



UNODC

United Nations Office on Drugs and Crime



PLANNING THE IMPLEMENTATION OF 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 Checklist



UNITED NATIONS OFFICE ON DRUGS AND CRIME
Vienna

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the United Nations Model
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UNITED NATIONS
New York, 2015

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This publication has not been formally edited.

Acknowledgments

This Checklist was prepared for the United Nations Office on Drugs and Crime (UNODC) by Yvon Dandurand, Professor of Criminology, University of the Fraser Valley, Canada. The following UNODC staff contributed substantively to the elaboration of the booklet: Alexandra Souza Martins, Mario Hemmerling, and Mariano Tenca (intern), under the supervision of Valérie Lebaux, Chief of the Justice Section.

UNODC would like to express its gratitude to Her Royal Highness Princess Bajrakitiyabha Mahidol of Thailand for her continued support throughout the process of the development of this tool.

UNODC wishes to acknowledge the generous support provided by the Government of Thailand represented by the Thailand Institute of Justice (TIJ) and, in particular, Ambassador Adisak Panupong, Dr. Phiset Sa-Ardyen, Federica Piovesana and Amy Rinehart for the preparation of this publication.

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Introduction

The present Checklist is meant to assist the agencies responsible for the implementation of the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice (hereinafter referred to as the “Model Strategies”) in reviewing their current capacity to prevent and respond to violence against children in the field of crime prevention and criminal justice.

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. They 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 by international law.

The goal of the Model Strategies is to improve the effectiveness of the criminal justice system in preventing, prohibiting and responding to all forms of violence against children, as well as preventing any violence against children which may occur during their contacts with that system.

The main purpose of the Model Strategies 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.

Each one of the 17 strategies included in the Model Strategies addresses a practical aspect of child protection against violence and offers practical measures that reflect best evidence-based crime prevention and child protection practices.

The structure of the Checklist

For ease of reference, the Checklist is presented in tabular form. There are three main parts to the Checklist, corresponding to the three main parts of the Model Strategies:

- Part 1. Prohibition of violence against children and general prevention**
- Part 2. Capacity of the criminal justice system to respond to violence against children**
- Part 3. Prevention and response to violence against children within the justice system**

Each part includes a number of sections, each referring to a particular strategy. In total, the Checklist includes 17 sections (one for each of the 17 main strategies). In each section, one finds a reference to a number of related “practical measures”. Under each practical measure, the Checklist offers a number of direct questions that may be

asked to determine whether the measure is required and, if so, what it should focus on more specifically. These questions are presented in the left-hand column of the table. The list of questions is not exhaustive and users are invited to add their own to the list.

In the right-hand column of the table, contextual information and a brief explanation is provided. When appropriate, reference is also made to applicable standards and norms; this is indicated by the following symbol: ✧. In several instances, reference is made to United Nations Office on Drugs and Crime (UNODC) tools (model laws, handbooks, etc.); this is indicated by the symbol: 📖. Finally, there are sometimes references to other reports and other background resources that may be useful to better understand the need for particular measures or to find out more about best practices; these are indicated by the symbol: 📁.

How to use the Checklist

Agencies and actors responsible for the implementation of the Model Strategies can use the Checklist to quickly review their current capacity to prevent and respond to violence against children and to develop a comprehensive strategy and action plan to improve their response to such violence.

The resolution adopting the Model Strategies invited Member States to adopt a strategic, knowledge-based, comprehensive and multisectoral approach to address the factors that give rise to violence against children and to respond in a timely manner to support child victims of violence and prevent their re-victimization. Considering the complexity of the issue, the many forms of violence to which children are exposed and the numerous contexts in which they may become vulnerable, it is quite clear that nothing less than a comprehensive and well-implemented strategy will suffice to successfully address the problem.

In view of the fact that action will likely be required at various levels (legislative, policymaking, training, monitoring, research, public education, etc.), effective engagement of relevant actors at all these levels is usually necessary. Furthermore, it is quite clear that the coordination of activities, both within the justice sector and across the various sectors with a responsibility for child welfare and child protection, will require a level of broad institutional commitment that only a joint strategic effort can effectively deliver.

A first step in the implementation of the Model Strategies therefore usually consists of making a commitment to a strategic approach and identifying focal points with responsibility for initiating the strategic planning process. A second step involves a process through which key ministries and organizations that bear a level of responsibility for children's rights, welfare and protection are identified together with their respective role, mandate and responsibilities. This then leads to systematic efforts to mobilize these agencies and engage them in a joint process of strategic planning. At a very early stage in the implementation process, and as a crucial stage in the strategic planning exercise, it will be necessary to systematically review the current situation and assess the present capacity of the justice system to respond to incidents of violence against children.

This Checklist offers a quick reference tool to assist that very important part of the implementation process. The use of the Checklist is only an initial step. Further investigation may be subsequently required to assess

more specifically the readiness and capacity of the police and other justice institutions to protect vulnerable children, children at risk of violence and victims of violence. Some specific inter-agency consultations may also be required to review the record of collaboration among these agencies and to identify any issue that may negatively affect this collaboration. Finally, agencies from other sectors, such as child protection or education, may need to conduct their own assessment of their policies, procedures and practices and review their capacity to engage, when required, with justice institutions.

Keep in mind that the Checklist or part of it can also be integrated into other assessment exercises. For example, the third part may be useful during an evaluation of a country's juvenile justice system. In other instances, it may provide a reference tool during a "justice for children" review of a country's law enforcement and justice institutions.

Setting priorities

Having a comprehensive strategy does not necessarily imply trying to do everything that is required at once or according to the same level of priority to every planned activity. A prioritization exercise is required as well as a careful examination of the order in which the planned activities are sequenced. For example, in some cases, legislative reforms may be a necessary prerequisite for introducing other changes; in other cases, policy and other systematic changes can be implemented without any legislative action.

The priorities for action identified in your country may not be those of another country. In fact, there may even be different priorities in different regions of the same country. For example, there may be a specific concern, following a conflict situation, for the reintegration of child soldiers or the recruitment of children by radical extremist groups. That concern is possibly greater in one specific part of the country and therefore action in that regard may be a more urgent priority for that specific geographical area. Similarly, the problem of preventing violence against vulnerable child refugees or asylum seekers may be a greater problem in one part of a country that is adjacent to a troubled international border than in other parts of the country. Certain risks of violence against children may be more acute in urban areas than in rural areas, or vice versa.

In brief, it is important to identify the specific vulnerabilities and risks faced by children in different situations and to adopt proactive measures to reduce those risks. The nature and seriousness of the risks involved should be a key factor in determining priorities for action.

Consultation

Setting strategic priorities for action is best done through extensive and inclusive consultations with stakeholders and every agency or institution whose collaboration will be needed. Optimal results are usually achieved when the concerned agencies develop a strong sense of ownership of the process and the results of the priority-setting exercise. Consultations with children, when possible and relevant, must also be part of the process.

Best practices

Once priorities for action have been clearly delineated, it becomes important to systematically identify best practices in the areas of concern and to consider various options for addressing the problem. In most instances, best practices will need to be adapted to local circumstances. In some instances, innovation will be required and it will be wise to experiment with new models or different options before a final decision is made on the best way forward. Pilot projects and demonstration projects are a useful way to approach complex issues and to develop solutions that are adapted to the local institutions, the specific nature of the problem being addressed and other local circumstances. A well-developed and carefully implemented and monitored pilot project is also a powerful way of identifying in advance and anticipating the implementation challenges that a new policy, procedure or legislation is likely to pose.

UNODC, UNICEF and other organizations have developed tools that may help in the identification of best practices and useful instruments. The Checklist identifies some of them.

Plan of action

The implementation of a comprehensive strategy usually involves different decision-making processes at various levels and may involve legislators, policymakers, agency

leaders, financial authorities, funding agencies, etc. A clear articulation of the required decisions and the time frame within which they need to be made may help move the initiative forward.

Once policy decisions are made, a clear plan of action for the implementation of the strategy, with timelines, activities, outputs and expected outcomes should be developed. A well-articulated, yet flexible plan is one which takes into account the new challenges that will inevitably emerge, the unavoidable delays, the unexpected obstacles, or the fluctuations in the available resources.

The plan of action should incorporate:

- Well-defined responsibilities for the relevant institutions, agencies and personnel involved in implementing preventive measures
- Mechanisms for the appropriate coordination of preventive measures among government agencies and between governmental and non-governmental agencies
- Reliance on evidence-based methods for effectively identifying, mitigating and reducing the risk of violence against children
- Close interdisciplinary cooperation, with the involvement of all relevant agencies, civil society groups, local and religious leaders and, where relevant, other stakeholders
- Participation of children and families in policies and programmes for the prevention of criminal activities and children victimization

The *Guidelines for the Prevention of Crime* offer some useful guidance for this process.

