faced by children in contact with the criminal justice system is particularly critical and especially difficult to access. For that matter, special attention must be given to collecting and analysing data on children's contacts with the police, on independent inspections of places of detention, access to complaint mechanisms by children and the outcomes of complaints and investigations.

While doing so, there is an excellent opportunity to mobilize civil society, the academic community and criminal justice agencies and involve them in a constructive dialogue informed by data and science.

IV. Enhancing the capacity of the criminal justice system

A second group of strategies focuses on how to enhance the ability and capacity of the criminal justice system to respond to violence against children and protect child victims. It refers to its specific role in bringing perpetrators of violence against children to justice, protecting child victims of violence, and working closely together with other systems (education, welfare, child protection and health). In particular, the Model Strategies emphasize the crucial importance of establishing detection and reporting mechanisms.

Here again, because system-wide activities are required, it is probably best to rely on a comprehensive approach and a well-designed action plan to enhance the overall ability and capacity of the criminal justice system to respond to violence against children and protect child victims. In developing a comprehensive approach, the following areas will require close attention.

Establishing detection and reporting mechanisms

There are a number of proactive measures that the police can take to detect incidents of violence against children. Among other things, guidance and training can be provided to front-line police officers on how to recognize different forms of violence against children and how to identify signs that children may be at risk or victims of violence. However, the capacity of the criminal justice system to intervene proactively to protect children against violence is usually quite limited.



Effective detection and reporting mechanisms are at the very core of any child protection system.

The criminal justice system tends to rely on reports or complaints that are generated by the children themselves, parents, caregivers, other adults around them, and various professionals. Children, however, often distrust the police and are unaware of the assistance that may be available to them if they report their victimization. They also

frequently fear public exposure, stigmatization, harassment and reprisals if they make incidents of violence known. This is why it is so important to have in place safe and accessible reporting mechanisms.

These mechanisms are at the core of any child protection system. Two questions to ask while reviewing the reporting mechanisms already in place are:

- Are there safe, child-friendly and gender-sensitive procedures and mechanisms for victims and others to report or complain about incidents of violence against children?
- Are these mechanisms easily accessible to all children and their representatives or a third party without fear of reprisal or discrimination?

A measure which should be seriously considered in order to facilitate the reporting of violence against children, particularly when the latter are very young and unable to do so on their own, is creating a legal obligation for certain groups of professionals who are routinely in contact with children (e.g., doctors, nurses, teachers) to notify the authorities when they suspect that a child is, or is likely to become, a victim of violence.

Another measure to be considered consists of adopting legislation, if necessary, and working with Internet service providers, mobile phone companies, search engines, public Internet facilities and others to facilitate the detection and the investigation of child pornography. The Internet is significantly misused as a tool for the dissemination of child pornography. A recent study conducted on behalf of the UNODC highlighted how advances in information and communication technology facilitate criminal collaboration and communication across jurisdictions and borders with regard to the commission of acts of child abuse and exploitation.⁹

One must also keep in mind that law enforcement agencies require the human resources, training, technical capacity and appropriate tools to thoroughly and effectively investigate such crimes.

The capacity to offer effective protection to child victims of violence

At least two groups of measures can be adopted to ensure that the criminal justice system does as much as it can,

⁹UNODC (2014). *Study facilitating the identification, description and evaluation of the effects of new information technologies on the abuse and exploitation of children*, E/CN.15/2014/CRP.

in collaboration with child protection agencies, to protect child victims of violence against further violence and that it does so in a child-sensitive manner.

Some of the key questions in this respect are:

- Do national standards, procedures and protocols exist in order to respond with sensitivity to child victims of violence who must be removed from a dangerous context?
- Are the standards and procedures consistently applied and is their implementation carefully monitored?
- What facilities and services are available for child victims who need temporary protection and care in a safe place pending a full determination of what is in the best interest?

