



OFFICE OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL ON

VIOLENCE AGAINST CHILDREN

Safeguarding the rights of girls in the criminal justice system

Preventing violence, stigmatization and deprivation of liberty



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Cover photo: *Three girls stand in the concrete yard of a women's prison.*

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Setting the scene: Kainat's ordeal

In 2007, 13-year-old Kainat was sexually assaulted by four men in her rural village. Members of Kainat's own family ordered her to be killed to rid themselves of the perceived shame the attack had brought upon them, but the teenager's immediate relatives refused to turn their back on Kainat and vowed to support her as she took the step of fighting for justice in defiance of customary laws that have been in place for centuries. The struggle of a gang-rape victim shunned by her village for accusing her alleged attackers is the subject of a documentary premiered at the 2013 Sundance Film Festival.

The years that have passed since Kainat's ordeal have proved no less difficult, with her family forced out of their village due to threats of violence. Her father and one of her brothers were beaten, while another brother was found murdered.¹

Kainat's pursuit of her case through a legal system that places the burden of proof on the victim ended with her alleged attackers being acquitted. Kainat and her family, who now live in a cramped two-bedroom apartment, say they have, "lost everything".

"They told me I am not a real man", Kainat's brother, Sabir, explains to the film-makers, "[that] you failed to follow your tradition, you failed to kill your sister".

The documentary sets out the story of Kainat's fight for justice, but despite her persistence, the film's narrator tells how the judge described Kainat's accusations as, "a product of her own fantasy".

Kainat's lawyer, who has handled several rape cases, recognizes the serious prejudice influencing the work of the courts: "the presumption is that the woman is a liar, that she is not very intelligent and her testimony is not worth its salt," he said. "If she belongs to a poor section of society, then it is double jeopardy".²

Eight years later, Kainat's struggle for justice continues. Kainat's mother, Zakia, asserts, "We will fight until the end, until we get justice".³

¹ Sidrah Roghay, "Seven years later, rape victim Kainat Soomro fights on", *Geo-tv news*, <www.geo.tv/article-162107-Seven-years-later-rape-victim-Kainat-Soomro-fights-on> retrieved 15 May 2015.

² Ebrahim, Zofeen, "Rape Victim Finds Supporters Abroad, But Not In Pakistan's Courtrooms", *Mint Press News*, <www.mintpressnews.com/rape-victim-finds-supporters-abroad-pakistans-courtrooms/198538/> retrieved 15 May 2015.

³ *Ibid.*



A detainee in a women's detention facility.
© UN Photo/Eric Kanalstein

1. Introduction

Gender-based violence is a pervasive and devastating manifestation of discrimination against women and girls. International human rights standards, including the Convention on the Rights of the Child (CRC), the Convention on the Elimination of all Forms of Discrimination against Women, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, provide a solid framework for preventing and responding to violence against girls in both public and private spheres. Unfortunately, non-compliance with international human rights obligations to protect girls from all forms of violence remains a serious challenge.

The criminal justice system should aim to prevent incidents of violence, bring perpetrators to justice, and ensure recovery and social reintegration for victims. Like any other group in society, women and girls are entitled to nothing less. As the story of Kainat illustrates, however, the social, economic and cultural position of girls, together with deeply-rooted discriminatory attitudes toward them in society as a whole, influence the attitudes and responses of the criminal justice system to heinous crimes of violence committed against them. Rather than benefitting from rehabilitation, protection and redress, girls who fall victim to violence often find themselves criminalized, which can lead, in turn, to further violence against them, inhuman punishment and unlawful deprivation of liberty. At the same time, perpetrators of violence against girls are rarely held accountable for their actions or deterred from committing further criminal acts.

In 1995, when the Beijing Declaration and Platform for Action was agreed upon at the Fourth World Conference on Women, the girl child was one of 12 critical areas of concern. At the time, indicators in many countries showed that girls experienced discrimination from the earliest stages of life, through childhood and into adult life.⁴ Twen-

ty years on—marked by the global review of the Beijing Declaration and Platform for Action 20+ at the 59th session of the United Nations (UN) Commission on the Status of Women in March 2015—progress to prevent and address violence against girls is evident in a number of ways, including strengthened legislation, enhanced policies and new national plans of action in countries around the world. At the same time, however—as highlighted by the 2013 Global Survey conducted by the Office of the Secretary-General’s Special Representative on Violence against Children (SRSG)⁵ and other important studies and reviews developed at national, regional and international levels—violence against girls and women remains a global pandemic in which impunity is the established norm. In short, girls continue to experience high levels of violence in all settings, and the criminal justice system is no exception.

1.1 Scope and purpose

Girls⁶ often face significant barriers to accessing justice, whether they are victims of crime, witnesses or alleged offenders. All too often, legislation and criminal, administrative and civil proceedings are inadequate for the safeguarding of their rights, while appropriate policies for their protection are absent or poorly implemented. Many countries lack specialized judges, prosecutors, lawyers and other personnel qualified to work with girls, in addition to sufficient resources to provide the requisite training.⁷ The result is that institutions, including the police and courts, are

⁴ A/CONF.177/20/Rev.1, Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995, ¶259.

⁵ SRSG on Violence against Children, *Toward a World Without Violence. A Global Survey of Violence against Children*, Office of the SRSG on Violence against Children, 2013.

⁶ In keeping with the definition of a child established under article 1 of the Convention on the Rights of the Child, this report uses the term “girl” to refer to all female children and adolescents under the age of 18.

⁷ A/HRC/25/35, Access to justice for children. Report of the United Nations High Commissioner for Human Rights, 16 December 2013, ¶14.

often poorly equipped to deal with the situation of girls and their specific vulnerabilities.

Even when girls do overcome these barriers, it often transpires that, far from affording support and protection, criminal justice systems are the setting for still more violence and stigmatization: at the hands of police, criminal justice officials and, in the case of detention, prison staff and other detainees. In short, as a consequence of their age and gender, girls face a double challenge when they come in contact with criminal justice systems, a challenge rooted in discriminatory attitudes and perceptions that persist in societies around the world.

At the same time, and as this report underlines, the international community has developed a valuable normative framework to guide legislators and criminal justice professionals in matters relating to children and to address the specific situation of girls. This framework has recently been reinforced by important international standards to guide effective implementation efforts, including the UN Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice (Model Strategies on VAC), adopted in 2014.

Despite the sound normative foundation provided by these instruments, one of the most pressing challenges remains bridging the gap between international standards, informed by human rights, and the day-to-day functioning of criminal justice systems around the world. As this report illustrates, this is a feasible goal, achievable through the introduction of robust legislation to prevent and respond to violence; public education and awareness-raising campaigns to change harmful gender stereotypes; the empowerment of girls and boys themselves by raising awareness of their human rights; reinforcing the capacity of the criminal justice system; and the strengthening of mechanisms to facilitate child-sensitive complaint mechanisms and ensure accountability.

This report builds upon a number of important studies and initiatives, including a number of reports produced by the Office of the SRSG on prevention of and responses to violence against children.⁸

⁸ These reports include: Office of the High Commissioner for Human Rights, UN Office on Drugs and Crime and SRSG

The present report seeks to contribute to the dissemination and implementation of the Model Strategies on VAC, adopted by the UN General Assembly in 2014.⁹ It also aims to support the implementation of the Post-2015 Development Agenda, which calls for an end to all forms of violence against children, for equal access to justice for all, and for effective, accountable and inclusive institutions. Moreover, in focusing on the important but often overlooked issue of girls in the criminal justice system, this report represents a resource for the high-level Global Study on Children Deprived of Liberty, called for by the UN General Assembly in December 2014.¹⁰

1.2 An overview of violence against girls

In all regions, girls endure egregious violations of their human rights as a result of their lack of status in society due to both their age and gender.¹¹

Gender norms are generally internalized at a very young age and inform an individual's entire life. Traditional gender roles and expected norms of

on Violence against Children, *Prevention and Responses to Violence against Children within the Juvenile Justice System*, Office of the SRSG on Violence against Children, 2012; SRSG on Violence against Children and the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, *Safe and child-sensitive counselling, complaint and reporting mechanisms to address violence against children*, Office of the SRSG on Violence against Children, 2012; SRSG on Violence against Children, *Protecting children from harmful practices in plural legal systems*, Office of the SRSG on Violence against Children, 2012; SRSG on Violence against Children, *Promoting Restorative Justice for Children*, Office of the SRSG on Violence against Children, 2013.

⁹ A/C.3/69/L.5, United Nations Model strategies and practical measures on the elimination of violence against children in the field of crime prevention and criminal justice.

¹⁰ UN General Assembly Resolution 69/157, December 2014.

¹¹ "Gender" refers to socially constructed identities, attributes and roles for women and men and society's social and cultural meaning for these biological differences. The social positioning of women and men is affected by political, economic, cultural, social, religious, ideological and environmental factors and can be changed by culture, society and community, CEDAW/C/GC/28, General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 16 December 2010, ¶5.

masculine and feminine behaviour in turn influence how girls and boys are affected by violence. Discrimination against girls may start at home at a very young age. In many countries, young boys are taught to play roughly, and encouraged to be independent and stand up for themselves. But while boys run out to play, their sisters are kept indoors to care for siblings and carry out domestic chores. As they grow up, girls continue to be kept at home in order to shield them from unwanted attention from boys, protect them from possible sexual abuse and, importantly, preserve family honour, lest they lose their virginity or fall pregnant. As a result of the gender roles assigned in the home, children themselves often come to regard boys as stronger and more clever than girls.¹²

Deeply rooted gender-based discrimination places girls at high risk of violence, the results of which can be fatal. At a global level, almost 70 million girls between the ages of 15 and 19 report having been victims of some form of physical violence since their fifteenth birthday. Around 120 million girls under the age of 20 have been subjected to forced sexual intercourse or other involuntary sexual acts, and 84 million adolescent girls aged 15 to 19 have been victims of emotional, physical or sexual violence at the hands of their husbands or partners at some point in their lives.¹³ Rates of femicide—the killing of a girl or woman because of her gender—are increasing globally and have now reached alarming numbers. Available data reveal that in some countries, between 40 to 70 per cent of female murder victims are killed by their intimate partner, and in certain countries femicide is one of the most common causes of death of women of reproductive age.¹⁴ Often victims of femicide are young: in Central America, the average age is between 15 and 25 years. Many of the victims are from the most marginalized and impoverished sectors of society.

¹² Plan International, *Because I am a Girl, The State of the World's Girls 2011, So, what about boys?*, Plan, 2011, p. 34.

¹³ UNICEF, *Hidden in Plain Sight: A statistical analysis of violence against children*, UNICEF, 2014, p. 206.

¹⁴ Michelle Bachelet, Executive Director of UN Women, Opening message at the Symposium on Femicide, Vienna, 26 November 2012.

Harmful attitudes toward girls are also reflected in the fact that, every year, three million girls are at risk of female genital mutilation or cutting (FGM/C), despite legislation in many countries prohibiting this practice. Furthermore, as many as 14 million girls are forcibly married, often to much older men. Forced marriage places girls at high risk of sexual abuse and other serious forms of violence.

Around the world, the illegal demand for sex with children continues to grow, underpinned by an environment of social indifference, complicity and impunity.¹⁵ Child trafficking is also on the rise. According to the United Nations Office on Drugs and Crime (UNODC) children constitute close to one third of global victims of trafficking, and two thirds of detected cases are girls.¹⁶

In addition, around 100 million girls and boys live or work on the streets. Many of them have run away from violent homes only to find themselves at daily risk of discrimination, violence and exploitation.¹⁷ Runaways may fall under the control of networks engaged in sexual exploitation, exposing themselves to serious physical and sexual victimization. Girls who live and work on the streets often lack adequate medical care and may be drawn into risky lifestyles, including prostitution and alcohol and drug use,¹⁸ all of which increase the likelihood of their coming into contact with the police and criminal justice system.

Regrettably, while millions of girls around the world are exposed to violence in many forms, the majority of cases go unnoticed, unaddressed or, at times, ignored by the criminal justice system.

¹⁵ A/HRC/25/48, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, 23 December 2013, III, C. 7. §50.

¹⁶ UNODC, *Global Report on Trafficking in Persons 2014*, United Nations, 2014, <www.unodc.org/unodc/data-and-analysis/glotip.html> retrieved 2 July 2015.

¹⁷ SRSG on Violence against Children, *Toward a World Without Violence. A Global Survey of Violence against Children*, Office of the SRSG on Violence against Children, 2013, p.13.

¹⁸ Spatz Widom, Cathy, "Childhood Victimization and the Derailment of Girls and Women to the Criminal Justice System", *Plenary Papers of the 1999 Conference on Criminal Justice Research and Evaluation—Enhancing Policy and Practice Through Research*, Volume 3, National Institute of Justice, 2000, p. 31.

And many of the girls who do find themselves in contact with this system risk being stigmatized, punished and revictimized rather than receiving the assistance and support they require.¹⁹ Once they enter the criminal justice system, there is a real possibility of their being exposed to levels of violence still greater than the abuse they experienced in their homes and communities.²⁰

In short, girls in all regions of the world are at high risk of serious violations of their human rights. This vulnerability makes it imperative that criminal justice systems are responsive to the situation of girls, sensitive to the challenges they face, and respectful of their rights.

1.3 The experience of girls in the criminal justice system

As enshrined in the CRC, children have the right to protection from torture or other cruel, inhuman or degrading treatment or punishment,²¹ and from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.²² However, as noted in the Model Strategies on VAC,²³ children who are alleged as, accused of or recognized as having infringed criminal law, especially those who are deprived of their liberty, are at high risk of being subjected to violence. Furthermore, children who are victims of or witnesses to violence or other criminal acts can also be exposed to serious violence in the criminal justice system.

Information on the specific experience of girls who come into contact with the criminal justice system is still very limited. Historically, boys and men are overrepresented in this system and, consequently, the majority of research has focused on these groups. Nonetheless, existing evidence indicates that seeking redress through the criminal justice system can be a particularly intimidating experience for a girl or young woman. When this is compounded by lack of information and fear of stigmatization or punishment, girls who have fallen victim to violence can face overwhelming barriers to seeking justice. Many girls are unaware of their rights, and even fewer have access to safe, effective and child- and gender-sensitive counselling, reporting and complaints mechanisms to address incidents of violence. This process is made still more challenging and frightening when, as is frequently the case, perpetrators are people girls know and trust, or on whom they depend for their protection or survival.

For girls who are victims or witnesses of violence or abuse, or who are alleged offenders, police officials are usually their first point of contact. The attitudes and behaviour of the police are therefore decisive in shaping a girl's first impression of the criminal justice system, and in determining whether she can expect to receive appropriate support. Yet encounters with the police on the street or in police stations or detention centres can place girls at risk of verbal intimidation, harassment, sexual abuse, rape, beating and other forms of torture.