Monitoring

At a later stage in the implementation process, the Checklist can easily be turned into a progress monitoring instrument or a structured way in which to report on actions taken to implement the Model Strategies. A comprehensive strategy needs to be periodically reviewed and improved as necessary.

Progress in implementing a comprehensive strategy to prevent and respond to violence against children may occur over a considerable period of time. Rigorous mechanisms to monitor the implementation of the comprehensive strategy are therefore needed. This will involve the systematic and routine collection of information about a

number of factors and the impact of the strategy. Population-based surveys and child-sensitive methodologies aimed at collecting data regarding children, including crime and victimization surveys, are important for measuring progress in eliminating violence against children. The use of specific indicators of violence against children and of children's vulnerability to violence is recommended. All this makes it possible to learn from experiences, to improve practices and activities in the future, to promote internal and external accountability, and to empower stakeholders and beneficiaries of the strategy.

If such a system does not already exist, it is important to implement a multilevel system of reporting, starting from the most basic unit of government to the national level and to allow, in accordance with national legislation, the exchange of relevant information, statistics and data among all relevant institutions to help ensure comprehensive data-gathering for policy and programme development that will promote child protection.

PART 1

PROHIBITION OF VIOLENCE AGAINST CHILDREN AND GENERAL PREVENTION

Strategy I. Ensuring the prohibition by law of all forms of violence against children

Formal prohibition of violence

- Do existing laws effectively prohibit all forms of violence against children?
- Are there provisions in the law that condone violence against children or that may increase the risk of violence against children? If so, what are those laws?
- Is the prohibition of cruel, inhumane or degrading treatment or punishment of children effectively prohibited in all settings, including schools?
- Is corporal punishment of children allowed in the family, other forms of care, schools and the penal system?
- Is amputation, flogging or whipping allowed as a court sentence?

Without a clear legal framework prohibiting all forms of violence against children, authorities are unable to respond effectively and appropriately to incidents of violence against children. The criminalization of a conduct is what triggers the response of the justice system. It is often necessary for policymakers and legislators to proceed with a systematic review of their national laws to ascertain whether they appropriately prohibit, and where necessary, criminalize all forms of violence against children.

Policymakers and legislators must also examine whether any of their laws directly excuse, tolerate or condone any form of violence against children.

Model Strategies: Strategy I, paragraphs 8 and 9.

Prohibition of harmful practices

- Does the law establish a clear and complete prohibition of all harmful practices against children?
- Are the following practices prohibited?
 - Female genital mutilation or cutting
 - Forced marriage
 - Breast ironing
 - Witchcraft rituals
- Is the law sufficient to hold offenders accountable, prosecute and punish them, and protect children? If not, what are the main gaps in existing laws?
- Are there provisions in the law that provide justification or allow for consent to harmful practices against children? If so, what are these provisions?
- If informal or traditional justice systems play a role in responding to violence against children, are the rights of child victims sufficiently protected?
- Are children involved in the informal justice system precluded from accessing the formal justice system? If so, how can that be changed?

Countless number of girls and boys are victims of harmful practices undertaken under different pretexts or grounds, including female genital mutilation or cutting, forced marriage, breast ironing and witchcraft rituals. Establishing by law a clear prohibition of all harmful practices will affirm the supremacy of international human rights law over cultural, traditional and, sometimes, religious practices. At the same time, it is also necessary to remove from existing laws any provision that provides justification or allows for consent to harmful practices against children.

In plural legal systems where informal or traditional justice systems still play an important role in protecting children against violence, it is necessary to ensure that a recourse to such a system does not jeopardize children's rights or preclude child victims from accessing the formal justice system.

Model Strategies: Strategy I, paragraph 10.


Criminalization


- Are the following acts covered under the criminal law?
 - Engaging in sexual activities with a child under the legal age of consent
 - Engaging in sexual activities with a child using coercion, force or threats, abusing a position of trust, authority or influence over the child
 - 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
 - Sale of or trafficking in children
 - Offering, delivering or accepting a child for the purpose of sexual exploitation, transfer of the child’s organs or engagement 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, forced labour, forced or compulsory recruitment of children for use in armed conflict
 - Gender-related violence and killing of girls

The serious nature of many forms of violence against children requires that these acts be defined and treated as crimes. The state’s criminal law should therefore be reviewed and updated to ensure that these conducts are effectively criminalized and penalized. In several instances, the state will already have ratified a Convention or Protocol specifically requiring it to criminalize certain specific conduct (e.g. the Convention on the Rights of the Child (CRC) Optional Protocol on the sale of children).

Model Strategies: Strategy I, paragraph 11.

- ✧ Convention on the Rights of the Child. Optional 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).
Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007).
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182), International Labour Organization.

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Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, 2010.

Strategy II. Implementing comprehensive prevention programmes

Comprehensive plan for the prevention of violence against children

- Is there a general crime prevention strategy (action plan) in your country or city? If so, does it include measures to prevent violence against children? Does it include specific social protection/welfare interventions for children at risk?
- Does your country, region or city have a comprehensive plan for the prevention of violence against children in all of its forms?
- Is there support for the development of a comprehensive strategy or action plan to prevent and respond to violence against children?
- Which ministry or ministries or departments have the responsibility to prevent violence against children? Do these bodies coordinate their activities with other governmental agencies?
- Has a focal point for the development of comprehensive programmes been identified?
- What measures are taken, if any, to ensure the participation of children in the development of comprehensive programmes?
- Are there any studies in your country, region or city on the prevalence of child victimization and the risks of victimization faced by children?
- What are the groups of children that are known to be particularly vulnerable to violence?
- Are resources available for the conduct of a study or review of the current situation in your country, region or city as it relates to violence against children? How could such a study/review be conducted?

Effective prevention of violence against children requires a comprehensive approach that mobilizes people and agencies from different 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.

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.

Model Strategies: Strategy II, paragraph 12.

General prevention measures

- What is the current state of the country's child protection system? Which are the key institutions and organizations involved in child protection and what are their respective roles and mandate?
- Are there prevention initiatives to address violence against children? What are their objectives? Do they focus on specific forms of violence?

Proactive, tailored measures need to be adopted to reduce the risk factors to which individual children or groups of children may be exposed in general or particular contexts. This includes parental risk factors such as substance abuse, mental health problems and social isolation, as well as family risk factors such as poverty, unemployment, discrimination and marginalization.

What are the risk factors associated with violence against children? Are there any measures currently being taken to identify these factors or to mitigate the risk that they represent?

Is the prevention of violence against children recognized as a crime prevention priority? If not, what is the process for establishing crime prevention priorities?

Model Strategies: Strategy II, paragraph 13.

Specific prevention measures

- Have there been surveys or other studies to assess whether there is cultural acceptance or tolerance of certain forms of violence against children? What did these studies indicate?
- What appears to be the basis of the cultural acceptance or tolerance of violence against children?
- Have public awareness and education measures been taken to address the cultural acceptance or tolerance of violence against children? Were they effective? What other measures could be taken to address this tolerance?
- What are the groups of children that are known to be particularly vulnerable to violence? What is known about these groups and the kind of risks of violence they are exposed to?
- Are there agencies or organizations working more specifically with these vulnerable groups? Can they provide more information about the situation of these children?
- Are children who are sexually exploited through prostitution treated as offenders?
- What are the programmes that currently exist to prevent violence against children? Are they targeted? Is there any available information about the effectiveness of these programmes? What other programmes would be necessary?
- Are there measures currently in place to ensure the participation of children in the planning and implementation of violence prevention programmes?
- Are there already programmes in place to prevent bullying, sexual exploitation and other forms of violence against children perpetrated by other children?

Are there programmes in place to prevent the recruitment of children, and in particular girls, by youth gangs and extremist violent groups?

One of the key elements of this strategy consists of adopting measures to address the cultural acceptance or tolerance of violence against children.

In every society there are groups of children that are especially vulnerable to violence and in need of special protection. A higher level of vigilance is required when it comes to protecting children from various marginalized groups.

These vulnerable groups may include: children working or living on the streets, children with disabilities, children suffering from mental illness, children from 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.

The participation of children in the planning process is important. Good practice examples are available, inter alia, in the fields of violence prevention in schools, combating child exploitation through hazardous and extensive labour, providing health services and education to street children, and in the juvenile justice system. Children should be consulted in the formulation of legislation and policy related to these and other problem areas and involved in the drafting, development and implementation of related plans and programmes.