It is obviously important to ensure that the police, courts and other competent authorities have the legal authority to issue and enforce protection measures such as restraining or barring orders in cases of violence against children, including removal of the perpetrator from the domicile and prohibiting further contact with the victim, as well as to impose penalties for breaches of those orders. It is equally important to ensure that, when the legal authority exists, these protection measures are diligently and consistently enforced and that any violation of a court ordered protection measure is dealt with seriously. To ensure that protection orders are enforced it becomes important to establish a functional registration system (or registry) to keep track of these orders and make it possible for the police and other officials to quickly determine whether such an order is in force.

In many situations, the law may permit or even encourage informal settlement of cases involving violence against children. The laws and existing informal settlement and mediation practices need a careful review to ensure that they only apply in the respect of the principle of the best interests of the child.

Effective prosecutorial practices are also crucial to ensure the protection of child victims. Furthermore, since the participation of child victims in the criminal justice process is often necessary, measures are required to ensure that this does not result in further hardship and trauma for them. Finally, it is very important to promote the victims' physical and psychological recovery and successful social reintegration by making sure that they all have access to and receive support and assistance, effective protection, and physical and mental health care.

The capacity to successfully investigate and prosecute cases of violence against children

In countries where there is a broad social awareness of the problem of violence against children and a fairly high

level of public confidence in the police, a large number of cases are typically reported to the police each year. However, this is not always the case. In many instances, victims delay reporting the incident. In other cases, the identification of the perpetrator is a relatively simple matter, but the gathering of sufficient evidence to proceed with charges is often much more complicated.



Police have a responsibility to engage in proactive investigations of suspected violence against children whether an official complaint has been registered or not.

Police must engage in proactive investigations whether an official complaint has been lodged or not. The primary responsibility for initiating investigations and prosecutions lies with the police, the prosecution and other competent authorities. Sufficient resources must be allocated to these investigations and, therefore, the investigation and prosecution of violent crimes against children must formally and practically be identified as a system's priority. The persons responsible for the investigation must have the power and authority to obtain all the information necessary to successfully complete that investigation. In addition, there should be specific policies in place to guide decisions concerning the investigation and prosecution of offences of violence against children. It is important to ensure the fairness, integrity and effectiveness of such decisions.

The manner in which the investigation and the prosecution are conducted is obviously also important. The safety of the child is a primary consideration. Training, operational policies, guidance tools and effective supervision are all needed to ensure that the investigation, including the collection of evidence, is conducted in a child-sensitive manner and respects their dignity and integrity.

Cooperation with other sectors

The complementary roles of the criminal justice system, the child protection, health, education and social service sectors and, in some cases, informal justice systems should be obvious. In fact, it is only when these sectors work closely together that a protective environment can

be created and effective responses to violence against children can be offered. Unfortunately, the level of cooperation among these sectors often leaves a lot to be desired. Specific measures are therefore required to promote greater coordination and cooperation among these various systems and agencies and establish stronger operational links between the agencies, while protecting the privacy of child victims of violence. These links are particularly important in emergency situations where the safety of children is in jeopardy, or where child protection agencies become aware of violent threats or acts against children.

What is required is an institutional, coordinated and integrated response pursued across relevant sectors, including justice, law enforcement, social welfare, education and health.



The establishment of dedicated units specialized in the investigation of incidents of violence against children should be considered.

The most effective operational response to incidents of violence against children is usually through an integrated, multidisciplinary specialized unit that can respond quickly and competently to the medical, psychological, social and legal needs of the child as well as his or her need for protection. The establishment of such specialized unit should be considered. In countries or regions where informal justice systems are frequently used, strong links between these systems and justice and child protection agencies are also necessary. In situations where a child's parents or caregivers are deprived of liberty, agencies from various sectors need to cooperate to support the child who, as a result, may be exposed to a greater risk of violence.