Across regions, police round-ups and violence perpetrated by law enforcement officials are concerns widely reported by girls and boys. Children are detained for status offences such as homelessness, truancy or begging, or for running away or violation of curfew—acts that are only unlawful when committed by minors.²⁴ In some cases, national legislation allows children to be detained for being “beyond control”, for instance for engaging in sexual behaviour, substance abuse or being repeatedly

¹⁹ SRSG on Violence against Children, “Protecting girls from violence in the criminal justice system”, 15 July 2014, <www.srsg.violenceagainstchildren.org/viewpoint/2014-07-15_1104#sthash.GV32IFIS.dpuf> retrieved 15 May 2015.

²⁰ See for example, A/68/340 “Pathways to, conditions and consequences of incarceration for women”, Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, pp. 12–14.

²¹ Convention on the Rights of the Child, article 37(a).

²² Convention on the Rights of the Child, article 19(1).

²³ UN Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, adopted by General Assembly resolution 69/194.

²⁴ Saada Saar, Malika, Rebecca Epstein, Lindsay Rosenthal and Yasmin Vafa, *The Sexual Abuse to Prison Pipeline: The Girls' Story*, Georgetown Law Center on Poverty and Inequality, n.d. (2015), p. 22.

disobedient to parents. It is reported that girls are more often targeted under these provisions due to the perceived need to secure their protection and monitor their behaviour, and because they represent a higher proportion of runaways.²⁵

Likewise, girls who are victims of trafficking and prostitution are at high risk of being deprived of liberty and subjected to ill-treatment, sexual abuse and rape by police officers rather than being supported through recovery and reintegration.

Especially in the run-up to high profile regional or international events, law enforcement agencies may be instructed to intensify street-sweeping operations to remove from public spaces people considered “undesirable”—such as children on the street, drug users, beggars, sex workers, and persons with actual or perceived disabilities. During these campaigns, girls risk being apprehended and placed in the same detention facilities as boys, adult women and men. They may also fall under the supervision of male staff, further jeopardising their safety and well-being.²⁶

Abuse of girls can also occur at the hands of other professionals. In one serious case, a judge was charged with sexual assault causing bodily harm, purchasing sex from girls under the age of 18 and breach of trust. The judge was accused of using his position to prey on girls between the ages of 12 and 16 who had appeared before him in court. By accessing their personal backgrounds and psychiatric histories, and promising light sentences if the girls “didn’t tell anyone”, he was able to coerce girls into performing sexual acts for him, acts which often turned violent.²⁷

Due to a lack of global data disaggregated by both age and gender, the number of girls deprived

of liberty and, more broadly, the number of girls who experience violence and re-victimization in the criminal justice system, remains unknown. A recent study by Penal Reform International shows that in some countries, girls represent 5 to 10 per cent of all children in detention. While this is a relatively small proportion of the overall population of detainees, available research suggests that since the 1980s, arrest rates of girls have significantly increased. Data from the United States indicate that between 1991 and 2003, girls’ detentions rose by 98 per cent, compared to a 29 per cent increase in boys’ detentions.²⁸ While arrest rates for both girls and boys in the United States have slowed in recent years, the slowdown has been more sluggish for girls. In 2010, boys’ arrests had decreased by 26.5 per cent since 2001, while girls’ arrests had decreased by only 15.5 per cent.²⁹

In some countries, girls are more often arrested for running away from home, immoral conduct or association with prostitution than boys, although boys are more represented in arrests for other types of offences. Furthermore, in countries where criminal codes are based on religious or customary law, the legal age of maturity for girls and boys may differ, and girls may be held criminally responsible for their actions at a much younger age.³⁰

When deprived of liberty, girls continue to be at high risk of violence and abuse. In many countries, the criminal justice system—originally designed to address male offending—fails to respond to gender-based discrimination and the specific situation and experience of girls. Indeed, due to the relatively low numbers of girls in detention, many countries do not make special arrangements or provide segregated facilities for them. As a result, girls who are alleged or recognized offenders are often held in detention together with adult wom-

²⁵ Raoul Wallenberg Institute, *A Measure of Last Resort? The Current Status of Juvenile Justice in ASEAN Member States*, Raoul Wallenberg Institute, n.d., p. 89.

²⁶ Human Rights Watch, *“They Treat Us Like Animals” Mistreatment of Drug Users and “Undesirables” in Cambodia’s Drug Detention Centers*, Human Rights Watch, 2013, p. 21.

²⁷ Aleem, Rebecca, *The Human Rights of Girls in the Criminal Justice System of British Columbia: Realities and Remedies*, Justice for Girls International, 2009, p. 12.

²⁸ Watson, Liz and Peter Edelman, *Improving the Juvenile Justice System for Girls: Lessons from the States*, Georgetown Center on Poverty Inequality and Public Policy, 2012, p. 1.

²⁹ *Ibid.*

³⁰ In some cases at the first signs of puberty, which may be nine years of age or even younger.

en. Alternatively, to ensure their segregation from men and boys, girls risk being held in isolation or detained far away from home.³¹

As noted by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, custodial violence against women, including girls, “very often includes rape and other forms of sexual violence such as threats of rape, virginity testing, being stripped naked, invasive body searches, insults and humiliations of a sexual nature”. The Special Rapporteur underlines that rape constitutes torture when it is carried out by or at the instigation of, or with the consent or acquiescence of public officials.³²

Girls in detention are not only vulnerable to sexual violence. Under certain prison regimes, physical abuse and punishment is a daily occurrence, and in countries where inhuman forms of punishment are still condoned, girls may be sentenced to flogging or death by stoning or lashing on the grounds of perceived immoral behaviour.

Due to a lack of child-sensitive counselling, complaint and reporting mechanisms accessible to girls, incidents of violence carried out by the police, criminal justice officials or staff in places of detention are rarely investigated or prosecuted, and impunity is commonplace,³³ with the result that only a small fraction of cases leads to a conviction.³⁴

Restorative justice approaches, which would largely avoid girls’ deprivation of liberty and,

hence, afford them crucial protection, are still rare, and in many countries there is a lack of community-based programmes that promote rehabilitative treatment for girls, ensure health and education services and encourage their long-term reintegration.³⁵

1.4 Factors contributing to the vulnerability of girls in the criminal justice system

Girls most vulnerable to violence and abuse in the criminal justice system often share certain characteristics or experiences. These include:

An unstable family environment. Girls involved in the criminal justice system frequently come from families affected by multiple and serious stress factors and trauma, including poverty and an intergenerational pattern of drug abuse and offending. In addition, they may have experienced one or more miscarriages, and may also have had to deal with the death of a close caregiver. Abandonment and problematic mother-daughter relationships can also influence the likelihood of a girl becoming involved in the criminal justice system. Similarly, the absence of a father figure may impact a girl’s notion of self-worth and increase her vulnerability to violence.³⁶ In short, in the absence of responsible, respectful and caring adults and peers, and with little experience of durable relationships based on mutual support and affection, neither girls, nor the women they become, have the resilience and knowledge to make use of whatever support systems might be available to them.³⁷

³¹ A/HRC/21/25, Joint report of the Office of the High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children on prevention of and responses to violence against children within the juvenile justice system, 27 June 2012, ¶45.

³² A/HRC/7/3, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment 2008, ¶34. Please see also A/HRC/28/68 ¶48, 2015.

³³ UN Office of the High Commissioner for Human Rights, *Protection and promotion of the rights of children working and/or living on the street*, UNOHCR, n.d. p. 13.

³⁴ UNODC, *Handbook on Effective Prosecution Responses to Violence against Women and Girls*, United Nations, 2014, p. 27.

³⁵ The benefits of restorative justice approaches are discussed more fully in SRSV Violence against Children, *Promoting Restorative Justice for Children*, Office of the SRSV on Violence against Children, 2013, <srsv-violenceagainstchildren.org/sites/default/files/publications_final/srsvac_restorative_justice_for_children_report.pdf> retrieved 20 May 2015.

³⁶ Artz, Lillian, Yonina Hoffman-Wanderer and Kelley Mout, *Hard Time(s): Women’s Pathways to Crime and Incarceration*, GHJRU, University of Cape Town, 2012, pp 82–92.

³⁷ Tsenin, Kay, “One Judicial Perspective on the Sex Trade”, *Research on Women and Girls in the Justice System: Plenary Papers of the 1999 Conference on Criminal Justice Research and Evaluation—Enhancing Policy and Practice Through Research*, Vol. 3, National Institute of Justice, 2000, p. 18.

The insidious impact of violence and abuse. Many girls involved in the criminal justice system have experienced violence at the hands of family members or partners or have witnessed violence against other family members, including their mothers. Among the small number of countries that have conducted research into the backgrounds of girls in the criminal justice system, a study from the province of British Columbia in Canada found that 96 per cent of girls in custody reported having experienced physical and/or sexual abuse at some point in their lives, with 63 per cent of these girls specifically reporting sexual abuse.³⁸ Recent figures from the United States indicate that 31 per cent of girls in the juvenile justice system had been sexually abused—more than four times higher than the rate of sexual abuse of boys in the system.³⁹ According to local and regional studies, these figures may, in fact, be significantly higher.⁴⁰

Deficits in IQ or cognitive functioning resulting from early childhood abuse or neglect may lead to impaired academic performance among girls in elementary or secondary school. Decreased cognitive functioning may also result in reduced self-esteem or a perceived lack of control over one's life, either directly, when a girl feels somehow responsible for the abuse or neglect she experienced or blames herself for failing to prevent this victimization, or indirectly, through diminished social and interpersonal skills.⁴¹

The damaging effects of poverty. Many girls face extreme poverty and economic hardship that, in

turn, lead to feelings of shame that diminish their self-esteem. The majority of girls in the criminal justice system are, in fact, non-violent offenders charged with property, drug or status offences, such as begging or sleeping on the street. A sample study from correctional centres in South Africa has shown that 25 per cent of women in incarceration grew up in homes where there was a lack of food.⁴² The struggle to survive, find food and pay rent is even more desperate when girls are also young mothers, exposed to the stress of providing and caring for their children.⁴³ Indeed, a significant number of female offenders are mothers who live in poverty.

Failure of the school system. All too often, schools fail to provide girls with opportunities to learn about their rights or take into account low self-esteem and other challenges they face as a result of prejudice, discrimination, violence or a difficult home environment. In some countries, girls are suspended or expelled from school if they get married or fall pregnant, and may subsequently be denied their right to return to school and complete their education. In turn, this leaves them ill-prepared for facing the challenges of parenthood or supporting themselves and their children.

Physical and psychological health issues. Large numbers of girls in the criminal justice system experience depression and serious health problems, which often lead to self-harm and compromise their ability to succeed in programmes set up for their reintegration.⁴⁴ Stigmatised and lacking self-confidence, these girls are prone to engage in disempowering and self-defeating behaviour, and all too easily find themselves in a downward spiral of poverty, vulnerability, exploitation, addiction and crime.

³⁸ Aleem, Rebecca, *The Human Rights of Girls in the Criminal Justice System of British Columbia: Realities and Remedies*, Justice for Girls International, 2009, p. 7.

³⁹ Saada Saar, Malika, Rebecca Epstein, Lindsay Rosenthal and Yasmin Vafa, *The Sexual Abuse to Prison Pipeline: The Girls' Story*, Georgetown Law Center on Poverty and Inequality, n.d. (2015), p. 8.

⁴⁰ *Ibid.*, p. 10.

⁴¹ Spatz Widom, Cathy, "Childhood Victimization and the Derailment of Girls and Women to the Criminal Justice System", *Plenary Papers of the 1999 Conference on Criminal Justice Research and Evaluation—Enhancing Policy and Practice Through Research*, Volume 3, National Institute of Justice, 2000, p. 30–31.

⁴² Artz, Lillian, Yonina Hoffman-Wanderer and Kelley Mout, *Hard Time(s): Women's Pathways to Crime and Incarceration*, GHJRU, University of Cape Town, 2012, p. vii.

⁴³ *Ibid.*, p. 111.

⁴⁴ Cauffman, Elizabeth, "Understanding the Female Offender", p. 119, and Grisso, Thomas "Adolescent Offenders with Mental Disorders", p. 144, *The Future of Children, Juvenile Justice*, Vol. 18, No. 2, Fall 2008.

Studies indicate that girls who are involved in the justice system have higher rates of depression and mental health disorders than boys.⁴⁵ In the United States, one study found that approximately 80 per cent of girls in the juvenile justice system met the criteria for at least one mental health disorder, compared to 67 per cent of boys. Another found that major depression is four to five times more common in girls housed in detention and correctional facilities than in the general community, compared to twice as common in detained boys than the general community.⁴⁶

The criminalization of vulnerability. Criminal justice systems often come to be used as a substitute for weak or non-existent child protection systems, leading to the criminalization and incarceration of vulnerable girls who are, in fact, in need of care and protection. This is confirmed by a report from the Georgetown Center on Poverty, Inequality and Public Policy, which underlines that the typical girl in the juvenile justice system in the United States is, “a non-violent offender, who is very often low-risk, but high-need”.⁴⁷ Likewise, important child protection concerns associated with girls’ offending—including vulnerability, unstable home environments and risky behaviour—may be misperceived by justice professionals as factors contributing to a high risk of reoffending rather than issues requiring specialised support. In some cases, girls may even be handed down sentences that are more severe than those given to adults who commit similar offences, with the justification that this is for their own “protection”.

Discrimination. Findings from the United States illustrate a global pattern: certain groups of girls are more likely to be detained than others. For example, African-American girls constitute 14 per cent

of the general population of the United States, but 33.2 per cent of girls detained and committed, and Native American girls represent 1 per cent of the general youth population, but 3.5 per cent of detained and committed girls.⁴⁸ Similarly, in situations where girls contradict or challenge widely shared gender stereotypes, they may be subjected to harsh decisions on the part of the criminal justice system and criminalized in court rather than diverted to other services.⁴⁹ Youth who identify as lesbian, gay, bisexual, transgender, or gender non-conforming (LGBT/GNC) are overrepresented in the juvenile justice system.⁵⁰ Available figures suggest that within this group, LGBT/GNC girls are involved in the system at a significantly higher rate than LGBT/GNC boys.⁵¹

Differential treatment and discrimination can also be based on geographic residence. In remote areas, there may be a lack of non-custodial programmes and services for girls’ rehabilitation, such as treatment for alcohol and drug abuse. This can affect certain groups, such as indigenous girls, in particular, and lead to a disproportionately high rate of incarceration. Furthermore, even in areas where community programmes and services exist, they may be culturally and linguistically inappropriate for indigenous girls and minority groups.⁵²

⁴⁵ Cauffman, Elizabeth, “Understanding the Female Offender”, p. 134, and Grisso, Thomas “Adolescent Offenders with Mental Disorders”, p. 150, *The Future of Children, Juvenile Justice*, Vol. 18, No. 2, Fall 2008.

⁴⁶ Cited in Saada Saar, Malika, Rebecca Epstein, Lindsay Rosenthal and Yasmin Vafa, *The Sexual Abuse to Prison Pipeline: The Girls’ Story*, Georgetown Law Center on Poverty and Inequality, n.d. (2015), p. 12.