The recruitment, use and victimization of children, in particular girls, by gangs dictate the use of targeted prevention measures.

Model Strategies: Strategy II, paragraph 14.

Prevention of trafficking and exploitation of children by criminal groups

- Are there targeted prevention programmes in place to prevent children from being recruited by criminal groups and violent extremist groups?
- Is your State a party to international conventions and protocols that require the implementation of specific measures to prevent trafficking in children and other commercial sexual exploitation of children?
- Are there specific programmes 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?

Specific prevention measures are required to address the risks associated with trafficking in children, the sale of children, child prostitution, pornography and various forms of child exploitation by criminal groups. Your State 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.

Model Strategies: Strategy II, paragraph 15.

Public education and awareness

- Have public awareness and public education initiatives to prevent violence against children been implemented? Do these programmes promote respect for children's rights? Are these programmes being evaluated? Are the programmes effective?
- Have education programmes on violence prevention been developed for families?
- Do programmes exist to raise awareness of how to prevent and respond to violence against children among persons who have regular contact with children in the justice, child protection, social welfare, health and education sectors and in areas relating to sport, culture and leisure activities?
- Are efforts being made to encourage the private sector, in particular the information and communications technology sector, the tourism and travel industry, the banking and finance sectors, and civil society, to participate in the development and implementation of policies to prevent the exploitation and abuse of children?
- Are the media currently able and prepared to contribute to community efforts to prevent and respond to violence against children and to promote changes in social norms that tolerate such violence?
- Have the media developed ethical guidelines that will allow child-friendly coverage and reportage on cases involving child victims of abuse, exploitation, neglect and discrimination, taking into consideration the right of children to privacy?

Broad public education and awareness campaigns are required. States, in cooperation with educational institutions, non-governmental organizations, relevant professional associations and the media, need to implement and support effective public awareness and public education initiatives that prevent violence against children by promoting respect for their rights and by educating their families and communities about the harmful impact of violence.

Note that according to United Nations Committee on the Rights of the Child (General comment No. 8, para. 11), "corporal" or "physical" punishment is any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light, and should be prohibited.

Model Strategies: Strategy II, paragraph 16.

- What measures are taken to prevent harmful practices that expose children to violence? Are education programmes in place to challenge the acceptance of corporal punishment and harmful practices?
- Are children, their families, communities, local leaders, religious leaders and criminal justice and other relevant professionals involved in discussing the impact and detrimental effects of violence against children and ways to prevent violence and eliminate harmful practices?

Protection of unaccompanied children and migrant and refugee children


- Are current policies and practices concerning unaccompanied children, migrant children and children who are refugees or asylum seekers consistent with the principle of the best interests of the child?
- Are sufficient precautions normally taken to ensure that unaccompanied children, migrant children and children who are refugees or asylum seekers are separated from adults when necessary to protect them?
- Are sufficient precautions taken to ensure that unaccompanied children, migrant children and children who are refugees or asylum seekers are protected from smugglers, traffickers and other adults who exploit them?
- What protection measures are available when a child is repatriated?

It is necessary to address the vulnerability and the specific risks of violence faced by unaccompanied children, migrant children and children who are refugees or asylum seekers.

Model Strategies: Strategy II, paragraph 17.


- ✧ Optional 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).

Protocol 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).

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Guidance Note of the Secretary-General: United Nations Approach to Justice for Children (2008).

Guidelines for Action on Children in the Criminal Justice System (1997).

Strategy III. Promoting research and data collection, analysis and dissemination

Data gathering

- Is there a mechanism in place for the systematic and coordinated collection of data on violence against children?
- What are the agencies responsible for the collection of data on violence against children, including on violence against children in contact with the justice system?
- Are periodic reports released on the situation of violence against children in contact with the justice system? If so, what specific data do the reports contain?
- What data are currently collected about the prevalence of violence against children and the response of the justice system to incidents of violence against children? What are the data gaps?
- What are the organizations in your country/region that have a capacity to conduct systematic research on violence against children? Do they receive sufficient financial support?
- Is there a multilevel system of reporting and data gathering on child protection?
- Have population-based surveys and child-sensitive methodologies aimed at collecting data regarding children been implemented?
- Is there generally a commitment among the concerned agencies to an evidence-approach to preventing and responding to violence against children?
- Is the existing research evidence generally accessible and well disseminated in your country?
- Are national surveys on child victims of violence conducted?
- Have child protection indicators been developed in your country?
- How is the performance of the justice system measured in relation to the protection of children from violence? Have specific indicators been developed to this end?

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.

Data collection and research must be strengthened to overcome the invisibility of violence and the persistent lack of information on the outcome of violence-related cases and to evaluate the impact of relevant initiatives on the children concerned.

The establishment of a centralized, standardized and reliable information system is essential to an accurate understanding of the scope of these phenomena and is key to the establishment and resourcing of appropriate and effective prevention and response strategies. Standardization would make it possible to analyse data on emerging and long-term trends, and would provide relevant entities at the national level the opportunity to share information.

Data collection should include children's views and experiences, as well as information on incidents of violence against children in the juvenile justice system. It should also include information on regular independent inspection of places of detention, access to complaint mechanisms by children in detention, specialized standards and norms concerning recourse by personnel to physical restraint and use of force with respect to children deprived of liberty, and the existence of standards and norms concerning disciplinary measures and procedures with respect to children deprived of their liberty.

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.

Model Strategies: Strategy III, paragraph 18.

- Are data collected on independent inspections of places of detention, access to complaint mechanisms by children in detention and outcomes of investigations?
- Is there a capacity to monitor and publish periodic reports on cases of violence against children reported to the police and other criminal justice agencies, including the number of cases, apprehension or arrest and clearance rates, prosecution and case disposition with regard to the alleged offenders and the prevalence of violence against children?



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PART 2

ENHANCING THE ABILITY AND CAPACITY
OF THE CRIMINAL JUSTICE SYSTEM
TO RESPOND TO VIOLENCE AGAINST
CHILDREN AND PROTECT CHILD VICTIMS

Strategy IV. Establishing effective detection and reporting mechanisms

Detection and reporting mechanisms

- Are criminal justice professionals who routinely come into contact with children in the course of their work aware of risk factors and indicators of various forms of violence? Have these professionals been trained to recognize and respond to risk factors of violence?
- Are criminal justice professionals specially trained on how to identify acts of violence against children?
- Are the police trained in proactive, modern methods of investigating suspected incidents of violence against children?
- Are current operational guidelines and policies directing police to engage in proactive measures in place to detect and investigate potential incidents of violence against children?
- 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?
- Have safe child- and gender-sensitive approaches, procedures, and complaint, reporting and counselling mechanisms been established by law? If so, are these mechanisms easily accessible to all children and their representatives or a third party without fear of reprisal or discrimination?

“Much of the violence perpetrated against children goes unchallenged both because certain forms of abusive behaviour are understood by children as accepted practices, and due to the lack of child-friendly reporting mechanisms.” (Committee on the Rights of the Child).

Many children have no one to whom they can report in confidence and safety about experienced maltreatment, such as corporal punishment, genital mutilation or early or forced marriage.

Children 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.

It is also important to encourage proactive investigations of suspected incidents of violence against children.

Model Strategies: Strategy IV, paragraph 19.

Reporting obligations

- Does the law require 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?
- Does the law provide for consequences for failing to report an incident of violence against children?
- Are there ever any investigations and prosecutions in cases where professionals have failed to report? If so, which agency is responsible for receiving and investigating these reports?
- How frequently are incidents of violence against children reported?

It is effective to create 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.

Model Strategies: Strategy IV, paragraph 19.

Protection for people who report

- Are individuals, and in particular children, who report in good faith alleged incidents of violence against children sufficiently protected against all forms of reprisal? If so, what are the protection measures in place? And how can they be improved?

There is a need to protect individuals, and in particular children, who report in good faith alleged incidents of violence against all forms of intimidation or reprisal.

Model Strategies: Strategy IV, paragraph 19.

Detection on the Internet

- Are Internet service providers, mobile telephone companies, search engines, public Internet facilities and others required by law to facilitate and, where feasible, report any representation of sexual abuse and exploitation?
- Are the Internet service providers required by law to block access to offending websites where such material is available or delete illegal content, and to keep records and preserve such material as evidence on their servers for a prescribed period of time for the purpose of investigation and prosecution?
- What measures have been taken to improve cooperation between these service providers and law enforcement agencies to facilitate the detection and investigation of incidents of violence against children?

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 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 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.

Model Strategies: Strategy IV, paragraph 19.



UNODC (2011). *Handbook on police accountability, oversight and integrity*. New York: United Nations.