Improving criminal proceedings in matters involving child victims of violence

Are there comprehensive services provided and effective protection offered to ensure the safety, privacy and dignity of victims and their families at all stages of the criminal justice process? Criminal proceedings can be a very disturbing and even traumatic experience for a child

victim and this is often cited as a reason to avoid involving the criminal justice system in cases of violence against children.

Several measures can be implemented and a number of changes can be brought to existing legislation, policies, procedures and practices to protect and assist children who are victims of crime or witnesses in criminal proceedings. The goal is to ensure that comprehensive services are provided and protection measures are taken to ensure the safety, privacy and dignity of child victims and their families at all stages of the criminal justice process and to protect them from intimidation and retaliation. This should be done without prejudice to the ability or willingness of the victim to participate in an investigation or prosecution.

Are current policies and procedures providing for the use of child-sensitive procedures? This may include interview rooms designed for children, interdisciplinary services for child victims, collocated services for easy access, modified court environments that take child witnesses into consideration, recesses during a child's testimony, hearings scheduled at times of day appropriate to the age and maturity of the child, an appropriate notification system to ensure the child appears in court only when necessary and other appropriate measures to facilitate the child's testimony. There are different ways to implement such policies. In some countries, special "child justice units" or "child advocacy centres" are established in the courts. In other countries, a "child friendly bench" is established.

At all times, the child victims or their parents or legal guardian must also be informed of the rights of the child and about the relevant procedures and the availability of legal aid, assistance and redress. Very specifically, when child victims of violence are the subject of intimidation, threats or harm, immediate and effective action to ensure their safety are urgently needed.

In 2005, the United Nations adopted the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.¹⁰ Reviewing these guidelines together with the Model Strategies will help you identify the procedural reform and practical measures that can be implemented to reduce the negative or even traumatic impact of the criminal justice process on the child. This can also help ensure that the views of the child are considered, that children are treated as capable witnesses, and that the best interests of the child are the paramount consideration when involving a child in criminal proceedings. UNODC has also produced a *Model Law on Justice in*

¹⁰Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, Economic and Social Council, resolution 2005/20, annex. In 2010, the Council of Europe also adopted Guidelines on Child-Friendly Justice to help governments make sure that children are treated properly by and in the justice system.

*Matters Involving Child Victims and Witnesses of Crime*¹¹ which can be used to formulate and propose the required legislative changes.

Sentencing that reflects the seriousness of the offence

Crimes of violence against children can be very serious offences. This must be reflected in sentencing policies and practices. Sentencing decisions must aim to denounce and deter violence against children. The legislator must ensure that such offences are, by law, punishable by appropriate penalties. It is also important to review the law and ensure that it takes into account specific factors which may aggravate a crime, including the age of the victim, the fact that the victim is severely mentally or intellectually handicapped, repeated violent acts, abuse of a position of trust or authority and perpetration of violence against a child in close relationship with the offender.

Wherever possible, sentencing decisions should provide reparation for harm caused as a result of the violence. When informal justice systems are resorted to, violence against children needs to be appropriately denounced and deterred, perpetrators of violence against children must be held accountable for their actions, and redress, support and compensation for child victims must be provided.

Safety risks and the victims' vulnerability must also be assessed and considered whenever decisions are made to impose a non-custodial sentence, to release an accused on bail, or to release an offender on conditional release, parole or probation.

While doing all the above, it is important to keep in mind that the perpetrators of violence against children could themselves be children and often earlier victims of violence. Our responses in such instances must take that difficult fact into account. The need to protect child victims in such instances cannot negate the rights of all children involved to have their best interests considered as a matter of primary importance. Trauma-informed interventions are necessary in cases where the perpetrators were themselves victims of violence. These young perpetrators of violence are better dealt with by a child sensitive juvenile justice system.

Training of criminal justice professionals

There are a lot of measures that can be taken to build the capacity of the criminal justice system and criminal justice professionals to respond more effectively to violence

against children. Very importantly, there is a need to develop specialized expertise among these professionals and, when appropriate, to establish specialized teams and functions within the system. Specialized training is of course recommended. In that regard, some specific measures can also be taken by professional associations and academic institutions.