⁴⁷ Watson, Liz and Peter Edelman, *Improving the Juvenile Justice System for Girls: Lessons from the States*, Georgetown Center on Poverty Inequality and Public Policy, 2012, p. ii.

⁴⁸ Saada Saar, Malika, Rebecca Epstein, Lindsay Rosenthal and Yasmin Vafa, *The Sexual Abuse to Prison Pipeline: The Girls’ Story*, Georgetown Law Center on Poverty and Inequality, n.d. (2015), p. 7.

⁴⁹ All Party Parliamentary Group on Women in the Penal System, *Inquiry on girls: From courts to custody*, Howard League for Penal Reform, 2012, <d19ylpo4aovc7m.cloudfront.net/fileadmin/howard_league/user/pdf/Publications/From_Courts_to_Custody_APPG_Girls_Inquiry_briefing_paper_2.pdf> retrieved 20 May 2015, p. 1.

⁵⁰ Although LGBT/GNC youth comprise only 5 to 7 per cent of the general population in the USA, they represent 13 to 15 per cent of youth who come into contact with the juvenile justice system, *ibid*.

⁵¹ *Ibid*.

⁵² NATSILS (National Aboriginal and Torres Strait Islander Legal Services), *Submission to the Expert Mechanism on the Rights of Indigenous Peoples: Access to Justice for Aboriginal and Torres Strait Islander peoples in Australia*, February, 2013, <www.natsils.org.au/portals/natsils/NATSILS%20Access%20to%20Justice%20submission%20to%20EMRIP%20Feb%202013.pdf> retrieved 4 August 2015, pp. 14–19.

2. Gender-role stereotypes as a barrier to girls' access to justice

The criminal justice system is expected to ensure protection from discrimination and violence, and should be free from gender bias at all times. Article 4(c) of the Declaration on the Elimination of Violence against Women stresses that States should, “exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons”.⁵³

There are, however, considerable challenges to implementing the standard of due diligence. In many situations, addressing incidents of sexual violence continues to be regarded as a social taboo, surrounded by stigma and shame. As a result, such incidents are often concealed and, hence, go unreported. Likewise, fear and lack of trust in the criminal justice system inhibit girls and their families from speaking out and reporting sexual violence, thereby reinforcing this culture of silence.⁵⁴ This in turn contributes to a strong sense of impunity. Similarly, complaints concerning incest are sometimes met with scepticism or disbelief by officials, resulting in lack of follow-up by the police and inaction on the part of judges, especially in situations where there is no explicit legal prohibition of incestuous acts. As one girl who was repeatedly raped by her father reported, “[m]any policemen called me a liar, a fraud and said you are doing something wrong. [...] While I was describing the occurrence I was too afraid to tell all the details and frightened that they would harm me, kill me or punish me [...]”.⁵⁵

In patriarchal societies characterised by deeply entrenched gender-based discrimination, men's honour and that of their families is dependent on the behaviour of the girls and women in their household. In some cases, a family may even be prepared to use violence and coercion against its own members in order to preserve its status.⁵⁶ In such situations, there may be unwillingness, and even fear, among criminal justice professionals to respond to violence against girls: another reason why few perpetrators are ever brought to justice. The murder of girls comes to be justified in the name of tradition or culture, or viewed as “accidental”. In a case received by the Asian Human Rights Commission in 2014, a 17-year-old girl, on the order of an illegal court run by tribal chiefs and presided over by her own uncle, was buried alive for marrying by her own choice. The Commission noted that the local police did not register the girl's death as murder and took no action to investigate the events surrounding it.⁵⁷

Box 1 discusses how human rights standards offer important guidance in contexts where cultural norms or religious beliefs appear to justify violence against girls.

⁵³ Declaration on the Elimination of Violence against Women Adopted in 1993 by the General Assembly under resolution 48/104.

⁵⁴ Rothsten, Katja, “Unprotected Victims? Study on justice for victims of child sexual abuse in Nepal”, Children and Women in Social Service and Human Rights, 2010.

⁵⁵ Equality Now, “The impact of discrimination in law and legal processes on women and girls—some case examples”, submission to the Working Group on the issue of discrimination against women in law and practice,

October 2012, <www.equalitynow.org/sites/default/files/Discrimination_in_Law_and_Legal_Processes_Impact_on_Women_and_Girls_EN.pdf> retrieved 20 May 2015, p. 4.

⁵⁶ Katja Rothsten, “Unprotected Victims? Study on justice for victims of child sexual abuse in Nepal, Children and women in social service and human rights”, 2010, p. 14.

⁵⁷ Asian Human Rights Commission, “PAKISTAN: A girl was buried alive for marrying by her own choice”, <www.humanrights.asia/news/urgent-appeals/AHRC-UAC-040-2014> retrieved 18 May 2015.

Box 1. Violence against girls, cultural norms and human rights

Human rights mechanisms have devoted special attention to incidents of violence and harmful practices against girls. The UN Special Rapporteur on freedom of religion or belief has noted with concern that harmful practices such as FGM/C, forced marriage, honour killings, enforced ritual prostitution or the denial of a girl's right to education are defended in the name of religious traditions. If those who perform such practices attempt to invoke the freedom to manifest one's religion or belief to justify their actions, there is a case for restricting religious freedom: as a human right, freedom of religion or belief can never serve as a justification for violations of the human rights of women and girls.⁵⁸

Similarly, the UN Special Rapporteur in the field of cultural rights has noted that women's and girls' conformity to the status quo can become equated with the "preservation of culture". As a consequence, any challenge to existing norms and practices is viewed as "cultural betrayal". This means that apparently simple acts, such as freely choosing how to dress, where to go or whom to marry, can have serious implications for girls. In turn, this implies that the disruption of prescribed gender rules, roles and concepts in any given community demands a reconfiguration of that community's collective identity as a whole.⁵⁹

Studies suggest that the role of girls' own families has been particularly important in addressing girls' behaviour, with girls being subject to stronger scrutiny and social regulation than boys. At the same time, girls are considered more prone to psychiatric disturbance than boys, which may well influence the way in which the behaviour of women and girls is defined.⁶⁰ Officials in the criminal justice system are far from immune to gender-based misperceptions and the influence

of societal attitudes.⁶¹ This is compounded by the fact that they often lack awareness of and training on gender equality, the rights of children and effective means of securing their protection.

In contexts where discrimination and stigma associated with sexual violence are prevalent, and the risk of being treated with disrespect, subjected to violence or even blamed for their own misfortune is high, very few girls and women turn to police stations or courts to seek justice. A common example of this entrenched prejudice is that of the police officer who dismisses a sexual crime because the girl victim was wearing "provocative" clothing and was, thereby, seen to be defying a stereotypical norm of modesty.⁶² Furthermore, the existence of prejudicial or false beliefs that portray force and coercion as legitimate means of obtaining compliance from women in intimate and sexual situations often leads to rape myth acceptance and to the attribution of blame to girls and women for their own victimization.⁶³ As a result, girls feel that their credibility is undermined and they come to fear not only stigmatization and reprisals by family or community members, but also re-victimization at any stage of the criminal justice process.

In some cases, victims of rape are forced to marry their abusers, a decision at times justified as being in a girl's "best interests".⁶⁴ There is, however, also positive progress in this area. For instance, legislation in Costa Rica, Ethiopia, Guatemala, Peru and Uruguay now ensures that a rapist can no longer avoid punishment by marrying his victim.⁶⁵

⁵⁸ A/68/290, Interim report of the Special Rapporteur on freedom of religion or belief, 7 August 2013, §30.

⁵⁹ A/67/287, Report of the Special Rapporteur in the field of cultural rights, 10 August 2012, §22.

⁶⁰ Gelsthorpe, Loraine and Gilly Sharpe, "Gender, Youth Crime and Justice" in Barry Goldson and John Muncie, *Youth Crime and Justice*, Sage Publications, 2006, p. 50.

⁶¹ UN Economic and Social Council (ECOSOC) Resolution 2010/15, Annex, Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, §3.

⁶² Cusack, Simone, "The CEDAW as a legal framework for transnational discourses on gender stereotyping", in Anne Hellum and Henriette Sinding Aasen (eds), *Women's Human Rights: CEDAW in International, Regional and National Law*, Cambridge University Press, 2013, p. 129.

⁶³ Kalof, Linda, "Rape-supportive attitudes and sexual victimization experiences of sorority and nonsorority women", *Sex Roles: A Journal of Research*, Vol. 29. Issue 11–12, 1993.

⁶⁴ Research by Equality Now shows that several States still condone rape and forced marriage in their legislation. See <www.equalitynow.org/beijing20/about> retrieved 6 July 2015.

⁶⁵ "Progress", <www.equalitynow.org/beijing20/progress> retrieved 17 February 2015.



A girl stands in a camp for displaced people, in Somalia. She was attacked and beaten following a food distribution.
© UNICEF Photo/NYHQ2012-0710/Holt

Withdrawal of testimonies by victims and witnesses due to lack of protection represents another common challenge in the criminal justice system. Girls are particularly afraid of appearing in court, face to face with their attacker or rapist. In a study conducted in Nepal, in over half of cases of child sexual abuse, victims and witnesses either did not present themselves in court, or changed their story in court in favour of the alleged offender.⁶⁶

Corruption is also a significant barrier to access to justice, enabling perpetrators of violence, including sexual abuse and femicide, to enjoy impunity.⁶⁷ At the same time, corruption also means that vulnerable girls and women who are arrested and detained by police are sometimes forced to pay officers in order to gain their release.⁶⁸

⁶⁶ Rothsten, Katja, "Unprotected Victims? Study on justice for victims of child sexual abuse in Nepal", *Children and Women in Social Service and Human Rights*, 2010, pp. 18–20.

⁶⁷ See, for example, Asian Legal Resource Centre, "INDONESIA: Government and law enforcement officials are expected to take serious measures to combat paedophilia in Bali", 2013, <www.alrc.net/doc/mainfile.php/hrc22/742/> retrieved 18 May 2015.

⁶⁸ See for example: Human Rights Watch, "Treat Us Like Human Beings" *Discrimination against Sex Workers, Sexual and Gen-*

der Minorities, and People Who Use Drugs in Tanzania, Human Rights Watch, 2013; Human Rights Watch, "They Treat Us Like Animals" *Mistreatment of Drug Users and "Undesirables" in Cambodia's Drug Detention Centers*, Human Rights Watch, 2013; Joseph, Janice, "Femicide in Central America", presentation at a side event at the UN Commission on Crime Prevention and Criminal Justice, April 23 2012.

In some countries, sexual crimes against young girls continue to be prosecuted as acts of debauchery or molestation.⁶⁹ A communication to the UN Committee on the Elimination of Discrimination against Women in 2011 concerning a 7-year-old girl who was victim of an incident of serious sexual violence at the hands of a 46-year-old neighbour is particularly illustrative.⁷⁰ The severe trauma suffered by the girl as a result of the incident left her in a state of constant fear, stress and depression. She began to experience con-

der Minorities, and People Who Use Drugs in Tanzania, Human Rights Watch, 2013; Human Rights Watch, "They Treat Us Like Animals" *Mistreatment of Drug Users and "Undesirables" in Cambodia's Drug Detention Centers*, Human Rights Watch, 2013; Joseph, Janice, "Femicide in Central America", presentation at a side event at the UN Commission on Crime Prevention and Criminal Justice, April 23 2012.

⁶⁹ CEDAW/C/53/D31/2011, Annex, Views of the Committee on the Elimination of Discrimination against Women under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 24 November 2012, §9.6.

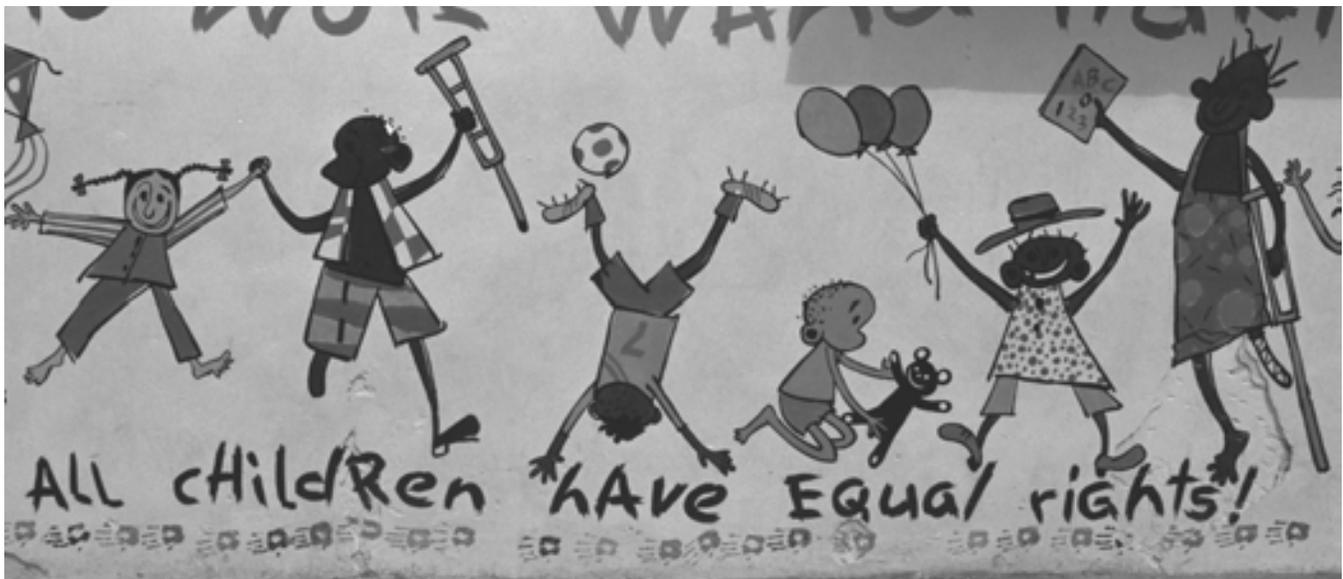
⁷⁰ CEDAW/C/53/D31/2011, Annex, Views of the Committee on the Elimination of Discrimination against Women under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 24 November 2012.

centration deficits and was diagnosed as having a mental disability, together with an affective disorder. In addition to the long-term impact of this incident on the girl's health (including reproductive health), her education was seriously compromised. The Committee observed that the case had been prosecuted as an act of molestation rather than a serious criminal act, with the result that a plea-bargain agreement was reached, and the perpetrator received only a suspended sentence of three years—considerably less than the prescribed statutory maximum sentence.⁷¹

In another case, involving a deaf and mute 17-year-old girl who was allegedly raped by a 19-year-old neighbour, the Committee expressed concern that the girl had suffered material and moral damage and prejudice due to the excessive duration of the trial proceedings. The Committee also identified a number of other shortcomings on the part of the judiciary, including the court's failure to provide the girl with free assistance from sign

language interpreters; the evocation of stereotypes and gender-based myths; and disregard in the court's judgement for her specific situation as a mute and deaf girl.⁷² In this case, the court stated that the girl's, "failure to even attempt to escape [...] or at least to shout for help despite opportunities to do so casts doubt on her credibility and renders her claim of lack of voluntariness and consent difficult to believe". In examining this case, the Committee condemned the court's disregard for the individual circumstances of the case, including the victim's disability and age,⁷³ and reiterated that, "there should be no assumption in law or in practice that a woman gives her consent because she has not physically resisted the unwanted sexual conduct, regardless of whether the perpetrator threatened to use or used physical violence".⁷⁴

These examples help underline that access to justice for girls requires a paradigm shift in the way that girl victims are viewed and valued: by society, under the law and in the criminal justice system.