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Strategy V. Offering effective protection to child victims of violence

Legislative measures and investigations

- Does the law define clear roles and responsibilities of government departments and define standards for action with regard to the protection of child victims of violence? Is domestic violence covered?
- Does the law define standards for action for other institutions, services and facilities responsible for the detection of violence against children and the care and protection of children, in particular in cases of domestic violence?
- Have the police and other law enforcement agencies been given adequate powers by law to enter premises and conduct arrests in cases of violence against children and to take immediate measures to ensure the safety of the children?
- Are complaints relating to incidents of violence against children investigated promptly, without delay, and efficiently?
- Do police have access to modern investigative methods and the required technology to investigate incidents of violence against children?

Some legal reforms may be required to ensure that the relevant organizations have the mandate, powers, authority and means to take action to protect children against violence.

Model Strategies: Strategy V, paragraph 20.

Removal and placement of children

- Do national standards, procedures and protocols exist in order to respond with sensitivity to child victims of violence, including those 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 their best interests?
- Is temporary protection and care sufficiently provided in such cases in an appropriate place of safety pending a full determination of the best interests of the child?

Several measures can be adopted to ensure that the justice system does as much as it can, 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.

In some circumstances, the urgent and lawful removal of a child from the dangerous context is required. Child-sensitive protocols and procedures are required to guide this process and respond with sensitivity to child victims.

Model Strategies: Strategy V, paragraph 20.

Protection orders and other judicial protections

- Do 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 and other affected parties inside and outside the domicile? If so, are penalties imposed for breaches of such orders, in accordance with national legislation?
- Does the issuance of protective measures depend on the initiation of criminal proceedings?
- Is a registration system in place to keep track of judicial protection and restraining or barring orders?
- Are the police and other criminal justice officials able to readily consult the registry and quickly determine whether such an order is in force?
- How diligently are existing orders enforced?
- How frequent are prosecutions and penalties for breaches of such orders?

It is important to ensure that the police, prosecution service, 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 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.

Model Strategies: Strategy V, paragraph 20.

Mediation, redress and reparation

- Are there mechanisms and procedures of redress and reparation accessible to the affected child and his/her family? If so, does this include redress and reparation from the State? Are those mechanisms and procedures publicized and easily accessible?
- Are children and their families routinely informed of their right to seek redress and about the avenues open to them for seeking redress and reparation?
- Are informal or mediated settlements of cases involving violence against children allowed to take place? If so, are the best interests of the child taken into consideration?
- Is the prosecution of offences of violence against children dependent on the victim (or family) initiating it?
- Are there laws or mechanisms in place to ensure that informal or mediated settlements of cases involving violence against children take place only when it is in the best interests of the child, and do not involve harmful practices?

It is very important to ensure that child victims of violence and their families have access to appropriate mechanisms or procedures in order to obtain redress and reparation, including from the State, and that relevant information about those mechanisms is publicized and easily accessible.

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 respect of the principle of the best interests of the child.

Model Strategies: Strategy V, paragraph 20.

- Do informal mediation mechanisms take into account any power imbalance and the vulnerability of the child or his or her family in consenting to a settlement, with due regard for any future risk to the safety of the child or other children?
- Are individuals involved in facilitating informal settlements or mediation familiar with the application of the principle of the best interests of the child?

Protection and assistance to child victims and witnesses

- Does the law provide sufficient protection for the child's privacy at all stages of the proceedings when a child is required to testify?
- Are special services, physical and mental health care and protection available to child victims of violence to promote their physical and psychological recovery and their social reintegration? If so, are these services offered in a gender- and age-appropriate manner and do they take into account the level of maturity and needs of the child in order to prevent further hardship and trauma?
- Are children who have been subjected to sexual abuse, and especially girls who have become pregnant or children living with HIV/AIDS or other sexually transmitted diseases as a result of the abuse, able to receive age-appropriate medical advice and counselling and are they provided with the requisite physical and mental health care and support?
- Are there support persons available who assist the child victim throughout proceedings starting at the initial report of violence?
- Is coordination fostered between all authorities involved to prevent further hardship for the child?

It is often necessary for child victims of violence to participate in the criminal justice process. In some jurisdictions children can be required or compelled to testify. These children are particularly vulnerable and in need of special protection, assistance and support in order to prevent further hardship and trauma that may result from their participation in the criminal justice process.

Child victims of violence need assistance, and that assistance must be offered in a gender-sensitive and age-appropriate manner that takes into account the needs of the child and the trauma that he or she may have suffered already.

Model Strategies: Strategy V, paragraph 21.

✧ United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34 of 29 November 1985).

📖 UNODC (2009). *Handbook for professionals and policymakers on justice in matters involving child victims and witnesses of crime*. New York: United Nations.

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

UNODC (2006). *United Nations Guidelines on Justice in matters involving Child Victims and Witnesses of Crime*.

📁 Guidelines for the Alternative Care of Children, (A/HRC/11/L.13), 15 June 2009.

Strategy VI. Ensuring effective investigation and prosecution of incidents of violence against children

Responsibility for initiating prosecutions

- Does the law establish that the primary responsibility for initiating investigations and prosecutions lies with the police, the prosecution and other competent authorities?
- Is an official complaint to be filed by the child victim of violence or a parent or legal guardian of the child a requirement for initiating investigation and prosecution of cases of violence against children?
- Can the police engage in proactive investigations whether an official complaint has been lodged or not? How often does this happen?

A number of measures are required to ensure the diligent and effective investigation and prosecution of incidents of violence against children, and to bring the perpetrators to justice.

Model Strategies: Strategy VI, paragraph 22.

Guidelines for investigation and prosecution

- Do explicit policies and guidelines exist to guide all decisions concerning the investigation and prosecution of offences of violence against children and to ensure the fairness, integrity and effectiveness of such decisions? If so, is the application of these guidelines monitored?
- Are existing investigation procedures child-sensitive? Do they ensure that violence against children is correctly identified?
- Are existing investigations conducted in such a way as to provide evidence for administrative, civil and criminal proceedings, while according due assistance to children with special needs? Are they monitored to ensure that they abide by national standards for the collection of evidence?
- Have procedures regarding the investigation and collection of evidence, in particular body tissue samples, been reviewed to ensure that they take into account the needs and views of child victims of violence in accordance with their age and maturity, respect their dignity and integrity, and minimize intrusion into their lives?

Specific policies and guidelines are likely required to guide all 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.

Model Strategies: Strategy VI, paragraph 22.

Collection of evidence

- Are existing investigations conducted in such a way as to provide evidence for administrative, civil and criminal proceedings, while according due assistance to children with special needs?

The manner in which the investigation and the prosecution are conducted is important. The safety of the child is a primary consideration. Training, operational policies, guidance tools and effective supervision are

Are they monitored to ensure that they abide by national standards for the collection of evidence?

- Have procedures regarding the investigation and collection of evidence, in particular body tissue samples, been reviewed to ensure that they take into account the needs and views of child victims of violence in accordance with their age and maturity, respect their dignity and integrity, and minimize intrusion into their lives?
- Does the law provide the persons investigating alleged incidents of violence against children the powers and necessary authorization to obtain all information necessary to the investigation, in accordance with criminal procedure?
- Do the persons investigating alleged incidents of violence against children have at their disposal all the necessary budgetary and technical resources for effective investigation?

all needed to ensure that the investigation, including the collection of evidence, is conducted diligently, effectively and in a child-sensitive manner that respects their dignity and integrity.

Model Strategies: Strategy VI, paragraph 22.


Safety of the child

- What measures have been taken to ensure that decisions on the apprehension or arrest, detention and terms of any form of release of an alleged perpetrator of violence against a child take into account the need for the safety of the child and others related to the child?
- Are guidelines and policies in place to ensure that decisions concerning the accused or the convicted offenders do not create a further risk of violence against the victim?

The safety of the child is of paramount importance. Every effort must be made to ensure that child victims are not further victimized as a result of their collaboration with the investigation and the prosecution. It is necessary to ensure that great care is taken to avoid subjecting a child victim of violence to further harm through the process of the investigation, including by inviting and giving due weight to the child's views in accordance with the age and maturity of the child and adopting child-sensitive and gender-sensitive investigation and prosecution practices. This can be accomplished through policies, guidelines, training and effective professional supervision.

Model Strategies: Strategy VI, paragraph 22.

✧ United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20, annex).

 UNODC (2011). *Handbook on police accountability, oversight and integrity*. New York: United Nations.

UNODC (2010). *Training curriculum on effective police responses to violence against women*. New York: United Nations.