The design and implementation of training programmes for criminal justice professionals on the rights of the child, in particular on the Convention on the Rights of the Child and international human rights law, require particular attention. Competency-based training on appropriate, child sensitive and gender sensitive ways of dealing with child victims is especially important. Criminal justice professionals must be helped to acquire some basic knowledge about the stages of child development, the process of cognitive development, the dynamics and nature of violence against children, the consequences of discrimination, the difference between regular peer groups and gangs, and the appropriate management of children who are under the influence of alcohol or drugs.

The goal is to ensure that criminal justice officials and other relevant authorities are adequately trained in their respective areas of competence in order to:

- Identify and respond appropriately to the specific needs of child victims of violence
- Receive and treat all child victims of violence respectfully, with a view to preventing secondary victimization
- Handle complaints confidentially
- Conduct effective investigations of alleged incidents of violence against children
- Interact with child victims in an age-appropriate and child- and gender-sensitive manner
- Conduct safety assessments and implement risk management measures
- Effectively and diligently enforce protection orders

Codes of conduct

Increasing professional standards of conduct as they relate to violence against children can be an important part of capacity-building. Supporting the development of codes of conduct for criminal justice professionals that prohibit violence against children can help. Professional associations can also be encouraged to develop enforceable standards of practice and behaviour.

¹¹UNODC (2009). *Justice in Matters Involving Child Victims and Witnesses of Crime, Model Law and Commentary*. New York: United Nations.

V. Preventing and responding to violence against children within the justice system

Studies reveal that children within the justice system, and in particular those deprived of their liberty, are especially vulnerable to violence. Examples of violence against children in the justice system include: violence by staff, violence by adults or other young detainees in detention institutions, violence during arrest, interrogation, or in police custody, and violence as a sentence, such as corporal or capital punishment. The consequences of violence perpetrated against children when in contact with the justice system cannot be underestimated. It may increase the possibility for further criminal activity.

It is estimated that at least one million children are deprived of their liberty worldwide,¹² a figure that is probably underestimated. Research also indicates that the majority of detained children are awaiting trial and that a large proportion of these children are first-time offenders held for minor offences.

Children alleged as, accused of or recognized as having infringed the penal law face a heightened risk of violence. A number of strategies are suggested to prevent children from being victimized during their contacts with the justice system, including the juvenile justice system. Considering that one important objective of the justice system is the protection of children's rights, violence against children within that system thwarts its achievement and is counterproductive to any efforts to rehabilitate and successfully reintegrate the child.

It is worrying to observe that many of the children in conflict with the law have themselves been victims of abuse or neglect; being abused or neglected can easily double a child's chance of getting involved in criminal activities.

The Model Strategies emphasize the need to prevent children from becoming involved in the justice system and introduce a number of measures to detect, protect and assist children who are victims of violence as a result of their involvement with the justice system and to generally prevent the risk of violence against children at various stages of their contacts with that system. Specific measures are also suggested to prevent and respond to violence against children in places of detention.

¹²Cappelaere G. et A. Grandjean, *Enfants privés de liberté: Droits et réalités*. Editions Jeunesse et Droit, Liège, Belgium, 2000.

Preventing children from becoming involved in the criminal justice system

There are several ways to limit the number of children in the criminal justice system. This may involve setting the lower minimum age of criminal responsibility at the age of at least twelve years and to continue to increase that age. Doing so can, simply and effectively, reduce the number of children in the criminal justice system. However, care must be taken to ensure that those children who are below the age of criminal responsibility are not merely transferred into some other form of custodial care. It is therefore important to ensure that safe and effective non-custodial measures are available for the majority of children who are below that age.