In the United Republic of Tanzania, framed by children's handprints and the words "[Wato]to wote wana haki!" in Swahili and its English translation "All children have equal rights".

© UNICEF/NYHQ/1996-1505/Pirozzi

⁷¹ *Ibid.*, §9.5.

⁷² CEDAW/C/57/D/34/2011, Annex, Views of the Committee on the Elimination of Discrimination against Women under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (fifty-seventh session), 12 March 2014, §8.11.

⁷³ *Ibid.*, §8.9.

⁷⁴ *Ibid.*, §8.10. The Committee also reiterated that lack of consent is an essential element of the crime of rape, which constitutes a violation of women's right to personal security, autonomy and bodily integrity.

3. International standards to eliminate violence against girls who come into contact with the justice system

Violence against both girls and boys is a pressing human rights concern and also a topic on the international community's crime prevention and criminal justice agenda. In recent decades, a number of important UN standards and norms relating to crime prevention and criminal justice have been developed,⁷⁵ each of which reaffirms universally recognized human rights standards of relevance to the prevention and elimination of violence against children in the criminal justice system. And by providing concrete measures and practical steps for implementation, they also help to bridge the gap between human rights obligations and practice.

3.1 UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)

The Bangkok Rules,⁷⁶ adopted in 2010, build upon the Standard Minimum Rules for the Treatment of Prisoners, as well as the UN Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules). The Bangkok Rules seek to complement these instruments by filling an important gap regarding the specific situation of women and girls,⁷⁷ recognising that female prisoners constitute a vulnerable group that has specific needs and requirements. The Rules also recognize that a significant proportion of female offenders do not pose a risk to society and that, as with all offenders, their imprisonment may render their so-

cial reintegration more difficult.⁷⁸ They encourage measures such as incarceration close to a woman or girl's home or place of social rehabilitation, the provision of appropriate programmes and services, and acknowledgement of the woman's or girl's own preferences.⁷⁹

The Bangkok Rules address, *inter alia*, access to personal hygiene and medical health screening for women and girls upon entry to the prison system.⁸⁰ This screening is not only crucial in determining primary health care needs, it also helps to ascertain if a girl or woman has been subjected to sexual abuse or other forms of violence prior to admission. If indications of sexual abuse or other forms of violence before or during detention are identified, the Bangkok Rules require that the woman prisoner be informed of her right to seek recourse from judicial authorities, as well as the procedures and steps involved. Prison authorities must support women in this situation to access legal assistance and ensure that they have immediate access to specialized psychological support or counselling. Specific measures must be developed to avoid any form of retaliation against women who make such reports or take legal action.⁸¹

The Bangkok Rules also make specific reference to the situation of juvenile female prisoners. Building upon article 40 of the CRC, the Rules stress that institutionalization of children involved with the justice system must be avoided to the fullest extent possible. In the case of girl offenders, the Rules emphasise that their gender-based vulnerability must be taken into account in all relevant decision-making,⁸² and require authorities to put in place measures to meet their particular protec-

⁷⁵ See, for example, UNODC, *Compendium of United Nations standards and norms in crime prevention and criminal justice*, United Nations, 2006.

⁷⁶ A/RES/65/229, Annex, United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), 16 March 2011. This document is available at <www.un.org/en/ecosoc/docs/2010/res%202010-16.pdf> retrieved 12 August 2015.

⁷⁷ *Ibid.*, §1-3.

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*, Rule 4.

⁸⁰ *Ibid.*, Rules 5 and 6.

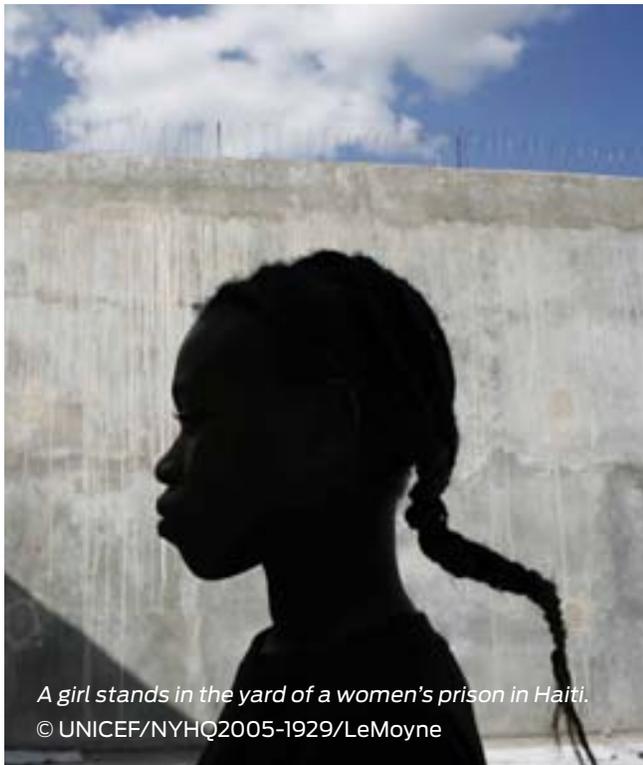
⁸¹ *Ibid.*, Rule 7.

⁸² *Ibid.*, Rule 65.

tion needs.⁸³ This includes ensuring access to the same kind of educational and vocational training made available to juvenile male prisoners,⁸⁴ in addition to provision of age- and gender-specific programmes and services, such as counselling for sexual abuse or violence.

Equally importantly, the Rules also call for non-custodial measures that take account of the history of victimization of female offenders, as well as their caregiving responsibilities, including gender-specific options for diversionary measures and pre-trial and sentencing alternatives consistent with the legal systems of Member States.⁸⁵

Finally, and in order to prevent stigmatization of female offenders and enable their reintegration, the Bangkok Rules state that the media and the public should be informed about the reasons that lead to women's entrapment in the criminal justice system, together with the most effective ways to respond to it, taking into account the best interests of their children.⁸⁶



A girl stands in the yard of a women's prison in Haiti.
© UNICEF/NYHQ2005-1929/LeMoyné

⁸³ *Ibid.*, Rule 36.

⁸⁴ *Ibid.*, Rule 37.

⁸⁵ *Ibid.*, Rule 57.

⁸⁶ *Ibid.*, Rule 70.

3.2 The Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice (Model Strategies on VAW)

The Model Strategies on VAW,⁸⁷ adopted by the UN General Assembly in December 2010, explicitly recognize that the term “women” encompasses “girl children”.⁸⁸ The Strategies address the specific vulnerabilities and needs of women and girls throughout the criminal justice process and urge Member States, “to be guided by the overall principle that effective crime prevention and criminal justice responses to violence against women are human rights-based, manage risk and promote victim safety and empowerment while ensuring offender accountability”.⁸⁹

The Model Strategies on VAW include important elements to assist the criminal justice system in meeting its obligation of due diligence. They underline, for example, that the responsibility for prosecuting violence against women and girls lies with prosecution authorities and not with victims of violence. The Strategies also seek to encourage a shift from questioning the credibility of victims to enhancing the collection of evidence and ensuring consistent standards of investigation, prosecution and punishment. Furthermore, they call for a comprehensive, coordinated and multi-

⁸⁷ A/RES/65/228, Annex, Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, 31 March 2011. This document is available at <www.unodc.org/documents/justice-and-prison-reform/crimeprevention/Model_Strategies_and_Practical_Measures_on_the_Elimination_of_Violence_against_Women_in_the_Field_of_Crime_Prevention_and_Criminal_Justice.pdf> retrieved 12 August 2015. The Model Strategies build upon the Beijing Platform for Action from 1995 (reaffirmed in 2000 and 2005), and the Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice adopted in 1997, as well as relevant General Assembly resolutions. See *ibid.*, §4.

⁸⁸ Except where otherwise specified, *ibid.*, §1.

⁸⁹ *Ibid.*, §13(a).

disciplinary approach, together with specialized expertise, adequate resources and monitoring.⁹⁰

The focus on the needs of female victims and, equally important, on their empowerment, is reflected in the aim of the Model Strategies to ensure that prevention and intervention efforts not only, “stop and appropriately sanction violence against women”, but also, “restore a sense of dignity and control to the victims of such violence”.⁹¹

The Model Strategies on VAW also specifically acknowledge the importance of establishing an active policy aimed at mainstreaming a gender perspective in all policies, programmes and practices to ensure equal and fair access to justice.⁹² Furthermore, they aim to ensure *de jure* and *de facto* equality between women and men (and girls and boys) and promote redress for any inequalities or forms of discrimination that women and girls face in achieving access to justice, particularly with regard to acts of violence.⁹³

Finally, the Model Strategies on VAW urge States periodically to review, evaluate and revise their laws, codes and procedures, especially their criminal laws, to ensure the value and effectiveness of these instruments in eliminating violence against women and girls. This includes the removal of any provisions that allow for or condone violence or that increase the vulnerability or re-victimization of women and girls who have been subjected to violence.⁹⁴

3.3 The UN Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice (Model Strategies on VAC)

By placing a special focus on children’s protection from violence, the Model Strategies on VAC⁹⁵—adopted by the UN General Assembly in October 2014—bring together, by means of an integrated and child-centred approach, the relevant measures previously adopted under a range of UN standards, including the Model Strategies on VAW discussed above.⁹⁶ The Model Strategies on VAC are framed by the rights of the child, as recognized by the CRC and its Optional Protocols, as well as the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and other relevant international and regional treaties.

The preamble to the Model Strategies on VAC emphasizes that children, by reason of their physical and mental development, face particular vulnerabilities and require special safeguards and care, including appropriate legal protection. It also emphasizes that children in contact with the justice system as victims, witnesses or alleged or recognized offenders must be treated in a child-sensitive manner, and in full respect for their rights and dignity.

⁹⁰ United Nations Office on Drugs and Crime, *Handbook on Effective Prosecution Responses to Violence against Women and Girls*, United Nations, 2014, pp. 24–25.

⁹¹ A/RES/65/228, Annex, Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, 31 March 2011, §7.

⁹² *Ibid.*, §4.

⁹³ *Ibid.*, §8.

⁹⁴ *Ibid.*, §14.

⁹⁵ See Annex, A/RES/69/194, United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, 25 September 2014. This document is available at <www.unodc.org/pdf/criminal_justice/Model_Strategies_violence_children.pdf> retrieved 12 August 2015.

⁹⁶ Other standards include the Beijing Rules (General Assembly resolution 40/33, annex), the UN Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines, General Assembly resolution 45/112, annex), the UN Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113, annex), the Guidelines for Action on Children in the Criminal Justice System (Economic and Social Council resolution 1997/30, annex), the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20, annex).

The preamble strongly condemns all acts of violence against children and reaffirms the duty of the State to protect children from all forms of violence in both public and private settings. It calls for the elimination of impunity, including by investigating and prosecuting, with due process, and punishing all perpetrators. In addition, the preamble expresses extreme concern at the secondary victimization of children within the justice system and reaffirms the responsibility of States to protect children from this form of violence.⁹⁷

Guided by sound research and experience from around the world, the Model Strategies on VAC provide essential guidance on how to prevent and respond to the violence and abuse faced by girls in the criminal justice system today. In particular they address three important dimensions:

- 1) general prevention strategies to address violence against children as part of broader child protection and crime prevention initiatives;
- 2) strategies and measures to improve the ability of the criminal justice system to respond to crimes of violence against children and to protect child victims effectively; and,
- 3) strategies and measures to prevent and respond to violence against children in contact with the justice system.

Specific challenges facing girls are addressed in various sections of the Model Strategies on VAC. These include the criminalization of gender-based violence against children and, in particular, gender-based killing of girls,⁹⁸ and the distinctive needs of girls in places of detention and their vulnerability to gender-based violence.⁹⁹

⁹⁷ A/C.3/69/L.5, United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, 25 September 2014, preamble, §1 and 2.

⁹⁸ A/C.3/69/L.5, Annex, United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, 25 September 2014, §11(i).

⁹⁹ *Ibid.*, §41(a) to (e).

Member States are encouraged to remove all barriers, including all forms of discrimination that children face in accessing justice and participating meaningfully in criminal proceedings. Member States are also urged to pay particular attention to the rights of the child and the child's best interests in the administration of justice and to ensure that children in contact with the criminal justice system are treated in a child-sensitive manner. This includes taking account of the specific needs of children who are in particularly vulnerable situations.¹⁰⁰

The Model Strategies on VAC provide valuable guidance and set forth a comprehensive set of measures and strategies on law reform, policy development and practical implementation. They encourage Member States to develop and implement a multisectoral and coordinated crime prevention and justice system policy for children, and make use of alternative measures to detention, such as diversion and restorative justice. The Model Strategies also urge Member States to introduce reintegration strategies for former child offenders in order to comply with the principle enshrined in the CRC that deprivation of liberty of children should be used only as a measure of last resort and for the shortest appropriate period of time.¹⁰¹

Equally importantly, the Model Strategies on VAC take into account the complementary roles of the justice system and the child protection, social welfare, health and education sectors, as well as civil society, all of which have a crucial role to play in developing effective violence prevention programmes and initiatives to build a protective environment for children. They also call upon criminal justice institutions to strengthen and focus their efforts to prevent and respond to violence against children, and to increase their diligence in investigating, convicting and rehabilitating perpetrators of violent crimes against children.¹⁰²

¹⁰⁰ *Ibid.*, preamble, §6.

¹⁰¹ *Ibid.*, preamble, §7.

¹⁰² A/C.3/69/L.5, Annex, United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, 25 September 2014, §2.

4. Ensuring robust legislation to prevent and respond to violence against girls

The vulnerable situation of girls involved in the criminal justice system calls for the urgent introduction of sound legislation, together with effective law enforcement in line with international human rights standards. Indeed, the enactment of explicit and comprehensive legislation addressing violence against both girls and boys in the justice system is an essential component of States' accountability and is also an indispensable step toward social change to prevent and address violence in all its forms.