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

Strategy VII. Enhancing cooperation among various sectors

Links and protocols

- Have any issues been identified so far with respect to coordination and cooperation among the criminal justice, child protection, social welfare, health and education sectors in detecting, reporting and responding to violence against children and protecting and assisting child victims?
- Is critical information readily exchanged and shared among these agencies and sectors?
- Have inter-agency protocols been developed to facilitate the exchange of information and enable inter-agency cooperation?
- Are there effective mechanisms to ensure coordination and cooperation among the criminal justice, child protection, social welfare, health and education sectors in detecting, preventing and responding to violence against children?
- Do strong operational links exist between all the concerned agencies (public and private) to facilitate effective responses to incidents of violence against children?
- Have dedicated, multidisciplinary specialized units been created 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?
- Have information management and communication systems and related inter-agency protocols been developed to facilitate the exchange of information and enable inter-agency cooperation?

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 acknowledged. 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.

Specific measures are therefore required to promote greater coordination and cooperation among these various systems and agencies and to establish stronger operational links between the agencies, while protecting the privacy of child victims of violence.

In order to ensure the effective identification, care, assistance and follow-up of child victims, precise and adaptable protocols must be developed and implemented with the participation of all those involved in child protection. Such protocols should clarify the steps that need to be taken and the roles and responsibilities of each actor/agency, thereby allowing for better coordination and information-sharing.

A most effective operational response to incidents of violence against children is usually possible when there is 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 units is to be considered.

Adequate information management and communication systems are necessary to facilitate the inter-agency exchange of information and cooperation, while protecting the confidentiality of the information and the privacy of the child.

Model Strategies: Strategy VII, paragraph 23.



UNODC (2009). *Handbook for professionals and policymakers on justice in matters involving child victims and witnesses of crime*. New York: United Nations.

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

Strategy VIII. Improving criminal proceedings in matters involving child victims of violence

Services and protection of victims during proceedings

- 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 criminal justice proceedings?
- Are current policies and procedures providing for the use of child-sensitive procedures?
- Are there specialized units in place to provide child-sensitive support to child victims of violence during criminal proceedings?

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 proceedings 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.

Model Strategies: Strategy VIII, paragraph 24 (a).

Child participation

- Are children given an opportunity to participate fully in judicial and administrative proceedings that concern them, in accordance with their age and level of maturity?
- Is the law clear that every child is to be treated as a capable witness and that his or her testimony should not be presumed to be invalid or untrustworthy by reason of the child's age alone?
- Are current laws and policies sufficient to ensure that the best interests of the child are the paramount consideration when involving a child in criminal proceedings?
- Can a child be penalized for refusing to testify? If so, are some legislative amendments required?

It is important to ensure that the views of the child are considered, that children are treated as capable witnesses, and that the best interests of the child is the paramount consideration when involving a child in criminal proceedings.

Model Strategies: Strategy VIII, paragraph 24 (b).

Information and legal aid for victims

- What information is made available to victims of violence, their parents or guardian about the rights of the child, legal procedures, or available legal aid?

Child victims of violence, their parents or legal guardians and legal representatives, from the first contact with the justice system and throughout the judicial proceedings, must be promptly and adequately informed of, inter alia, the rights of the child, the relevant procedures, available legal aid and the progress and disposition of the specific case.

Model Strategies: Strategy VIII, paragraph 24 (d).

Child-sensitive procedures

- Are child victims usually allowed to be accompanied by a parent or legal guardian and, where appropriate, a child protection professional during interviews conducted as part of the investigation and during criminal proceedings?
- Is the law clear about the circumstances under which parents or legal guardians may not be allowed to accompany a child victim during interviews or legal proceedings?
- Does the law provide sufficient measures to protect the privacy of child victims of violence as a matter of primary importance and to protect them from undue exposure to the public?
- Are judicial proceedings involving a child victim of violence public?
- Are policies in place to ensure that cases involving child victims or witnesses are processed as expeditiously as possible?
- Are existing rules and procedures applicable to all criminal proceedings child-sensitive?
- Is child-friendly language used when interviewing a child victim?
- Are child-friendly interview- and court-rooms used in proceedings involving child victims of violence?

Detailed guidelines on child-sensitive procedures in cases involving child victims and witnesses of crime exist. They should guide the review of existing laws, procedures and practices.

Model Strategies: Strategy VIII, paragraph 24.

Protection during informal justice system proceedings

- Are there specific measures in place to ensure that informal justice systems denounce and deter violence against children?
- Are there specific measures in place to ensure that informal justice systems hold perpetrators of violence against children accountable for their actions?

There is a need to monitor, and sometimes, improve the way informal justice systems typically deal with cases of violence against children.

Model Strategies: Strategy VIII, paragraph 25.

- Are there specific measures in place to ensure that informal justice systems provide redress, support and compensation for child victims?
- Are there systems in place to monitor decisions made by informal justice systems in cases involving violence against children?

Protection following criminal proceedings

- Are there procedures in place to ensure that child victims of violence, or their parents or legal guardian, are notified, if they so wish, of the offender's release from detention or imprisonment?
- What treatment, reintegration and rehabilitation programmes for those convicted of violence against children are available? Do these programmes prioritize the safety of victims and the prevention of recidivism?
- Are there laws and policies in place that ensure that the risk to a child victim of violence and the best interests of that child are considered at the time of making decisions concerning the release of an offender from detention or imprisonment or the re-entry of the offender into society?


After perpetrators of violence against children have been convicted and sentenced, they still represent a risk for the victims or for other children. Effective measures are required to mitigate that risk.

Model Strategies: Strategy VIII, paragraph 26.

- ✧ Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20, annex).

Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (Economic and Social Council resolution 2002/12, annex).

United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (2012).


-  UNODC (2014). *Early access to legal aid in criminal justice processes: a handbook for policy-makers and practitioners*. New York: United Nations.

UNODC (2013). *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*. New York: United Nations.

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

UNODC (2006). *United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*.

-  UNDP/UNICEF/UN Women. *Informal justice systems – charting a course for human rights-based engagement*.

Strategy IX. Ensuring that sentencing reflects the serious nature of violence against children

Legislative measures

- Are all offences involving violence against children, by law, punishable by appropriate penalties? What penalties are applied to perpetrators of violence against children?
- Does the law consider aggravating circumstances for certain crimes involving violence against children? If so, in what cases?
- Are perpetrators who commit crimes involving violence against children while under the influence of alcohol, drugs or other substances exempt from criminal responsibility? Are there exceptions?
- If the perpetrator of violence against children is an individual under the age of 18 years, will the case be adjudicated by a specialized juvenile justice authority and are different penalties applied?

The legislator must ensure that serious offences involving violence against children 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 handicapped mentally or intellectually, repeated violent acts, abuse of a position of trust or authority and perpetration of violence against a child in a close relationship with the offender.

Model Strategies: Strategy IX, paragraph 27.

Court orders and sentencing practices

- Can perpetrators of violence against children be prohibited or restrained by court order from harassing, intimidating or threatening children?
- How are safety risks taken into consideration when the court decides on bail, conditional release, parole or probation for the perpetrator?
- Are data available on sentencing in cases involving violence against children?
- Are sentencing guidelines provided concerning cases of violence against children?
- Do sentencing practices reflect the serious nature of violence against children and consider aggravating circumstances?
- Can sentencing decisions provide reparation for harm caused as a result of the offence involving violence against children? Do they generally?
- Are there measures in place to ensure that safety risks and the victims' vulnerability are carefully considered whenever decisions are made to impose a non-custodial sentence?

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.

Wherever possible, sentencing decisions must provide reparation for harm caused as a result of the violence.

Safety risks and the victims' vulnerability must also be considered whenever decisions are made to impose a non-custodial sentence.

While doing all the above, it is important to keep in mind that the perpetrators of violence against children are themselves often child victims of violence.

Model Strategies: Strategy IX, paragraph 27.

Safety of children to be considered in all decisions

- Are sufficient measures in place to ensure that safety risks and the victims' vulnerability are carefully considered when a decision is made to release an accused on bail?
- What are the processes and the policies in place to ensure that safety risks and the victims' vulnerability are assessed and considered when a decision is made to release an offender on conditional release or parole?
- Are assessment tools and expertise available to evaluate the risks that an offender may pose to children? If so, are criminal justice professionals trained in the use of these tools?

Safety risks and the victims' vulnerability must also be considered whenever decisions are made to release an accused on bail, or to release an offender on conditional release or parole/license.

Model Strategies: Strategy IX, paragraph 27.



UNODC (2009). *Handbook for professionals and policymakers on justice in matters involving child victims and witnesses of crime*. New York: United Nations.