The same objective can also be achieved by recognizing the importance of avoiding the unnecessary criminalization and penalization of children. As the Committee on the Rights of the Child observed: "It is quite common that criminal codes contain provisions criminalizing behavioural problems of children, such as vagrancy, truancy, runaways and other acts, which often are the result of psychological or socio-economic problems."¹³



A "status offence" refers to a conduct which is considered a criminal offence and penalized when committed by a child, but not when committed by an adult.

In a number of countries, there is concern that too many children are brought into the criminal justice system through "status offences," leading to the placement of children in detention rather than providing them with the needed care and protection. There is also a worrying trend to criminalize children living and/or working in the streets. Children living and/or working in the streets are

¹³Committee on the Rights of the Child (2007). General Comment No. 10—Children's Rights in Juvenile Justice, para. 8.

perceived as a social threat, stigmatized by the media, and blamed for an alleged increase in juvenile delinquency. Truancy, vagrancy or begging by children are still often punished by the criminal justice system rather than prevented and addressed through child protection measures. Moreover, children with mental health problems and children with substance abuse problems are often overrepresented in the criminal justice system and should instead be provided with appropriate care and protection. Legislative reforms may be necessary to ensure that any conduct not considered a criminal offence or not penalized when committed by an adult is also not considered a criminal offence and not penalized when committed by a child.

Finally, a highly effective way of reducing the number of children in the justice system is through diversionary measures, restorative justice programmes and the use of non-coercive treatment and education programmes as alternative measures to judicial proceedings. Article 40 (3) (b) of the Convention on the Rights of the Child states that “whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected” should be applied. In particular, diversion¹⁴ and restorative justice programmes¹⁵ are recommended. To ensure that diversion is practised fully, it is of crucial importance to foster close cooperation among the justice, child protection, social welfare, health and education sectors.

Preventing violence associated with law enforcement and prosecution activities

The principle of the best interest of the child (affirmed by article 3 (1) of the Convention on the Rights of the Child) applies to crime prevention, law enforcement and prosecution activities.¹⁶ The principle was explained as follows by the Committee on the Rights of the Child:

“In all decisions taken within the context of the administration of juvenile justice, the best interests of the child should be a primary consideration. (...) The protection of the best interests of the child means, for instance, that the traditional objectives of criminal

justice, such as repression/retribution, must give way to rehabilitation and restorative justice objectives in dealing with child offenders. This can be done in concert with attention to effective public safety.”¹⁷

The United Nations Study on Violence against Children found that police and other security forces are often responsible for violence against children, and that arrest is one of the situations in which this occurs.¹⁸ The “Five Years On” follow-up study found that children are at high risk of violence from their first point of contact with the law.¹⁹

A strategy to prevent the violence and mistreatment associated with law enforcement and prosecution activities involves, among others things, ensuring that all arrests are conducted in conformity with the law, to limit the apprehension, arrest and detention of children to situations in which these measures are necessary as a last resort, and to promote and implement, where possible, alternatives to arrest and detention.

As part of that strategy, it is most important to ensure that children are informed of their rights and have prompt access to legal aid during police interrogation and while in police detention, and that they may consult their legal representative freely and fully confidentially.²⁰

It is essential to review existing laws, policies and programmes to ensure children’s right to legal representation and access to State-funded legal aid in accordance with predetermined rules. Legal aid providers representing children should be specially trained and their performance regularly appraised to ensure their suitability to work with children. Likewise, legal aid representatives working with children should work in close cooperation with other professionals such as social workers and diversion service providers. On these matters, it is useful to consult the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems. These guidelines call upon States to ensure that effective legal aid is provided promptly at all stages of the criminal justice process.²¹

It is crucial to establish accessible, child-appropriate and safe procedures for children to complain about incidents of violence during their arrest or interrogation or

¹⁷ Committee on the Rights of the Child (2007). General Comment No. 10—Children’s Rights in Juvenile Justice, para. 10.