Both the Model Strategies on VAC and the Model Strategies on VAW recognize the importance of a sound legal framework that fully prohibits, without exception, all forms of violence against children and women, including all harmful practices, sexual violence, sale and trafficking of children, child prostitution, child pornography, slavery and forced labour, and gender-based violence, including killing of girls.¹⁰³ Furthermore, the Model Strategies on VAC call for the prohibition of torture or other cruel, inhuman or degrading treatment or punishment: this includes corporal punishment when used to obtain information or extract a confession from a child,¹⁰⁴ or when used as a form of discipline, control or sentencing within the criminal justice system.¹⁰⁵

Very often, harmful practices are not perceived by society as a manifestation of violence. Legislation, therefore, has an important educative role to play by conveying a clear message about the need to prohibit unacceptable behaviour toward children. Equally, it is important to establish, by means of legislation, the impossibility of a girl or

her parents or legal caregivers giving valid consent to any practice that compromises the enjoyment of her human rights.

In cases of sexual violence and exploitation, it is a source of serious concern that children are often treated as criminal perpetrators rather than victims and that the burden of proof is frequently placed upon them. Legislation must therefore ensure that the primary responsibility for initiating investigation and prosecution lies with the police, the prosecution and other competent authorities and does not require an official complaint by the child victim or her parent or legal guardian.¹⁰⁶

By mid 2015, the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography, adopted in 2000, was in force in 169 countries. Protection afforded by the Protocol must extend to all children under the age of 18,¹⁰⁷ and must comprehensively address the offences of child prostitution, child pornography and the sale of children, as provided under articles 2 and 3 of the Protocol. A number of countries have amended their criminal codes to ensure compliance with the Protocol; but in some countries legislation only protects children up to the age of 16 or, in some cases, 14 years of age. Furthermore, a child should never be criminalized for prostitution and, even in countries where adult prostitution is legal, it should always be a crime for an adult to expose a child to trafficking or prostitution, or to buy a child.

In countries where legal pluralism allows for different interpretations or approaches to implementation through the application of customary or religious law, the supremacy of human rights standards should be explicitly recognized in legislation to prevent and help resolve situations

¹⁰³ A/C.3/69/L.5, Annex, United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, 25 September 2014, §9.

¹⁰⁴ *Ibid.*, §33.

¹⁰⁵ *Ibid.*, §36.

¹⁰⁶ *Ibid.*, §22(a).

¹⁰⁷ See the Convention on the Rights of the Child, article 1.

of potential conflict.¹⁰⁸ In this regard, any justification for the use of violence on the grounds of culture, tradition, honour or religion should be removed from legislation.¹⁰⁹

In countries where local by-laws exist, there is a risk that these erode the authority and compromise the clarity of national legislation, with the result that the rights of girls and women to equality and non-discrimination may be compromised. By-laws may also open the way to the criminalization of girls and women. For example, in certain countries, local by-laws have permitted the emergence of “moral police” who conduct raids and subject girls and women to serious violence for allegedly breaching regulations concerning morality, such as failure to comply with dress codes or suspicion of involvement in extramarital relations.¹¹⁰ Moreover, survival behaviours and status offences, such as fleeing situations of domestic violence, should be decriminalized in national legislation.¹¹¹

Legislation should clearly define the roles and responsibilities of the various actors in the justice system, and provide authorities with the means to respond adequately to incidents of violence. In order to ensure that deprivation of liberty is used only as a measure of last resort and for the shortest appropriate period of time—as established under article 37 of the CRC—legislation should provide practitioners with a range of appropriate non-custodial measures to enable them to divert

girls from the criminal justice system.¹¹² These measures must be tailored to girls’ particular backgrounds and needs, and take into account previous victimization and challenges they may have experienced.

In addition to reforming criminal law, it is important that lawmakers introduce amendments to other legislation in order to promote non-discrimination and equality between girls and boys, and protect girls from violence. This might include amendments to family, labour, education and health laws, among others.

Perpetrators of violence must be held accountable through prosecution, where international law requires States to impose criminal sanctions, and also through appropriate civil, administrative and professional proceedings.¹¹³ Such proceedings might include fines, and suspension or dismissal of public servants and justice professionals, as well as mandatory counselling for parents.

Just as society is constantly evolving and developing, law reform is a continuous process in which legislation must be regularly evaluated and reviewed to address emerging concerns or fill implementation gaps. In this regard, the application of child impact assessment indicators to laws that relate to violence against children is highly commendable. The Flemish Region in Belgium, for example, has introduced a child impact assessment system as part of its broader child rights strategy.¹¹⁴

¹⁰⁸ SRSG on Violence against Children and Plan International, *Protecting children from harmful practices in plural legal systems*, Office of the SRSG on Violence Against Children, 2012, p. 40.

¹⁰⁹ A/C.3/69/L.5, Annex, United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, 25 September 2014, §10.

¹¹⁰ National Commission on Violence against Women, *In the Name of Regional Autonomy: the Institutionalisation of Discrimination in Indonesia*, Komnas Perempuan, 2010, p. IV and pp. 89–92.

¹¹¹ A/C.3/69/L.5, Annex, United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, 25 September 2014, §10 and §29–30.

¹¹² Such as restorative justice, warning, probation and community-based rehabilitation and reintegration programmes, including non-coercive treatment, education, assistance to girls, and support to their families. See *Ibid.*, §31.

¹¹³ A/61/299, Report of the independent expert for the United Nations study on violence against children, 29 August 2006, §105.

¹¹⁴ Desmet, Ellen, “The child and youth impact report (JoKER) in Flanders”, KEKI/Children’s Rights Knowledge Centre, 2013.



Children cast shadows while playing in Romania.

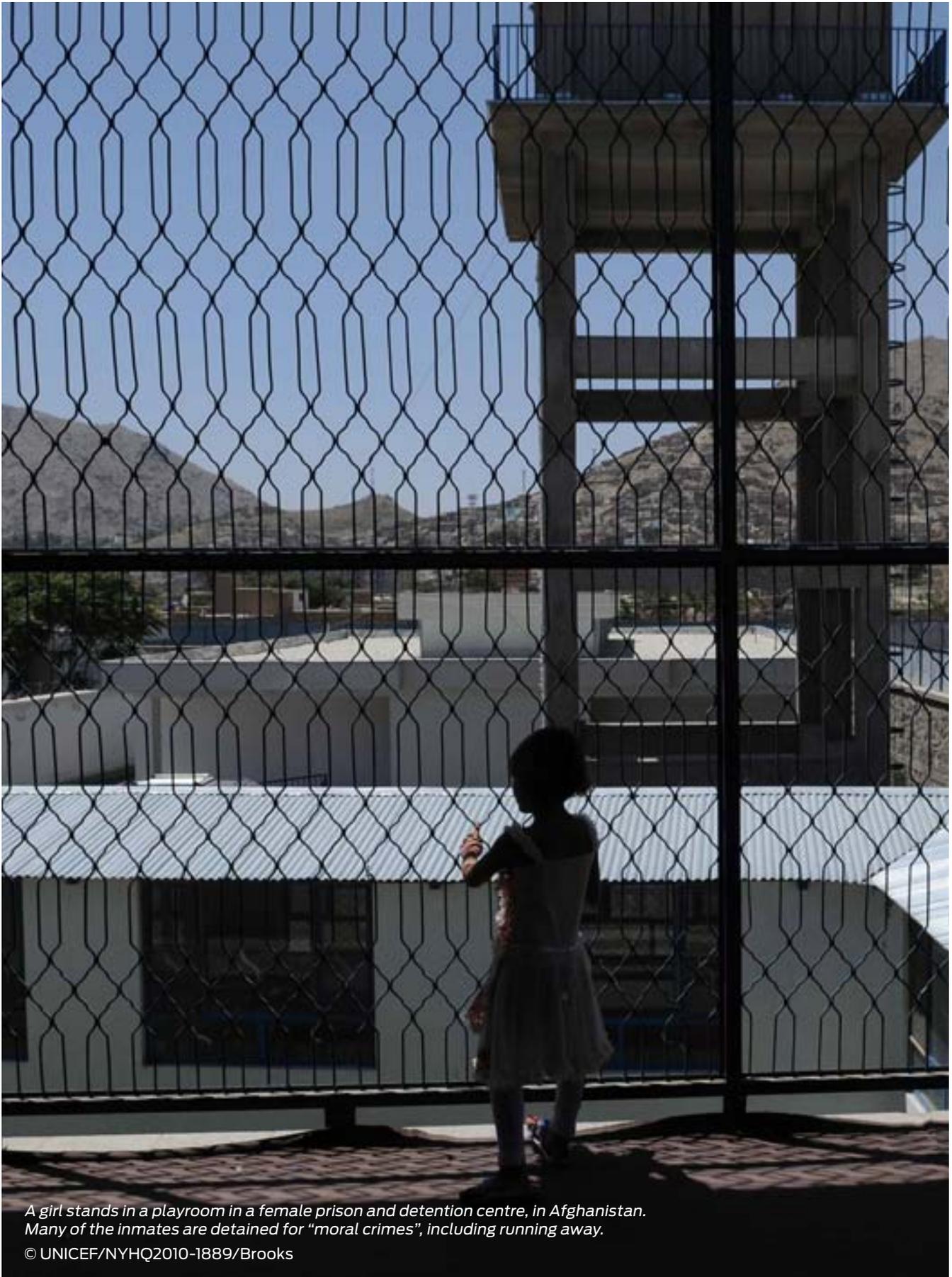
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4.1 Legislation and participatory processes

Local ownership is an important element in the process of advocating for legal reform, as well as enhancing the implementation of existing legislation. Cultivating this sense of ownership calls for a participatory process that brings together key stakeholders, including government departments, parliamentarians, independent child rights institutions, and key actors in civil society, such as professional groups, religious and traditional leaders and non-governmental organizations (NGOs), as well as girls and women, and boys and men. An example of this process comes from Kyrgyzstan, where the practice of bride kidnapping is widespread and still considered by some as a valuable tradition. According to available data, there are at least 11,800 cases of forced abduction of women and girls every year, but despite these numbers, few cases of this type are ever addressed by the criminal justice system. In order to push for change, on 10 December 2012, some 100 activists took part in an

initiative to install coloured flags in the centre of Bishkek, Kyrgyzstan's capital. A total of 9,800 red flags were used to symbolize women who had been kidnapped and married against their will, while 2,000 white flags symbolized the number of women who suffer sexual violence, and 7,500 violet flags represented the number of women who have made an official complaint concerning domestic violence. Advocacy efforts by civil society groups, activists, artists, sportspeople and media organizations, many of whom are participants in the UN Secretary-General's UNiTE to End Violence against Women Campaign, led to the approval of legislation that increases the sanction for bride-kidnapping in Kyrgyzstan from a three to 10 year maximum prison sentence.¹¹⁵

¹¹⁵ UNiTE, "New law in Kyrgyzstan toughens penalties for bride kidnapping", <www.un.org/en/women/endviolence/kyrgyzstanbrides.shtml>, retrieved 19 May 2015.



A girl stands in a playroom in a female prison and detention centre, in Afghanistan. Many of the inmates are detained for "moral crimes", including running away.

© UNICEF/NYHQ2010-1889/Brooks

5. Implementing comprehensive prevention programmes

Around the world, there has been insufficient investment in crime prevention and the development of child protection systems that can effectively prevent and respond to violence against girls. The criminal justice system has an essential role to play in improving this situation, but it cannot work in isolation. Strong institutional cooperation and coordination among child protection and education and social protection services, law enforcement bodies, criminal justice agencies and health services, including reproductive and mental health services, are all indispensable.

5.1 Broad public education and awareness-raising campaigns to change gender stereotypes

Stereotypical gender norms and misperceptions must be addressed as a matter of priority through awareness-raising campaigns, education programmes and community dialogue. A broad crime prevention strategy must be supported by extensive public awareness and social mobilization campaigns, involving the media, professional associations, community leaders, religious figures and girls, boys, women and men. The overall aim of these strategies should be to address and challenge cultural acceptance or tolerance of violence against children, including gender-based violence.¹¹⁶ The Model Strategies on VAC emphasize the important role that community leaders can play in this process (see Box 2). Likewise, religious leaders are particularly well placed to raise awareness of concerns, advocate for the protection of children, and call on their community of believers to end cruel practices.¹¹⁷

¹¹⁶ A/C.3/69/L.5, Annex, United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, 25 September 2014, §12–17.

¹¹⁷ *Ibid.*, §46.

Box 2. The National Chiefs' Council promoting positive cultural values in Zimbabwe

In Zimbabwe, the National Chiefs' Council plays a key role in promoting the rights of girls and preventing child marriage. Together with the Ministry of Women's Affairs, Gender and Community Development and Plan Zimbabwe, this 40-member body has formally signed and issued a communiqué underlining its commitment to an ongoing project called 18+ Ending Child Marriages. The National Chiefs' Council works together with other traditional and religious leaders to promote positive cultural values that protect children from harmful practices. All interventions aim to include men and boys, so that they can come to understand the disadvantages of marrying young girls and support the intended outcomes.¹¹⁸

In recent years, significant research and policy discussions have underlined the crucial role men and boys play in the prevention of gender-based violence.¹¹⁹ Indeed, interventions intended to prevent

¹¹⁸ Hon. Chief M.L. Khumalo, Vice President of Zimbabwe National Chiefs' Council, "Child marriages- Zimbabwean experiences", presentation at Plan Norway's annual conference on the rights of the girl child, 10 October 2014.

¹¹⁹ In a 2014 study published in *The Lancet*, it is argued that men's perpetration of violence against women and girls is a constituent element of gender inequality and is upheld by ideals of masculinity: men should be strong, tough, heterosexual, sexually dominant and in control of women and their bodies. Research also indicates that violence against girls and women is more common in situations where men themselves encounter high levels of violence. These men may have been traumatized as a result of harsh childhoods and violence in adolescence and adulthood. Jewkes, Rachel, Michael Flood and James Lang, "From work with men and boys to changes of social norms and reduction of inequities in gender relations: a conceptual shift in prevention of violence against women and girls", *The Lancet*, Vol. 385, No. 9977, April 18 2015, <[www.thelancet.com/journals/lancet/article/PIIS0140-6736\(14\)61683-4/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(14)61683-4/fulltext)> retrieved 19 May 2015.

violence against girls by transforming harmful gender norms must include boys and men in their roles as partners, peers, and family and community members (see Box 3). As research indicates, approaches that centre on changing community

norms have the potential to transform versions of masculinity that condone violence. In so doing, these approaches challenge structures of power and oppression and change the mechanisms in society that perpetuate gender-based violence.¹²⁰

Box 3.

Program H and Program M: Engaging young men and empowering young women to promote gender equity and end violence against girls and women

Promundo, an NGO founded in Brazil in 1997, works to promote caring, non-violent and equitable masculine identities and gender relations, both in Brazil and internationally. In 2000, Promundo and partners created Program H, which seeks to promote critical dialogue and reflection about gender norms and gender-based violence among boys and young men between the ages of 15 and 24.¹²¹ Activities focus on creating a safe space to allow young men to question traditional views about manhood; reflect critically on gender, gender injustice and gender prejudice; and consider how these elements are connected to other forms of social injustice. The activities conducted by Promundo are informed by a conviction that young men need not be passive recipients of gender or other social norms; rather, they have the capacity to develop their own gender consciousness, act in more gender-equitable ways and influence the institutions around them. This programme has been adapted to, tested and implemented in local communities by project partners in South and Southeast Asia, the Balkans, the Caribbean, the USA and several settings in sub-Saharan Africa.