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

Strategy X. Strengthening capacity and training of criminal justice professionals

Resources

- Are sufficient resources allocated to develop the capacity of professionals within the criminal justice system to actively prevent violence against children and to protect and assist child victims of violence?

Adequate resources must be available for criminal institutions and professionals to prevent and respond to violence against children and to protect child victims of violence.

Model Strategies: Strategy X, paragraph 28.

Training

- Are there special training programmes available for criminal justice professionals on the rights of the child, in particular the Convention on the Rights of the Child and international human rights law?
- Are there training and other programmes in place to build specialized expertise on violence against children within the various components of the justice system?
- Have specialized training modules been developed and integrated in all relevant professional training curricula?
- Have universities, colleges and other training institutions been enlisted in efforts to develop specialized expertise in the area of violence against children, trauma-informed interventions, child-sensitive methods and approaches, etc.?

There are a variety 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.

Specialized training is recommended. In that regard, some specific measures can also be taken by professional associations and academic institutions.


Model Strategies: Strategy X, paragraph 28.

Specialization

- Have specialized multidisciplinary units been established to respond to cases of violence against children? Are there enough of these units to respond to the demand?
- Are there specialized law enforcement officers, prosecutors and judges with expertise in the investigation, prosecution and adjudication of cases of violence against children?

Very importantly, there is a need to develop specialized expertise among criminal justice professionals and, when appropriate, to establish specialized teams and functions within the system.

Model Strategies: Strategy X, paragraph 28.

 UNODC (2010). *Training curriculum on effective police responses to violence against women*. New York: United Nations.

UNODC (2009). *Handbook for professionals and policymakers on justice in matters involving child victims and witnesses of crime*. New York: United Nations.

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

PART 3

PREVENTING AND RESPONDING TO VIOLENCE AGAINST CHILDREN WITHIN THE JUSTICE SYSTEM

Strategy XI. Reducing the number of children in contact with the justice system

Unnecessary penalization and criminalization of children's conduct

- Are there any provisions in law criminalizing behavioural problems of children, such as vagrancy, truancy, runaways and other acts, which often are the result of psychological or socioeconomic problems?
- Are there in law any types of conduct considered to be criminal offences that are penalized only if committed by a child (status offences)?
- Are there programmes in place to prevent “at risk” children from becoming involved in crime and from coming in contact with the criminal justice system?

Children within the justice system, and in particular those deprived of their liberty, are especially vulnerable to violence. That kind of violence can be circumvented by 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, including by raising the minimum age of criminal responsibility, avoiding the unnecessary criminalization and penalization of children, and promoting diversion.

There may be a concern that 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.

Model Strategies: Strategy XI, paragraph 29.

Minimum age of criminal responsibility

- Do the laws establish a minimum age of criminal responsibility and is the minimum age set at a sufficiently high level, bearing in mind children's age and maturity?
- What is the minimum age of criminal responsibility?
- Are safe and effective non-custodial measures available for children who are below the minimum age of criminal responsibility? Does the law provide for non-penal child protection measures for dealing with children below the minimum age of criminal responsibility who might infringe the penal law?
- Are there civil and administrative institutions to ensure universal birth registration?

Setting the minimum age of criminal responsibility at the age of at least 12 years and continuing to increase that age can 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.

Model Strategies: Strategy XI, paragraph 30.


Diversion

- Do laws and polices provide for the possibility for the police, prosecutors and judges to apply alternative measures to formal judicial proceedings aimed at diverting children in conflict with the law away from the justice system?

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, as well as the provision of support for families.

- Are there laws and policies in place to ensure that children with mental health and substance abuse problems are dealt with outside of the justice system whenever possible?
- Are there sufficient mental health and addiction treatment programmes for children available?
- Are restorative justice programmes (i.e. victim-offender mediation, community service, family group conferencing, etc.) applied in the context of diversion schemes for children in conflict with law?
- Are there guidelines and training available for police, prosecutors and judges on the use of diversionary measures?
- Is the use of diversionary measures in cases involving children in conflict with the law systematically monitored?
- Are there publicly available statistics on the use of diversion programmes in the country?
- Are there resources available for the development, monitoring and evaluation of diversion programmes for children in conflict with the law?
- Are there mechanisms to foster close cooperation between the child justice sector, different services in charge of law enforcement and the social welfare and education sectors with a view to promoting the use of diversion and alternative measures?
- Are there community-based programmes available?

Model Strategies: Strategy XI, paragraph 31.

- ✧ United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) (General Assembly resolution 45/110, annex).
Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (Economic and Social Council resolution 2002/12, annex).
United Nations Guidelines for the Prevention of Juvenile Delinquency (General Assembly resolution 45/112, annex).
Convention on the Rights of the Child.
-  UNODC (2013). *Justice in Matters Involving Children in Conflict with the Law. Model Law on Juvenile Justice and Related Commentary*. New York: United Nations.
- UNODC (2012). *Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders*. New York: United Nations.
- UNODC (2007). *Handbook on Restorative Justice Programmes*. New York: United Nations.

Strategy XII. Preventing violence associated with law enforcement and prosecution activities

Abuse of power, corruption and arbitrary detention

- Are there measures currently in place to prevent and respond to misconduct by the police or members of other security forces? If so, what are these measures and are they sufficient?
- Are there independent police oversight mechanisms in place?

Because police and other security forces can sometimes be responsible for acts of violence against children, it is important to ensure that measures are taken to prevent abuse of power, arbitrary detention, corruption and extortion by police officers who target children and their families.

Model Strategies: Strategy XII, paragraph 32.

Prohibition of torture and other cruel, inhumane or degrading treatment or punishment

- Does the law effectively prohibit the use of all forms of violence, torture and other cruel, inhuman or degrading treatment or punishment to obtain information or extract a confession from a child who is a suspect of crime? Are current laws and policies sufficient to ensure that children are never recruited by the police to act as informants or agents for the police, or forced to engage in activities against their will?
- What are the measures in place to prevent violence related to unlawful practices by the police, including arbitrary arrests and detention and extrajudicial punishment of children?

The use of all forms of violence, torture and other cruel, inhuman or degrading treatment or punishment to obtain information, extract confessions, coerce a child into acting as an informant or agent for the police, or engage the child in activities against his or her will must be effectively prohibited.

Model Strategies: Strategy XII, paragraphs 33 and 34.

Arrest and contact with the police

- Are all arrests conducted in conformity with the law? Are arrest practices as they relate to children effectively monitored?
- Are there policies and operational guidelines that limit the apprehension, arrest and detention of children to situations in which these measures are necessary as a last resort?
- Are there policies and procedures to promote and implement, where possible, alternatives to arrest and detention (e.g. summonses and notices to appear) in cases involving children?
- Are policies and procedures in place to ensure that apprehension or arrests of children are conducted in a child-sensitive manner?
- Are there adequate police training programmes to ensure that apprehension or arrests of children are conducted in a child-sensitive manner?

Arrests and investigations are situations in which violence against children can easily occur. In order to limit the risk of violence and mistreatment associated with law enforcement and prosecution activities, it is important to ensure 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.

Model Strategies: Strategy XII, paragraph 34.

- Is a child's right to privacy protected at all times during the arrest and investigation process?
- Does the law contain a provision for parental or other similar assistance to children who are being arrested or investigated? Are there legal requirements that parents or guardians be notified when a child has been arrested?
- Are parents allowed or required to be present during evidential procedures, such as when a confession is noted?
- Are there mechanisms and procedures in place to ensure and monitor police compliance with the obligation to notify parents, legal guardians or caregivers immediately following the apprehension or arrest of a child?
- Do laws, policies and procedures effectively prohibit the use of firearms, electric shock weapons and violent methods to apprehend and arrest children?
- Are existing policies, guidelines and procedures in place to effectively limit and guide the use of force and instruments of restraint by the police when apprehending or arresting children?

Access to legal aid

- Are there procedures in place to ensure that children are informed of their rights and have prompt access to legal aid during police interrogation and while in police detention?
- Are there procedures in place to ensure that children are able to consult their legal representative freely and in full confidentiality?
- Are legal aid service providers representing children specially trained and is their performance regularly appraised to ensure their suitability to work with children?

It is imperative to ensure that children are informed of their rights and have prompt access to legal aid during police interrogation and while in police detention. Children must be able to consult their legal representative freely and confidentially.

Model Strategies: Strategy XII, paragraph 34.

Child-sensitive search procedures

- Are national laws and strict policies in place to implement and monitor strict procedures for searching children while respecting their privacy and dignity?
- Are national laws and strict policies in place to implement and monitor strict procedures for taking intimate and non-intimate samples from child suspects and for assessing the age and gender of a child?