¹⁸ United Nations (2006). Report of the independent expert for the United Nations study on violence against children. A/61/299, 29 August 2006, p. 197.

¹⁹ NGO Advisory Council (2011). *Five Years On: A global update on violence against children*. A report from the NGO Advisory Council for follow-up to the United Nations Secretary-General’s Study on Violence against Children, October 2011, p. 21.

²⁰ Article 37 (d) of the Convention on the Rights of the Child states that every child deprived of his or her liberty has a right to prompt access to legal and other appropriate assistance.

²¹ United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Economic and Social Council resolution 2005/20, annex, principle 7.

¹⁴ See: United Nations Standard Minimum Rules for the Administration of Juvenile Justice, General Assembly resolution 40/33, annex, rules 11.1, 11.2, 11.3

¹⁵ See, in that regard, the Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, Economic and Social Council resolution 2002/12, annex. See also: UNODC (2006). *Handbook on Restorative Justice Programmes*. New York: United Nations.

¹⁶ See also: Committee on the Rights of the Child (2013). General Comment No. 14—The right of the child to have his or her best interests taken as a primary consideration.

while in police custody. Access to these mechanisms can be particularly problematic when a child is being arrested or detained. Investigating and responding to these complaints also demand a degree of diligence and a level of integrity that do not always exist. Specific measures are usually required to ensure that alleged incidents of violence against children during their contacts with the police are independently, promptly and effectively investigated. In particular, people who are alleged to have been implicated in violence against children must be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as those conducting the investigation.

Limiting the use of detention



Children face a significant risk of violence that arises simply from being deprived of their liberty. The possible sources of violence in institutional settings are numerous.

Whether in police custody, pretrial detention, administrative detention or detention as a sentence, there is a significant risk of violence that arises simply from being deprived of one's liberty. The more overcrowded the facility, and the lower the staff-to-child ratio, the greater the risk becomes. The possible sources of violence in institutional settings are numerous. Violence occurs at the hands of staff working in the institutions, adult detainees where children are not separated, other child detainees, and also in the form of self-harm.

A very important strategy, reflecting a principle enshrined in article 37 (b) of the Convention on the Rights of the Child, consists of taking various measures to ensure that deprivation of liberty is used only as a measure of last resort and for the shortest appropriate period of time. This may involve revising sentencing laws, rules, guidelines and policies. Legislated reforms may be necessary. For the strategy to be effective, other sentencing options must be available such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care.²²

²²See: Convention on the Rights of the Child, article 40 (4).

The Bangkok Rules also recommend avoiding the institutionalization of children in conflict with the law to the maximum extent possible and adds that, when making such decisions, the “gender-based vulnerability of juvenile female offenders shall be taken into account in decision-making”²³

Children from ethnic and minority groups are also overrepresented in the criminal justice system. Similar situations occur with migrant children and asylum seekers who are dealt with by the juvenile justice system and often placed in detention on the basis of their migratory status. The reasons for this may include discrimination by law enforcement officials, but also social exclusion experienced more generally by those groups in the countries where they live. Social exclusion tends to result in patterns of poverty, domestic violence, gang activity, substance abuse, barriers to education, and poor prospects for meaningful employment.

The majority of children deprived of their liberty are in pretrial detention, with the majority of these children subsequently being found not guilty. There is often a lack of oversight and monitoring in pretrial detention, particularly in police cells. Contact with the outside world is less frequent than for sentenced children, which means that children who are ill-treated have fewer possibilities to report incidents. There are also risks of violence related to court appearance, with children often transported to court and held in court holding cells together with adults.

Detaining a child in a police cell for even a few hours presents a risk of violence. Where there is no law requiring him or her to be brought before a court or other body within a very limited period of time, or if such a law is flouted, children are at grave risk as the courts are unaware of the child's detention.