Building on the experiences of Program H, an initiative called Program M was developed in 2003

to promote the empowerment of girls and young women in the 15-to-24-year age group.¹²² Program M is research-based and draws on the experiences of girls and young women in low-income communities in Brazil and Mexico, including their attitudes about gender norms and roles, and their perceived capacity to achieve agency in their lives and relationships.

Impact evaluation studies in Brazil and India have found that subsequent to participating in Program H activities, boys and young men report greater acceptance of domestic work as men's responsibility, improved relationships with their friends and sexual or intimate partners, higher rates of condom use, and lower rates of sexual harassment and violence against women. Likewise, girls and young women who participated in Program M in the same two countries reported increased knowledge of sexual health and greater communication with partners on this issue, together with increased self-efficacy in interpersonal relationships (where "self-efficacy" refers to the extent of one's belief in one's own ability to achieve goals), decreased drug use and increased condom use.¹²³

5.2 Empowering girls and boys

One of the first steps toward empowering children is to raise their awareness and understanding of their human rights, including the right to

protection from all forms of violence. This can be achieved in a number of ways, including through online counselling and information provision, human rights education in schools, court visits and moot courts, and the dissemination of brochures, leaflets and posters in age-appropriate and gender-sensitive language in police stations, courts and victim support services.¹²⁴

¹²⁰ *Ibid.*, p. 5.

¹²¹ "H" refers to "homens", the Portuguese word for "men".

¹²² "M" refers to "mulheres", the Portuguese word for "women".

¹²³ Ricardo, Christine, Marcos Nascimento, Vanessa Fonseca and Márcio Segundo, *Program H and Program M: Engaging Young Men and Empowering Young Women to Promote Gender Equality and Health*, Pan American Health Organization/Instituto Promundo, 2010.

¹²⁴ A/HRC/25/35, Access to justice for children. Report of the United Nations High Commissioner for Human Rights, 16 December 2013, ¶18.

Although national Governments have the primary responsibility for empowering children, NGOs also have a significant role to play. The potential of NGOs to make a difference is illustrated by the example in Box 4 from the Philippines.

In Scotland, United Kingdom (UK), the Youth Justice Programme in the city of Aberdeen includes modules designed to address the risk of re-offending among young people aged 9–17 years.¹²⁵ These modules, which employ methods validated by research, are designed to promote young peo-

ple's active engagement and encourage them to set concrete goals that enable them to improve their lives. One of the manuals produced for this programme specifically addresses girls, with a view to boosting their self-esteem and allowing them to reflect on gender roles and stereotypes that might otherwise put limitations on their choices and create expectations about how they should behave. The overall aim of the Programme is to contribute to the resolution of issues that are holding both girls and boys back from living the life they would wish.

Box 4. **The Tambayan Centre for the Care of Abused Children**

In the Philippines, the Tambayan Centre for the Care of Abused Children engages with girls and boys who live and work on the street in poor urban areas. Tambayan observed that girls, who represent approximately 10 per cent of all children on the street, are at high risk of physical and sexual violence. If they are apprehended by the barangay authorities¹²⁶ as a result of, for example, their participation in violence or social unrest, or as victims of commercial sexual exploitation, girls run a high risk of being subjected to physical and sexual abuse.

As part of its psychosocial services, the Tambayan Centre conducts awareness-raising and educational activities on children's rights, including issues such as reproductive health, trafficking and child pornography. Through these sessions, girls are encouraged to discuss the experiences, thoughts and feelings that led them to become involved in the sex industry.

Many of the girls with whom Tambayan has worked have stated that they were coerced into their first sexual experiences, causing them to feel like, "damaged goods". This trauma and the resulting sense of worthlessness encouraged them to engage in dangerous sexual practices and reckless behaviour.

Girls have also spoken about the role of their peers, older relatives and others who encouraged them to engage in commercial sex by convincing them that this was their only means of earning money for food and other basic requirements. Through these discussions, the girls involved, together with the people who play an important role in their lives, gained a better understanding of the factors that put them at risk.¹²⁷ After the sessions, children reported that they had learned how their rights could be upheld and what constitutes violations of their rights. Significantly, children's awareness of their own rights led to increased reporting of child abuse cases.

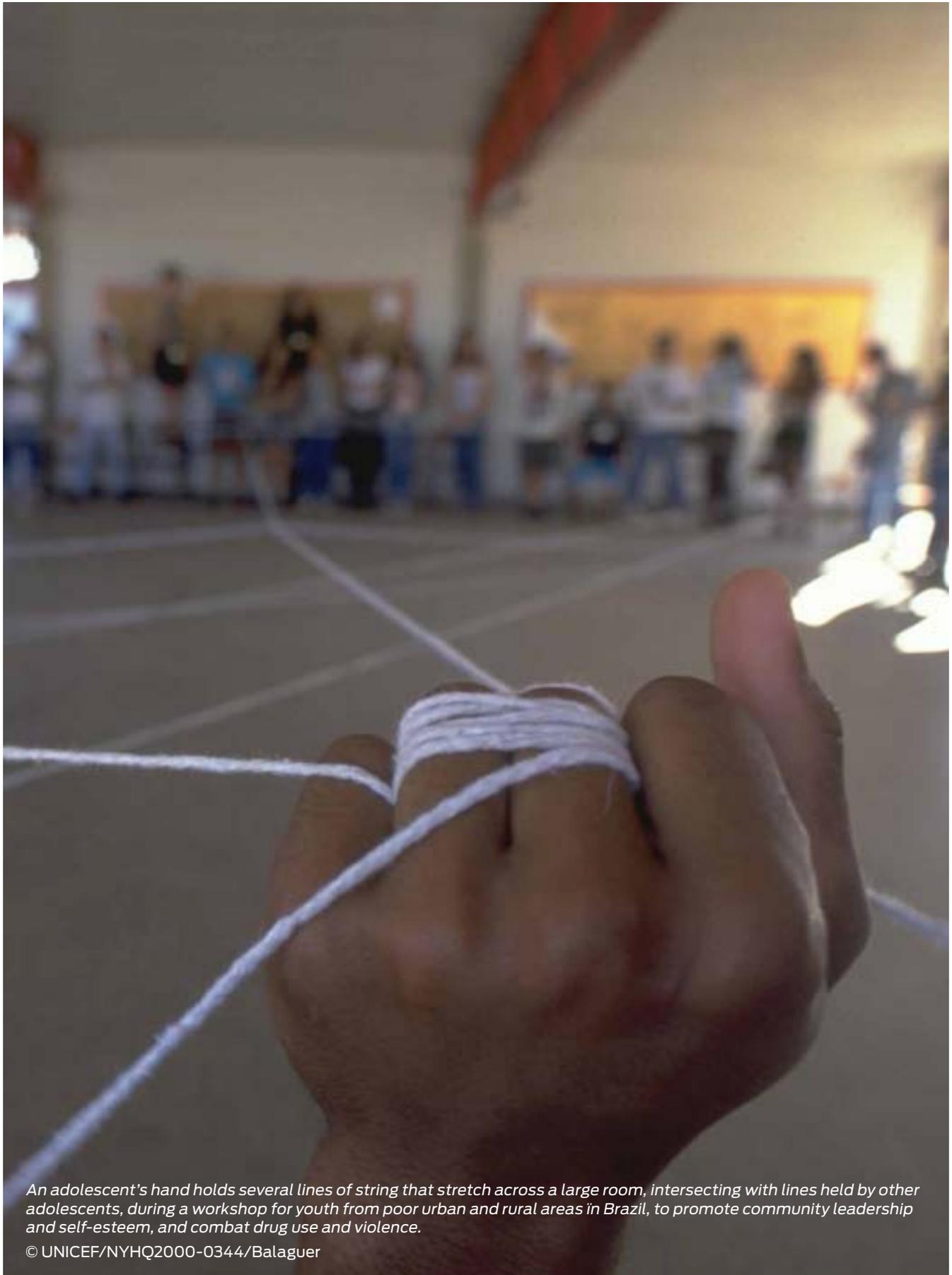
Another successful aspect of Tambayan's work is the active participation of parents and community leaders. Parents involved in the project reported that they had stopped using punitive practices and had, instead, started to engage constructively with their children and discuss the harmful effects of risky behaviour. After the discussion sessions, parents stated that they were more vigilant in protecting their children from harmful influences. Barangay leaders and community volunteers reported that, prior to the sessions, they did not know what constituted abuse, or how to report cases, and they had even deemed it unsafe to report such cases.¹²⁸

¹²⁵ Designed by Tim Chapman, CTC Associates, 2010.

¹²⁶ A barangay is the smallest administrative unit in the Philippines, equivalent to a district or ward.

¹²⁷ Trinidad, Arnie C. and Beatriz Torre, *Seeds of Hope: Learning from programs for CICL of Cordaid partner organizations*, Psychosocial Support and Children's Rights Resource Center/Cordaid, 2011, pp. 13–14.

¹²⁸ *Ibid.*, pp. 15–17.



An adolescent's hand holds several lines of string that stretch across a large room, intersecting with lines held by other adolescents, during a workshop for youth from poor urban and rural areas in Brazil, to promote community leadership and self-esteem, and combat drug use and violence.

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6. Strengthening the capacity of the criminal justice system to prevent violence, stigmatization and deprivation of liberty among girls

Girls who enter the criminal justice system often face discrimination and bias during the processing and handling of their cases. There is, therefore, an urgent need to integrate a child- and gender-sensitive approach at every stage of the justice process, from the first contact with the police, to the moment of arrest and detention, and once a court decision has been issued. All criminal justice professionals must ensure that investigations and legal proceedings do not discriminate against girls or employ gender stereotypes that compromise a girl's right to a fair and impartial justice process. The criminal justice system is very often an intimidating environment for girls and women: a truly gender-sensitive approach requires that gender sensitive proceedings are put in place, and female justice professionals are recruited and adequately represented among police, prosecutors and judges.

It is also essential to provide legal aid for children throughout the stages of the criminal justice process in order to ensure that the system is fair and efficient, and that children's access to and participation in proceedings is not compromised. This helps to minimise the length of time suspects are held in police stations and detention centres, in addition to reducing wrongful convictions and safeguarding the rights of victims and witnesses. Legal aid also plays an important role in facilitating diversion and the use of community-based measures, including non-custodial measures, and promoting greater community involvement in the criminal justice system.¹²⁹

6.1 Training programmes and specialized units

Enhancing knowledge and capacity among justice professionals is a crucial step toward ensuring a firm and sustained commitment at all levels

¹²⁹ E/CN.15/2012/17, Annex, Expert group on strengthening access to legal aid in criminal justice systems, 7 December 2011, §4.

of the criminal justice system to preventing and addressing violence against girls.

In cases of violence, police officers are usually a girl's first contact with the criminal justice system. The investigation phase led by the police represents a crucial opportunity to assess a girl's situation, including any previous victimization, as well as her general and mental health, with a view to establishing whether she is suffering from post-traumatic stress disorder, depression, anxiety or loss of self-esteem, and if she requires special protection or treatment, or would benefit from support services for her recovery and reintegration. This requires that police officers receive training and be given the appropriate screening tools to identify girls with mental health issues and/or intellectual or cognitive disabilities and divert these cases to the appropriate services. The motivation for any illegal actions on the part of the girl should be addressed later in the process, once this initial assessment has been carried out. Court staff, legal representatives and prison staff should also receive similar training.¹³⁰

The Model Strategies on VAC promote the development and application of expertise among criminal justice professionals, including by means of specialized units or personnel (see Box 5) and specialized courts or dedicated court time.¹³¹ Units of this kind include staff specifically trained to deal

¹³⁰ See also NATSILS (National Aboriginal and Torres Strait Islander Legal Services), *Submission to the Expert Mechanism on the Rights of Indigenous Peoples: Access to Justice for Aboriginal and Torres Strait Islander peoples in Australia*, February 2013, <www.natsils.org.au/portals/natsils/NATSILS%20Access%20to%20Justice%20submission%20to%20EMRIP%20Feb%202013.pdf> retrieved 4 August 2015, p.18.

¹³¹ A/C.3/69/L.5, Annex, United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, 25 September 2014, §28.

with the complex and sensitive situation of girl victims of violence and ensure that they receive comprehensive assistance, protection and intervention services, including health and social services, legal aid and police assistance and protection.

In a growing number of countries, interdisciplinary teams have been established to respond to reports of violence against children (see Box 6 for an example from Ethiopia). They help maintain the credibility and reliability of the child's testimony, while ensuring children's well-being and safety throughout the case. This includes limiting the number of interviews to which the child is subjected, and minimising the risks associated with this process.¹³²

Both the Model Strategies on VAW and VAC call for ongoing training and capacity-building for the entire criminal justice system. Training programmes should be mandatory, cross-cultural, gender- and child-sensitive, and founded upon the principles of the CRC and international human rights law. Training should provide information about stages of child development and appropriate ways to interact with children, in particular those who might be subject to discrimination. It is equally important that all elements of the criminal justice system fully understand the dynamics, nature and consequences of violence against girls and boys, as well as recognize that such violence is—without exception—unacceptable.¹³³

Box 5. Rape and Serious Sexual Offence Units in the United Kingdom

In October 2013, the Crown Prosecution Service (CPS) in the UK established Rape and Serious Sexual Offence (RASSO) units across England and Wales. The establishment of these units is intended to improve case handling and response to victims of serious sexual assaults on the part of the CPS. Each RASSO unit also deals with Crown Court cases of child sexual abuse, sexual offences with multiple victims, sexual offences with vulnerable adults, rape and sexual offences in youth court, and cases involving false allegations.

Special measures support victims of sexual offences in giving evidence effectively in court and ensure that they receive the services they require. The performance of each RASSO unit is monitored through the existing process established to deal with violence against women and girls, including detailed scrutiny of a sample of rape cases to ensure each area continues to address and improve

its performance.¹³⁴ Some of the key features of the reforms associated with RASSO include:

- Replacement of existing police authorities with directly elected Police and Crime Commissioners (PCCs), who hold police forces to account, strengthen the links between the police and the general public, and work with partners to reduce crime and improve community safety;
- New Police and Crime Panels, which conduct important scrutiny of PCC functions. Membership of these Panels includes both top-tier and district councils—giving the latter formal involvement in policing for the first time;
- Strengthening of professional discretion, cutting bureaucracy and freeing up police officers' time;
- Provision of a clear role for all actors—including members of the public—in cutting crime by means of neighbourhood watch schemes, beat meetings and voluntary groups.¹³⁵

¹³² A/HRC/16/56, Joint report of the Special Representative of the Secretary-General on Violence against Children and the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, 7 March 2011, §66.