Search procedures can be traumatizing for children. It is important to review, evaluate and, where necessary, update national laws, policies, codes, procedures, programmes and practices in order to implement policies and strict procedures for searching children while respecting their privacy and dignity, for taking intimate and non-intimate samples from child suspects, and for assessing the age and gender of a child.

Model Strategies: Strategy XII, paragraph 34.

Complaint procedures

- Are there accessible, child-appropriate and safe procedures for children to complain about incidents of violence during their arrest or interrogation or while in police custody?
- Are children who complain about such incidents of violence effectively protected against reprisal or intimidation?
- What are the mechanisms in place to keep track of all the complaints that are made by children about incidents of violence?
- What agency is responsible for monitoring the complaint mechanism and the measures taken to protect children who complain of being victims of violence?

It is essential to establish accessible, child-appropriate and safe procedures for children to complain about incidents of violence during their arrest or interrogation or while in police custody. Access to these mechanisms may be particularly problematic when a child is being arrested or detained.

Model Strategies: Strategy XII, paragraph 34.

Effective investigations of violence against children during their contact with the police


- How are alleged incidents of violence against children during their contact with the police investigated?
- Are the investigations of alleged incidents of violence against children conducted independently, promptly and effectively?
- Are there policies and procedures in place to ensure that individuals who have been implicated in violence against children are 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?
- Are precautions taken to minimize the risk of violence and protect children during their transport to a court, hospital or other facility, including the risk of violence while being held in court holding cells together with adults?

Investigating and responding to alleged incidents of violence against children during their contact with the police demands a great degree of diligence and a high level integrity that does not always exist. Existing policies, practices and procedures may need to be reviewed to ensure that such incidents are independently, promptly and effectively investigated.

In addition, 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.

Model Strategies: Strategy XII, paragraph 34.

- ✧ Convention on the Rights of the Child.
Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.
United Nations Standard Minimum Rules for the Administration of Juvenile Justice (General Assembly resolution 40/33, annex).
United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems.
United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113, annex).

 UNODC (2013). *Justice in Matters Involving Children in Conflict with the Law. Model Law on Juvenile Justice and Related Commentary*. New York: United Nations.

UNODC (2013). *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*. New York: United Nations.

UNODC (2011). *Handbook on police accountability, oversight and integrity*. New York: United Nations.

Strategy XIII. Ensuring that deprivation of liberty is used only as a measure of last resort and for the shortest appropriate period of time

Unlawful detention

- Are measures in place to ensure that children are not deprived of their liberty unlawfully or arbitrarily?
- What measures are taken to investigate any allegation of unlawful or arbitrary detention of children?
- What policies, procedures and mechanisms are in place to ensure that children are only detained in conformity with the law?

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. Limiting the use of detention and encouraging the use of alternatives to detention can help reduce the risk of violence against children within the justice system.

Model Strategies: Strategy XIII, paragraph 35.

Prolonged detention

- Does the law ensure that children are only deprived of their liberty as a measure of last resort and for the shortest appropriate period of time?
- Is the law consistently applied in a way that ensures that depriving children of their liberty only occurs as a measure of last resort and for the shortest appropriate period of time?
- Are there publicly available statistics and other data on children in detention, the reasons why they are detained, and the length of time during which they are deprived of their liberty?
- Can children exercise their right to appeal a sentence and obtain the necessary legal aid to do so?

Reflecting a principle enshrined in Article 37(b) of the Convention on the Rights of the Child, legislative and other measures are required to ensure that deprivation of liberty in the case of a child is used only as a measure of last resort and for the shortest appropriate period of time.


Model Strategies: Strategy XIII, paragraph 35.

Early release and aftercare

- Does the law provide for the possibility of early release of children deprived of their liberty?
- Are there publicly available data and statistics on the number of children released from detention before the end of their sentences?
- Are there programmes and services available to assist and support children and facilitate their social reintegration after their release from detention?

The risk of violence may be reduced by ensuring that the period of detention to which a child is submitted is as short as possible. This can be accomplished by providing for the possibility of early release and making aftercare and social reintegration programmes and services available to ensure the successful reintegration of the child into the community.

Model Strategies: Strategy XIII, paragraph 35 (d).

- ✧ Convention on the Rights of the Child.
United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113, annex).
United Nations Standard Minimum Rules for the Administration of Juvenile Justice (General Assembly resolution 40/33, annex).
-  UNODC (2014). *Handbook on Women and Imprisonment*. New York: United Nations.
- UNODC (2013). *Justice in Matters Involving Children in Conflict with the Law. Model Law on Juvenile Justice and Related Commentary*. New York: United Nations.
- UNODC (2013). *Introductory Handbook on the Prevention of Recidivism and the Reintegration of Offenders*. New York: United Nations.
- UNODC (2007). *Handbook of basic principles and promising practices on alternatives to imprisonment*. New York: United Nations.
- UNODC (2007). *Handbook on Restorative Justice Programmes*. New York: United Nations.

Strategy XIV. Prohibition of torture, other cruel, inhumane or degrading treatment or punishment


Prohibition of certain types of sentences

- Does the law prohibit sentences involving any form of corporal punishment for crimes committed by children?
- Are there any circumstances where the law (or sentencing practices) allows for capital punishment or life imprisonment without the possibility of release to be imposed for offences committed by persons when they were less than 18 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.

Model Strategies: Strategy XIV, paragraph 36.

✧ Convention on the Rights of the Child.
United Nations Standard Minimum Rules for the Administration of Juvenile Justice (General Assembly resolution 40/33, annex).

 UNODC (2013). *Justice in Matters Involving Children in Conflict with the Law. Model Law on Juvenile Justice and Related Commentary*. New York: United Nations.

Strategy XV. Preventing and responding to violence against children in places of detention

Police custody and pretrial detention

- How long can children be legally held in police custody or pretrial detention? Are children sometimes detained longer than the period of time authorized by law?
- What measures have been taken to reduce the length of pretrial detention?
- What are the existing alternatives to pretrial detention? To what extent are these alternatives used in the case of children?
- Are certain groups of children more likely than others to be held in pretrial detention?
- What mechanisms exist to monitor and exercise oversight over the use of pretrial detention, particularly in police cells?
- Can detained children challenge their detention?

The majority of children deprived of their liberty are in pretrial detention, with the majority of these children subsequently being found not guilty. Measures to prevent prolonged pretrial detention are required.

Model Strategies: Strategy XV, paragraph 37.

Conditions of detention

- Are child-sensitive policies, procedures and practices in place in all detention facilities where children are found? Is compliance with these policies and procedures effectively monitored and reported?
- Are measures in place to prevent overcrowding in places of detention where children are found? Is there a maximum capacity for child detention facilities?
- Are children separated from adults in detention facilities? Are girls separated from boys in detention facilities? If so, what measures are in place to verify that this is the case?
- Are there policies, procedures and programmes in place to assess and classify children held in detention facilities in order to identify their special needs?
- Are there policies, procedures and programmes in place to provide detained children with appropriate protection, individualized treatment and interventions, including with respect to the specific needs of girls?

When children must be detained, the conditions of detention themselves can be conducive to various forms of violence against children. 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, to separate children from adults, and 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 successfully reintegrate into society.

Model Strategies: Strategy XV, paragraph 38.

- Are places of detention provided with a sufficient array of facilities to accommodate and adequately protect children of different ages or with differing needs?
- Is treatment and support available to detained children with special needs, including to girls who are pregnant, give birth and/or raise children in detention?
- Is treatment available to children with mental illness, disabilities, HIV/AIDS and other communicable and non-communicable diseases and drug addiction?
- Are appropriate care and protection provided to children accompanying a parent or legal guardian deprived of liberty on any ground, including for a violation of immigration law?
- Are the safety and security policies, procedures and practices of places of detention regularly reviewed to ensure the safety of children and to protect them against all forms of violence?
- How are children in detention protected from peer violence? Are policies and procedures in place to prevent all forms of discrimination against or ostracism or stigmatization of detained children?
- Are strict measures in place to facilitate the immediate reporting of alleged incidents of violence, including sexual abuse of children in places of detention?
- What are the mechanisms in place to ensure that alleged incidents of violence against children in places of detention are independently, promptly and effectively investigated by appropriate authorities and, when founded, effectively prosecuted?

Minimizing the risk of violence against children in detention

- Are there sufficient programmes to ensure that children in detention and their parents and/or legal guardians are aware of their rights and can access the mechanisms in place to protect those rights, including access to legal aid?
- Is the use of placement in a dark cell or closed or solitary confinement or any other punishment that may compromise the physical or mental health of a child prohibited? Is this being monitored?