Prohibiting certain treatments and punishments

Article 37 (a) of the Convention on the Rights of the Child provides that “States Parties shall ensure that: (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age”. The prohibition against torture and other cruel, inhuman or degrading treatment or punishment is a very important principle that needs to be reaffirmed even more forcefully when children are concerned. No child should ever be subjected to such treatment or punishment.

²³United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules), General Assembly resolution 65/229, annex, rule 65.

In some justice systems, children who have reached puberty are subject to punishments of extreme violence, including flogging, stoning and amputation. The Committee on the Rights of the Child has, in two general comments, stressed that corporal punishment as a sentence amounts to cruel and degrading treatment, which is impermissible under article 37 of the Convention on the Rights of the Child. It is therefore important to review, evaluate and, where necessary, update existing laws to effectively prohibit sentences involving any form of corporal punishment for crimes committed by children.

Preventing and responding to violence in places of detention

Most unfortunately, there is always a risk of violence against children who find themselves in a place of detention. Places of detention can be defined very broadly. They may include places where irregular migrants or asylum-seeking children are found, or even military prisons.²⁴ A comprehensive strategy is needed to address that risk and to respond diligently to any incident or alleged incident of violence against children in a place of detention.

The strategy must include measures to prevent overcrowding, separate children from adults, boys from girls and ensure that all detention facilities adopt and implement child-sensitive policies, procedures and practices and strictly monitor compliance with them. The placement of children in adult prisons or jails compromises their basic safety, well-being and their future ability to remain free of crime and to successfully reintegrate into society.

It is also necessary to prohibit and effectively prevent the use of corporal punishment as a disciplinary measure, to adopt clear and transparent disciplinary policies and procedures that encourage the use of positive and educational forms of discipline and to establish in law the duty of managers and personnel of detention facilities to record, review and monitor every instance in which disciplinary measures or punishment are used.

You may unfortunately have to remind policymakers and others of the distinctive needs of girls and their vulnerability to gender-based violence. Measures, such as those suggested in the Bangkok Rules,²⁵ are necessary to eliminate the risk of all forms of harassment, violence and discrimination against girls, and to ensure that the special needs and vulnerabilities of girls are taken into account in all decisions that affect them.

²⁴ See, for example: UNICEF (2013). *Children in Israeli Military Detention—Observations and Recommendation*. Jerusalem, February 2013.

²⁵ General Assembly resolution 65/229, annex.

It is also important to keep in mind that children in detention facilities are also vulnerable to violence from their peers. Overcrowding, lack of supervision and a failure to separate more vulnerable children from others all contribute to this phenomenon. Children involved in youth gangs might also be motivated to violence, or violence may stem from incidents of racism.

Most importantly, a comprehensive strategy to address violence against children in places of detention must include measures to ensure that all alleged incidents of violence, including sexual abuse of children in a place of detention, are immediately reported and independently, promptly and effectively investigated by appropriate authorities and, when founded, effectively prosecuted.

Detecting, assisting and protecting child victims of violence in the justice system

The absence of meaningful complaint mechanisms leaves children involved in the justice system with little recourse when violence is perpetrated against them. What are the measures in place within and outside the system to detect, assist, and protect children victimized as a result of their involvement with the justice system as alleged or sentenced offenders?

A crucial starting point is the establishment of complaint mechanisms for child victims of violence within the justice system that are safe, confidential, effective and easily accessible. Such complaint mechanisms should be accompanied, when needed, by counselling and support services. Existing complaint mechanisms should be reviewed and tested.

Once complaint mechanisms are established, it is also very important to protect children who report abuse, specifically taking into account the risks of retaliation. This can be done by adopting and enforcing policies that ensure that those allegedly implicated in violence against or ill-treatment of children are removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, and those conducting the investigation. Other practical and procedural measures must be in place to protect children who provide information or act as witnesses in proceedings related to a case involving violence within the justice system.