¹³³ A/C.3/69/L.5, Annex, United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, 25 September 2014, §28.

¹³⁴ A Call to End Violence against Women and Girls. Action Plan 2014, HM Government, March 2014, <www.gov.uk/government/uploads/system/uploads/attachment_data/file/287758/VAWG_Action_Plan.pdf> retrieved 20 May 2015, p. 54.

¹³⁵ Home Office, UK Government, *Policing in the 21st Century: Reconnecting police and the people. Summary of consultation responses and next steps*, Home Office, December 2010, <www.gov.uk/government/uploads/system/uploads/attachment_data/file/175454/response-policing-21st.pdf> retrieved 20 May 2015, p. 2.

Box 6. Ethiopia's Children's Legal Protection Centre

In 2005, the African Child Policy Forum established the Children's Legal Protection Centre (CLPC) in Ethiopia, with the objective of providing access to justice for children. The Centre implements projects that involve legal counseling, judicial representation, capacity building, psychosocial support and studies on child rights. The CLPC has also supported the Government in strengthening child-friendly benches and child protection units in police stations, and enhancing the capacity of law enforcement organs, the judiciary and the media through education, training and advisory services. Further, it has played an indispensable role in creating legal awareness about child rights among the general public.

6.2 Restorative justice and non-custodial community-based programmes

Early in the criminal justice process, and in order to ensure that deprivation of liberty is used only as a measure of last resort and for the shortest appropriate period of time,¹³⁶ a girl's suitability for diversion to community-based programmes for rehabilitation and reintegration should be given priority consideration. In order to achieve the desired objectives, these programmes must be tailored to the specific circumstances and characteristics of each girl, including her socio-economic status, ethnic and cultural background, and previous experience of victimization. In many countries, when dealing with girls who offend, the justice system tends to focus on the criminal dimensions of a case while overlooking the protection needs of the child associated with the crime.¹³⁷

In the USA, the Hawaii Girls Court aims to provide a comprehensive response to this challenge. This Court, founded in 2004, "seeks to recognize the fundamental differences between male and female juvenile offenders as well as their different pathways to delinquency and, in doing so, act efficiently, creatively, and innovatively to stem the quickly rising tide of female delinquency". The Hawaii Girls Court is, in fact, a post-adjudication form of supervised release and an enhanced probation programme for girls.¹³⁸ Every staff member—including judges, probation officers and programme coordinators—is female. Through a range of programmes with community partners, the court aims to provide girls with life-skills and vocational training, alternative education, substance abuse treatment, training on the prevention of domestic violence, medical services, health education, information on teen pregnancy prevention, mental health treatment, mentoring, and measures for family strengthening. Girls meet with a judge at regular intervals and attend the court every four weeks with their families. They are also required to attend a "Girls Group", where they discuss issues common to many of them, including HIV and sexually transmitted infections, domestic violence and sexual exploitation. Parents must also attend a therapeutic group at which they examine family issues and learn how to form healthy parent-daughter relationships.¹³⁹

¹³⁶ See Convention on the Rights of the Child, article 37(b).

¹³⁷ All Party Parliamentary Group on Women in the Penal System, *Inquiry on girls: From courts to custody*, Howard League for Penal Reform, 2012, <d19ylpo4aovc7m.cloudfront.net/fileadmin/howard_league/user/pdf/Publications/From_Courts_to_Custody_APPG_Girls_Inquiry_briefing_paper_2.pdf> retrieved 20 May 2015, p. 3.

¹³⁸ Lerer, Tamar, "Hawai'i Girls Court: Juveniles, Gender, and Justice", *Berkeley Journal of Criminal Law*, Vol. 18, Spring 2013, p. 89.

¹³⁹ *Ibid.*, p. 90.

Box 7.**Restorative justice programmes—when are they appropriate for girls?**

Restorative justice processes create safe spaces in which girls can discuss values, perspectives and experiences with their family and community. When restorative justice programmes are community-based, they can also serve to promote community dialogue on gender inequality and address this inequality in a positive manner.

It is vital that girls who are arrested and subsequently engage in a restorative justice programme are protected in accordance with international standards, and that their particular vulnerabilities as girls are taken into consideration throughout the restorative process.¹⁴⁰

In Northern Ireland, UK, girls constitute less than 20 per cent of the young people who become involved with the criminal justice system. Like those of boys, their cases are dealt with by means of restorative conferences. Offences of all kinds are addressed in this manner, although experience shows that the most successful results come when the offence in question involves interpersonal violence and there is a face-to-face meeting between the perpetrator and victim. Significantly, participants

report the same level of satisfaction with the process whether they are perpetrators or victims. In many cases, restorative justice has been found to be more effective with young women, partly because it is less stigmatizing. At the same time, a minority of girls are very vulnerable due to their personal history of abuse, making it difficult for them to confront either their victim or perpetrator.¹⁴¹

In Canada, restorative justice programmes have helped connect indigenous girls and boys who have committed minor offences with extended family members, thus presenting these young people with an opportunity to learn about their cultural heritage and traditional values. A pilot programme currently aims to divert young people away from custody by bringing young offenders together with groups of elders and family members in their home communities. The programme involves workshops and teachings addressing the difficult heritage of aboriginal residential schools, with a view to helping families understand the impact that these institutions had on them, and to support the movement toward healing.¹⁴²



During an adolescent peer session, a CARE official speaks to a group of adolescents in northern Bangladesh.

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6.3 Informal justice systems

In many parts of the world people do not have access to a formal justice system. They may, however, see their cases dealt with by informal or traditional justice systems that co-exist with the formal system.

There are many benefits to informal justice systems. They are, for example, community-based, which not only supports reintegration of those involved in the system, but also means that low-level offences in a rural or village setting can be dealt with quickly. Similar proceedings under the formal justice system are often lengthy and disruptive to a child's development.

Despite these advantages, the role of traditional and/or informal justice systems remains a contentious issue: in many situations they go unchecked by formal judicial institutions, lack transparency and accountability, and are prone to gender discrimination due to patriarchal norms and men's leading role in these systems. Furthermore, the application of customary norms can discriminate against women or young people, and can lead to the imposition of physical punishment as a form of sentencing.¹⁴³ Without appropriate standards, informal justice systems can be harmful and promote settlements that are detrimental to girl victims, while upholding a culture of impunity. The arrangement of forced marriage between a rap-

ist and a girl victim for example, is still a common practice in informal justice systems in a number of countries around the world. And in many cases, sexual violence against girls continues to be trivialized and looked upon as a civil issue rather than a crime. In some communities, the informal justice system will order a rapist to pay compensation to the girl's family, rather than referring the case to the criminal justice system. The practice of paying damages to a family for the "deflowering" of an unmarried girl and, hence, for the reduction in her bride price, illustrates that sexual consent is not understood as hers to give.¹⁴⁴

A comprehensive study by UN Women, UNICEF and UNDP on informal justice systems found that, due to widespread discrimination and the use of harmful practices such as bride price and dowry payments, women have little faith in the capacity of either the formal or informal justice systems to protect them and prosecute offenders.¹⁴⁵ For this reason, all professionals working with girls in both formal and informal justice systems should be held accountable for their handling of cases and their decisions. Sound knowledge and skills to safeguard children's and women's rights are indispensable in both systems, enabling relevant actors to fully understand their roles and responsibilities in preventing, referring, investigating and prosecuting cases, as well as in protecting girls from re-victimization during the justice process.

Furthermore, promoting gender balance in justice systems of all kinds will bring benefit to girls and women, especially in cases concerning taboo gender-based offences, such as sexual violence. For this reason, women should be encouraged and supported to participate in informal justice systems as village mediators and facilitators.

¹⁴⁰ SRSG Violence against Children, *Promoting Restorative Justice for Children*, Office of the SRSG on Violence against Children, 2013, <srs.violenceagainstchildren.org/sites/default/files/publications_final/srsgvac_restorative_justice_for_children_report.pdf> retrieved 20 May 2015, p. 20.

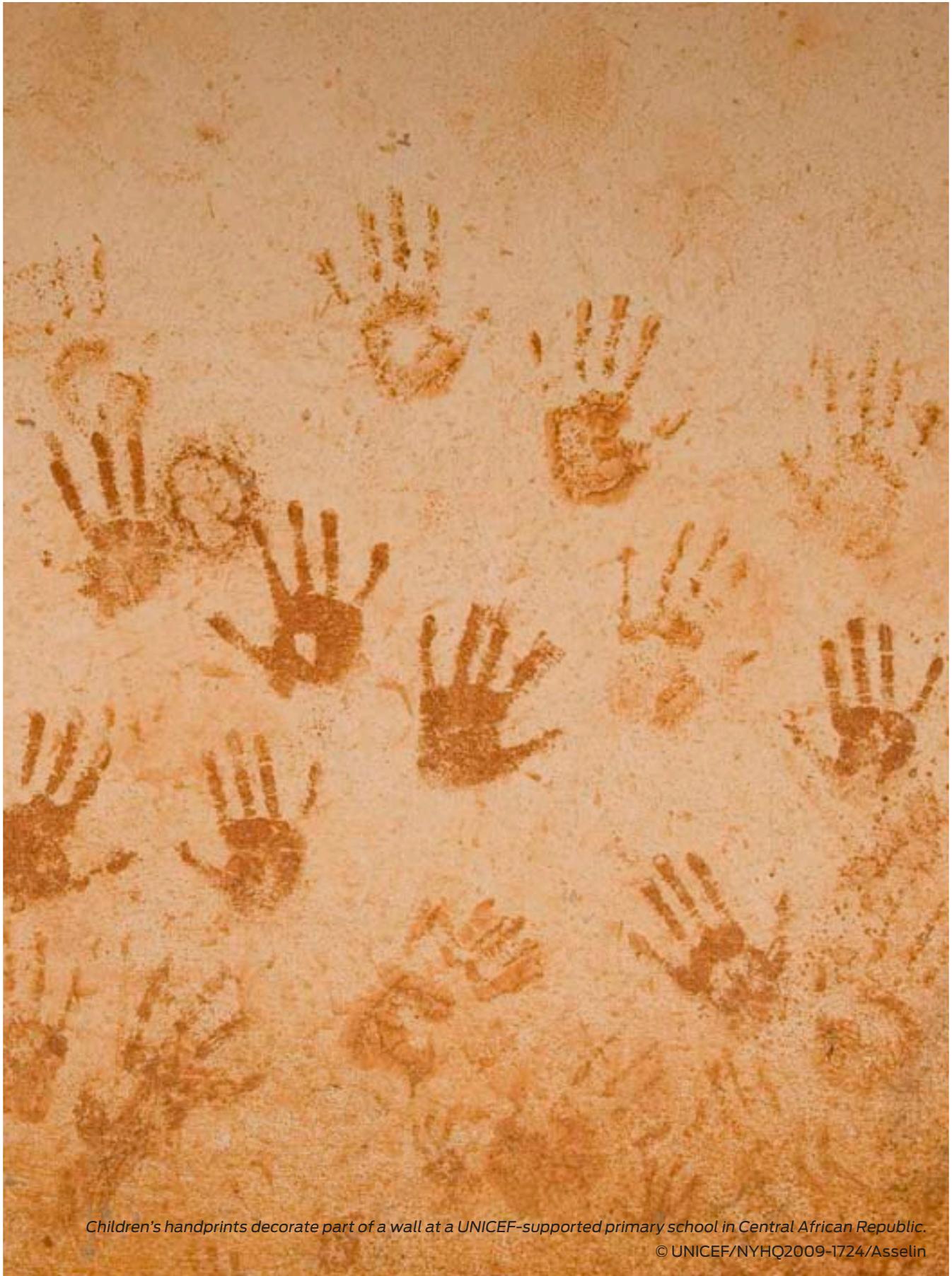
¹⁴¹ Interview with Tim Chapman, Restorative Practices Programme, University of Ulster, Northern Ireland, UK.

¹⁴² Native Women's Association of Canada: "Decriminalizing Aboriginal girls—De-incarceration and Diversion", n.d. (2011), <www.nwac.ca/sites/default/files/imce/WEBSITES/201104/insert3_final%20web-english.pdf> retrieved 20 May 2015.

¹⁴³ Penal Reform International, *Access to justice in sub-Saharan Africa*, Penal Reform International, 2001, <www.penalreform.org/wp-content/uploads/2013/06/rep-2001-access-to-justice-africa-en.pdf> retrieved 19 May 2015, p. 128.

¹⁴⁴ Banda, F., *Women, Law and Human Rights: An African Perspective*, Hart Publishing, 2005, p. 171.

¹⁴⁵ UNDP, UNICEF, UN Women, *Informal Justice Systems. Charting a Course for Human Rights-Based Engagement*, UNDP/UNICEF/UN Women, 2012, <www.undp.org/content/undp/en/home/librarypage/democratic-governance/access_to_justiceandruleoflaw/informal-justice-systems.html> retrieved 1 June 2015, p. 15.



Children's handprints decorate part of a wall at a UNICEF-supported primary school in Central African Republic.