The risk of violence against children in detention must be minimized as much as possible.

Among the many measures which should be considered, it is 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.

- What are the policies that have been implemented to guide the use of force and physical restraints on children during their detention?
- Is the carrying and use of weapons by personnel prohibited in all facilities where children are detained?
- Are measures in place to protect children from self-harm or suicide?
- Is the use of corporal punishment as a disciplinary measure prohibited in all places where children are being detained?
- How is the use of positive and educational forms of discipline promoted in places where children are detained?
- Are there policies and procedures in place that clearly establish the duty of managers and personnel of detention facilities to record, review and monitor every instance in which disciplinary measures or punishment are used?
- Is there a clear prohibition in law and policies of the use of any form of violence or threats of violence against children by staff in places of detention in order to force children to engage in activities against their will?
- Do places of detention ensure the effective supervision and protection of children from violence by other children and adults, including measures to prevent bullying?
- Are there programmes in place to prevent violence associated with youth gang activities and racist harassment and violence within places of detention?
- Are frequent family visits and regular contact and communication between children and their family members, as well as with the outside world allowed and encouraged? Do children in detention have regular contact with the outside world? Can prohibition of contact with the child's family be used as a disciplinary measure?
- Are there programmes and other measures in place to prevent violence against children suffering from mental illness or drug addiction, including through treatment?

Children suffering from mental illness or drug addiction may be especially vulnerable to violence while in detention. Programmes and other measures are required to protect them against violence, including through treatment.

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 allegations of violent incidents, 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.

Model Strategies: Strategy XV, paragraph 39.

Staff recruitment and training

- What are the policies and processes in place to ensure effective staff recruitment, selection and supervision?
- What are the professional and educational requirements for detention staff?
- Are detention staff adequately remunerated? Are there procedures in place to ensure that individuals who have been convicted of a criminal offence against a child are not eligible to work in an agency or organization providing services to children?
- Do staff in places of detention receive adequate training to make them aware of their responsibility to identify early signs of risks of violence and mitigate that risk, to report incidents of violence against children, and to actively protect children?

To protect children in places of detention against violence, it is important to provide appropriate staff recruitment, selection, training and supervision.

Model Strategies: Strategy XV, paragraph 40.

Distinctive needs of girls: gender-based violence in detention

- Are policies in place to prevent harassment, violence and discrimination against girls?
- Are the special needs and vulnerabilities of girls taken into account in decision-making processes?
- Are there policies and procedures in place to ensure that the dignity of girls is respected and protected during personal searches?
- Have alternative screening methods, such as scans, been implemented to replace strip searches and invasive body searches?
- Are there clear policies and regulations on the conduct of staff aimed at protecting girls deprived of their liberty from any physical or verbal violence, abuse or sexual harassment?

Policies, procedures and programmes are required to ensure that the distinctive needs of girls and their vulnerability to gender-based violence are taken into account. Measures are required to eliminate the risk of all forms of harassment, violence and discrimination against girls.

Model Strategies: Strategy XV, paragraph 41.

Independent monitoring and inspections

- Are places of detention and community-based institutions monitored and inspected regularly, without interference, by national independent bodies and national human rights institutions?
- Is international cooperation with regard to best practices promoted?

It is necessary to review existing monitoring and inspection mechanisms and ensure that they function independently and without interference. 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

- Are all deaths and injuries of children in detention reported and investigated? Are the parents or legal guardians informed?
- 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?

unannounced visits, conduct interviews with children and staff in private and investigate allegations of violence.

Model Strategies: Strategy XV, paragraph 42.

- ✧ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (General Assembly resolution 40/33, annex).


United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113, annex).

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

-  UNODC (2014). *Handbook on Women and Imprisonment*. New York: United Nations.

UNODC (2013). *Justice in Matters Involving Children in Conflict with the Law. Model Law on Juvenile Justice and Related Commentary*. New York: United Nations.

UNODC (2013). *Handbook on Strategies to Reduce Overcrowding in Prisons*. New York: United Nations.

-  Council of Europe (2008). Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the European rules for juvenile offenders subject to sanctions or measures, E.13.5, Rules 90 and 91 (Use of Force, Physical Restraint and Weapons) and Commentary.

Strategy XVI. Detecting, assisting and protecting children who are victims of violence as a result of their involvement with the justice system as alleged or sentenced offenders

Complaint mechanisms

- Have complaint mechanisms for child victims of violence within the justice system been established? Are these mechanisms safe, confidential, effective and easily accessible?
- Do children receive clear information, in particular when they first arrive in a place of detention, about their rights and about how they can exercise their right to be heard and listened to?
- Do children and their parents or guardian receive clear information about available services for assistance and support and about remedies that are available to them to address incidents of violence?

It is of crucial importance to provide children who report abuse and incidents of violence within the justice system with immediate protection, support and counselling.

Model Strategies: Strategy XVI, paragraph 43.

Protection of children who report abuse

- What kind of protection measures are in place for children who report abuse?
- Are policies in place to ensure that individuals who are 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? If so, are these policies effectively applied?
- What are the specific policies, procedures and programmes in place to protect children who provide information or act as witnesses in proceedings related to a case involving violence within the justice system?
- Are children victims of violence within the justice system provided access to fair, prompt and equitable redress mechanisms and accessible procedures for seeking and obtaining compensation?

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.

Model Strategies: Strategy XVI, paragraph 43 (c) and (d).

Obligation to report violence against children

- Is there currently a legal obligation for professionals working with children to report any incident of violence against children in the justice system? Do these professionals receive training and sufficient guidance on reporting requirements and the consequences of failing to report incidents?
- Are records kept of all reported incidents of violence against children, their investigations and outcomes? If so, how and where?
- What protection is available for staff who report in good faith alleged incidents of violence against children?

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.

Model Strategies: Strategy XVI, paragraph 44.

Protection of people who report violence against children

- Are rules and procedures in place to protect the identity of professionals and private individuals who bring cases of violence against children to the attention of the competent authorities?

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.

Model Strategies: Strategy XVI, paragraph 44.

Prompt, independent and effective investigation of alleged incidents

- Are policies, guidelines and procedures in place to guide the conduct of investigations of alleged incidents of violence against children within the justice system?
- Are all investigations of alleged incidents of violence against children within the justice system conducted by an independent authority?
- Are prompt, independent and effective investigations conducted in all alleged incidents of violence against children involved with the justice system?
- Are sanctions imposed on individuals who interfere with an investigation of an alleged incident of violence against children within the justice system?

All complaints and reports of incidents of violence against children within the justice system 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.

Model Strategies: Strategy XVI, paragraph 44.

✧ United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113, annex).

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

📖 UNODC (2013). *Justice in Matters Involving Children in Conflict with the Law. Model Law on Juvenile Justice and Related Commentary*. New York: United Nations.

📁 Penal Reform International (2013). The right of children deprived of their liberty to make complaints.

Strategy XVII. Strengthening accountability and oversight mechanisms

Combating impunity and tolerance of violence against children

- What are the awareness-raising and education programmes in place to combat the tolerance of violence against children within the justice system?
- Does the law prescribe a range of penalties for officials whose conduct results in violence against children in the juvenile justice system, including termination of employment, workplace disciplinary measures, or criminal justice investigations where appropriate?
- Are there disciplinary measures in place for those officials who abuse their power and apply violence against children in the juvenile justice system?
- Are records and statistics kept of all such prosecutions?

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.

Model Strategies: Strategy XVII, paragraphs 45 and 46.

Accountability measures

- What measures have been implemented to enhance integrity and prevent corruption within all justice institutions?
- Are there legal and regulatory frameworks that establish accountability mechanisms for law enforcement, the judiciary, the prosecution service, prison management and staff, mediators, arbitrators, lawyers, social workers, paralegals and other professionals in contact with children in conflict with the law?
- What are the internal accountability mechanisms in place, in particular for policing and places of detention, to prevent violence against children?
- What are the external accountability mechanisms in place, in particular for policing and places of detention, to prevent violence against children?
- Is there a national monitoring and oversight mechanism that covers all agencies dealing with children?
- Is there a consistent application of disciplinary measures against officials responsible for violence against children?
- Are public investigations conducted on all reports of violence against children in the justice system?

It is important to strengthen 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 when in contact with the justice system.

Model Strategies: Strategy XVII, paragraph 47.

✧ UNODC (2013). *Justice in Matters Involving Children in Conflict with the Law. Model Law on Juvenile Justice and Related Commentary*. New York: United Nations.

UNODC (2011). *Handbook on police accountability, oversight and integrity*. New York: United Nations.



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