In reality, very few children in the criminal justice system will actually be in a position to denounce abusers who are in a position of power and authority over them. This is why it is so important to create a legal obligation for criminal justice personnel to report incidents or alleged incidents of violence against children. That obligation should also be reflected in the relevant regulations of agencies and rules of conduct. The relevant operational

policies should be very clear. Those working with children in the criminal justice system must receive clear guidance on reporting requirements and the consequences of failing to report incidents. They must also be protected against retaliation and rules and procedures should be reviewed to ensure that their identities are protected.

All complaints must be independently investigated by competent authorities. Policies, guidelines and procedures for the conduct of such investigations by an independent authority need to be in place.

Finally, in accordance with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, child victims and witnesses of violence within the criminal justice system also have a right to access to justice and fair treatment, restitution, compensation and social assistance.²⁶ It is important to ascertain that child victims of violence in the justice system have access to fair, prompt and equitable redress mechanisms and accessible procedures for seeking and obtaining compensation.

²⁶Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly resolution 40/34.

VI. Accountability and oversight mechanisms

Numerous studies have shown that violence against children in the justice system frequently goes unpunished. That kind of violence will not be effectively prevented unless strict measures are taken to put an end to this kind of impunity. Any tolerance of violence against children within the justice system must be challenged, including through awareness-raising programmes, education and effective prosecution of violent offences committed against children within the justice system. Doing so involves ensuring that there is a clear and sustained commitment at all levels of justice institutions to prevent and address violence against children.

A very important prevention strategy consists of strengthening accountability and oversight mechanisms within and outside the criminal justice system. The goal is not only to prevent violence, but also to promote accountability for incidents that occur. This can be achieved through a number of means, including:

- Measures to enhance integrity and prevent corruption within all the relevant institutions
- Internal and external accountability mechanisms, in particular for policing and places of detention
- National monitoring and oversight mechanisms covering all agencies dealing with children
- Procedures and mechanisms for the effective investigation and prosecution of all incidents of violence against children occurring within the justice system
- Consistent application of disciplinary measures against officials responsible for violence against children
- Transparency
- Criminal and other public investigations into all serious reports of violence against children

With respect specifically to the risk of violence in places of detention, measures are required to ensure the effective monitoring of, regular access to and inspection of places of detention by independent bodies, human rights institutions, ombudspersons or members of the judiciary, who are empowered to conduct unannounced visits, conduct interviews with children and staff in private and investigate allegations of violence. Are there presently any obstacles to the conduct of such independent inspections? Are the recommendations received as a result of such inspections considered and implemented?

VII. UNODC's work in the area of violence against children

The mission of UNODC is to contribute to the achievement of security and justice for all by making the world safer from crime, drugs and terrorism. UNODC has the mandate to support Member States in preventing crime and violence, and strengthening their justice systems. It is within this broad mandate that UNODC supports Member States in ensuring that children are better served and protected by justice systems.

UNODC's work in the area of justice for children is based on three mutually reinforcing pillars: (a) data collection, research, and analytical work; (b) normative work; and, (c) technical cooperation.

With regard to data collection, research and analysis, UNODC's work focuses on collection of data on crime and the operation of criminal justice systems, as well as the development of standards and indicators for national crime and criminal justice information systems.

With regard to normative work, UNODC is the Secretariat of the Commission on Crime Prevention and Criminal Justice which is one of the intergovernmental policymaking bodies of the United Nations, as well as of the United Nations Crime Congress which takes place every five years. In that function, UNODC assists Member States in developing United Nations standards and norms related to justice for children as was the case with the "United Nations Model strategies and practical measures on the elimination of violence against children in the field of crime prevention and criminal justice".

With regard to technical cooperation, UNODC implements projects to prevent youth involvement in crime, to strengthen juvenile justice systems, and to improve the rehabilitation and treatment of alleged child offenders, as well as to improve the protection of child victims and witnesses of crime. The issue of violence against children forms a key component of the work of UNODC in the area of justice for children.



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