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7. Strengthening accountability and ending impunity

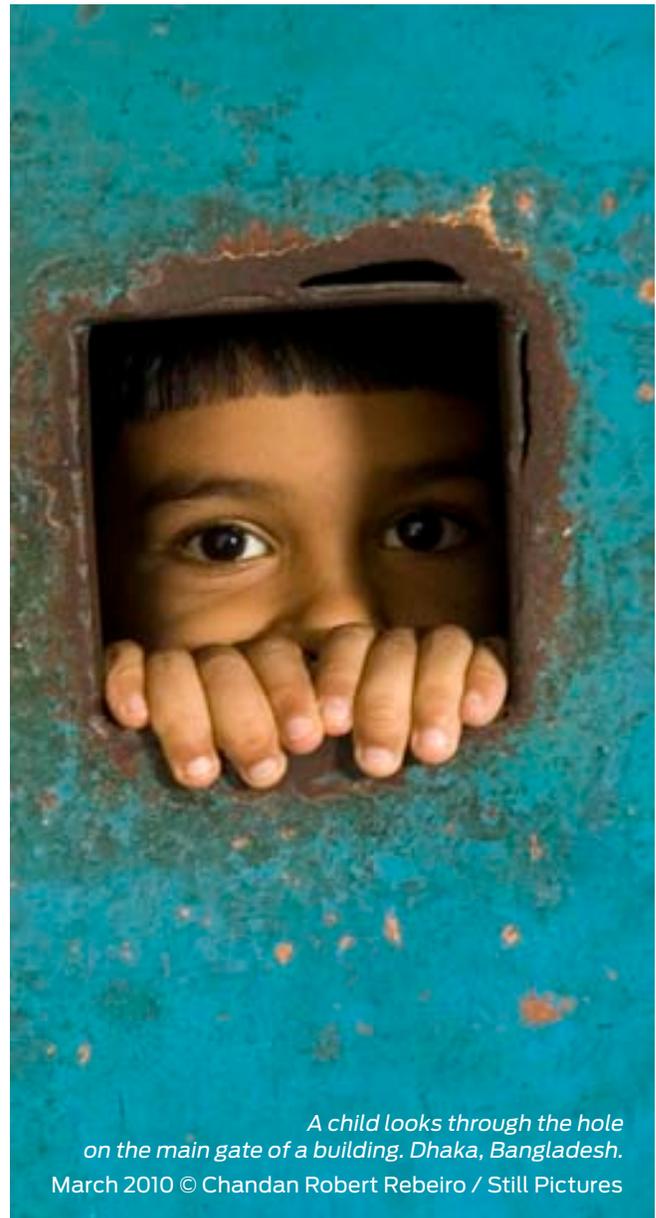
7.1 Child- and gender-sensitive counselling, reporting and complaint mechanisms

This report emphasises that girls are vulnerable to violence at all stages of the criminal justice process, including when deprived of their liberty. They are at risk of being detained as a measure of first resort rather than last, and for minor offences or as a result of exploitation, coercion and manipulation by adults, including older boyfriends and family members. In detention, girls risk harassment, invasive body searches, rape, torture, insults of a sexual nature, and other humiliating treatment by police and correctional staff.¹⁴⁶

Despite their vulnerability, there are often no places where girls can seek information, receive advice or denounce acts of violence. Where such facilities exist, they may be too intimidating for many girls to access. Young people in places of detention speak of staff members refusing to give out complaint forms or mocking the young detainees for submitting a complaint. They also report being subjected to serious repercussions for submitting formal complaints. The common belief among these young people is that “nothing ever happens” when they submit a complaint form, and that “staff stick up for each other so why bother?”¹⁴⁷

The Model Strategies on VAC call for safe and confidential complaint mechanisms that are both effective and easily accessible.¹⁴⁸ Upon arrival at a detention facility, girls, as well as their families,

should receive clear child- and gender-sensitive information about their rights, the procedures relevant to their situation, and their right to be heard. They should also be informed about effective remedies and available support services.¹⁴⁹



A child looks through the hole on the main gate of a building. Dhaka, Bangladesh. March 2010 © Chandan Robert Rebeiro / Still Pictures

¹⁴⁶ See A/HRC/7/3, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, 15 January 2008. Please see also A/HRC/28/68, §48, 2015.

¹⁴⁷ Aleem, Rebecca, *The Human Rights of Girls in the Criminal Justice System of British Columbia: Realities and Remedies*, Justice for Girls International, 2009, p. 17.

¹⁴⁸ A/C.3/69/L.5, Annex, United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, 25 September 2014, §43(a).

¹⁴⁹ *Ibid.*, §43(b).

7.2 Establishing an effective system of accountability

United Nations Member States are urged to take all appropriate measures to prevent violence against children within the justice system and combat impunity. In order to enhance accountability for incidents of violence against children in general, and to address the situation of girls deprived of liberty in particular, effective measures to enhance institutional integrity and prevent corruption must be adopted and implemented. As outlined in the joint UN report on *Prevention of and responses to violence against children within the juvenile justice system*, these include:

- public investigations into all serious reports of violence against children at any stage of the juvenile justice system, carried out by persons of integrity, and adequately funded and completed without undue delay;
- accountability of public officials who are found to be responsible for violence against children, through workplace disciplinary measures, termination of employment, and criminal justice investigations where appropriate;
- redress and compensation for child victims and witnesses of violence within the juvenile justice system. This may include developing mechanisms to allow for claims for damages against the State, ensuring that victim compensation schemes are adequately funded, and strengthening effective support services for child victims of violence within the juvenile justice system;
- mechanisms to involve the media in the process aimed at ensuring that the community at large supports Government efforts to prevent and respond to violence against children within the juvenile justice system.¹⁵⁰

¹⁵⁰ Office of the High Commissioner for Human Rights, UN Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children, *Prevention of and responses to violence against children within the juvenile justice system*, Office of the SRSG on Violence against Children, 2012, pp. 25–26.

As regards law enforcement personnel, UNODC has developed a training curriculum and handbook on effective police responses to violence against girls and women. This curriculum includes a roadmap to achieve accountability and promote integrity that incorporates four key elements. First, police accountability requires a system that includes representation from the police, the State, the general public and independent bodies. Second, police operations and actions must be monitored before, during and after implementation. Third, the system of accountability must allow for corrective action. And lastly, the system must be capable of targeting individual police officers, their supervisors and the institution as a whole.¹⁵¹

Independent monitoring and inspection by national independent bodies and national human rights institutions, ombudspersons or members of the judiciary are also of crucial importance. Monitoring of places of detention and community-based institutions can only be effective when these mechanisms are empowered to conduct unannounced visits, carry out private interviews with children and staff, and investigate allegations of violence. These investigations must be independent, prompt, effective and ensure that all public officials who are found to be responsible for violence against girls are held accountable for their actions.¹⁵²

¹⁵¹ UNODC, *Handbook on police accountability, oversight and integrity*, Criminal Justice Handbook Series, United Nations, 2011, p. 111. See also UNODC, *Handbook on Effective Prosecution Responses to Violence against Women and Girls*, United Nations, 2014.

¹⁵² A/C.3/69/L.5, Annex, United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, 25 September 2014, §47.

7.3 Monitoring and social mobilization by civil society

The importance of the role of civil society in monitoring children's rights cannot be overemphasized, but due to lack of transparency and information, very few cases gain the attention of the public or media. In recent years, however, there have been a number of serious cases that have provoked public outcry and generated protest at national and international levels. The case of Liz (see Box 8) demonstrates how social mobilization can have a real impact, and also illustrates the importance of maintaining pressure and monitoring the situation over time.



Youth leaders stand in a circle, holding hands, to symbolize the slogan "We can do it together", at a child care centre in the Philippines.

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Box 8. The Justice for Liz campaign

In late June 2013, 16-year-old Liz was brutally gang raped by six men and left unconscious and battered. The attack left Liz with serious injuries: she was confined to a wheelchair and developed an obstetric fistula. Although three of the suspects were apprehended shortly after the event, the police officer on duty did not record the attack as a case subject to criminal prosecution, but rather as an "assault". He ordered the three suspects to cut the grass outside the police station as "punishment" before they were released.

A global campaign known as #JusticeForLiz, launched in October 2013 by Equality Now, the Coalition on Violence Against Women (COVAW), the African Women's Development and Communication Network (FEMNET) and Avaaz, collected more than 1.7 million signatures from around the globe demanding that Kenya's Inspector General of Police arrest and prosecute the suspects. By September 2014, two suspects had been apprehended. Furthermore, in late August of the same year, specially trained investigators began looking into 70 additional rape cases, with several arrests following soon after. At the same time, the National Gender and Equity Commission began its own investigation to better understand the systemic shortcomings and persistent problems that contribute to situations of this kind. The Commission held closed hearings with hundreds of survivors of sexual violence and also met to discuss the issue with magistrates, chiefs, religious officers, government officials and Kenya's children's office.

By December 2014, a third suspect was arrested and charged. The father of one of the suspects was also charged with helping his son to evade capture. In the subsequent trial, eight witnesses testified, including Liz and a medical expert. The trial allowed for victim-sensitive measures, including testifying with an intermediary present, to help protect her dignity and minimise further trauma. Two special prosecutors nominated by civil society were present and participated in the trial as members of the prosecution team. On 13 April 2015, three of the accused were convicted of gang rape and causing grievous harm and were sentenced to a total of 22 years each.¹⁵³

¹⁵³ Equality Now, "Kenya: Ensure justice for 16-year-old Liz & all victims of sexual violence", <www.equalitynow.org/take_action/adolescent_girls_action541b> retrieved 10 June 2015.

Students play at a school that collapsed during the earthquake in Haiti.

© UNICEF/NYHQ2011-2089/Dormino



8. Conclusions and recommendations

If they could accept us for the way we are and look for the good, not always trying to correct us we could grow from there. If you really realize the situation and give us the chance you will see that deep underneath our masks, we're like sunflower seeds struggling to grow.

Letter from a girl in custody, British Columbia, Canada¹⁵⁴

The implementation and enforcement of existing human rights obligations to prevent violence against girls, stigmatization and deprivation of liberty in the criminal justice system is an urgent priority. It must be supported through the wide dissemination and effective implementation of relevant international standards, including the UN Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, the Bangkok Rules and the Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice.

Based on these standards, together with valuable experience gathered to date from around the world, this report has identified a number of areas where decisive action on the part of States can minimise girls' contact with criminal justice systems and maximise their protection in situations where such contact is unavoidable.

8.1 Key measures to advance progress in the protection of girls from violence, victimization, stigmatization and deprivation of liberty in the criminal justice system

- Enact and enforce a sound legal framework to ban all forms of violence against children in all settings, including when used as a form of discipline, control or sentencing within the criminal justice system. This framework should de-criminalize survival behaviours and status offences, such as running away from home, as well as offences related to morality or dress codes for girls. It should also remove any justification that condones or encourages violence,

including on the grounds of culture, tradition, honour, religion or harmful gender norms.

- Ensure that the application of customary or religious law, or local by-laws, does not involve the imposition of violent or inhumane punishment as a form of sentencing or compromise the human rights of girls in any other way, including their rights to equality and non-discrimination. Similarly, where necessary, national laws should be amended or new laws introduced to ensure they contain no elements that discriminate against girls on the basis of gender or age.
- End impunity, discrimination and tolerance of violence against girls in society and in the justice system. In order to move from punitive and retributive responses toward a child- and gender-centred approach, the gender notions of girls' and women's inferiority and subordination must be transformed across societies. In this regard, awareness-raising campaigns, education programmes, community dialogue and social mobilization have proven to be effective strategies for transforming harmful gender stereotypes and moving towards the elimination of violence against girls. It is important that such initiatives also include boys and men. The media represent a key partner, and in many societies, religious, traditional and local leaders have significant influence to encourage change at the community level.
- Ensure that all professionals in the criminal justice system are fully trained to understand and respond to the situation of girls. A fair and impar-

¹⁵⁴ Cited in Aleem, Rebecca, *The Human Rights of Girls in the Criminal Justice System of British Columbia: Realities and Remedies*, Justice for Girls International, 2009, p. 28.

tial justice system requires police officers, judges, lawyers and staff in places of detention to receive appropriate training on the human rights of children, irrespective of the prevalent values and norms of the societies in which they live.

- Implement broad prevention programmes that build a protective environment and address the root causes of violence against girls. The great majority of girls in contact with the criminal justice system do not pose any risk to society and should not be deprived of liberty. The criminal justice system must take into account previous victimization and the best interests of the child, with the goal of promoting girls' recovery, rehabilitation, reintegration and development to the maximum extent possible. This can only be achieved by close multisectoral cooperation and coordination among all relevant government agencies, including child protection, health and education sectors, as well as informal justice systems, civil society and other non-governmental stakeholders.
- Make use of effective restorative justice processes and community-based programmes for rehabilitation and reintegration in order to ensure that deprivation of liberty is used only as a measure of last resort and for the shortest period of time possible when dealing with girls involved in the criminal justice system.
- Empower and support girls involved with the justice system. Information on children's rights, including their right to access justice, should be made widely available. In addition, easily accessible, safe and confidential mechanisms should be established to support girls in reporting cases of violence. Child- and gender-sensitive standards and justice mechanisms should ensure the effective participation of girls in relevant judicial and administrative proceedings, and guarantee their safety, privacy and dignity at all stages.
- Tailor prevention and response initiatives to the needs of specific groups. Girls involved in the criminal justice system do not constitute a homogenous group: certain racial, ethnic or cultural groups, including girls from indigenous communities, or belonging to vulnerable groups

such as girls with disabilities, may be especially vulnerable to violence or face specific challenges that require specialized responses.

- Put in place robust and effective accountability mechanisms across the criminal justice system, including oversight and inspection in all places of detention. All professionals working with girls in both the formal and informal justice systems must be provided with the necessary knowledge to fully understand their roles and responsibilities in preventing, referring, investigating and prosecuting cases, and in protecting girls from re-victimization during the justice process. Moreover, specialized child and gender units, specifically equipped to deal with the complexities and sensitivities relating to incidents of violence against girls and boys, should be put in place in order to ensure that they receive comprehensive assistance, protection and services.
- Promote quality research and data collection to better ascertain the prevalence of violence against girls and the reasons for girls' involvement in the criminal justice system and their deprivation of liberty. The identification of discriminatory practices is an important element that should be captured, including through recording of data on ethnicity and racial background.¹⁵⁵ Research is also necessary for documenting promising practices such as age- and gender-sensitive community programmes that take the specific needs of girls into account. Data and research should be widely disseminated across countries and regions to inform policy development and strategies intended to prevent violence against girls and avoid deprivation of liberty.

Addressing the grave challenges that girls face when they become involved in the criminal justice

¹⁵⁵ See for example May, Tiggey, Tracey Gyateng and Mike Hough, with the assistance of Bina Bhardwa, Isabella Boyce and Juan-Carlos Oyanedel, *Differential treatment in the youth justice system*, King's College London/ICPR, 2010, <www.equalityhumanrights.com/sites/default/files/documents/research/differential_treatment_in_the_youth_justice_system_final.pdf> retrieved 4 August 2015, p. 95.

system—as victims or witnesses of violence, or as alleged offenders—is a critical concern for every society, and one that must be firmly and effectively addressed as a matter of priority.

During the 59th session of the Commission on the Status of Women, held in March 2015, the international community discussed the review of progress in the implementation of the Beijing Declaration and Platform for Action over the past twenty years. Despite some successes, concern was expressed that progress has been slow and uneven, that major gaps remain, that, “no country has fully achieved equality and empowerment for women and girls, that significant levels of inequality between women and men and girls and boys persist globally, and that many women and girls experience multiple and intersecting forms of discrimination, vulnerability and marginalization throughout their life cycle”.¹⁵⁶ In light of this, the international community committed to, “using all opportunities

and processes in 2015 and beyond to accelerate and achieve the full and effective implementation of the Beijing Declaration and Platform for Action in order to achieve concrete results [...], and strive for the full realization of gender equality and the empowerment of women by 2030”.¹⁵⁷

Furthermore, in December 2014, the UN General Assembly called for an in-depth global study on children deprived of their liberty and in September 2015, the international community adopted the new goals for the Post-2015 development agenda, which calls for the end of all forms of violence against children and access to justice for all.¹⁵⁸

All these processes present valuable opportunities to advance the protection of girls from violence, enhance their access to justice, and establish and reinforce child-friendly proceedings and institutions in the criminal justice system.



Girls play football in a schoolyard in the north-east of Brazil.

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¹⁵⁶ E/CN.6/2015/L.1, Annex, Political declaration on the occasion of the twentieth anniversary of the Fourth World Conference on Women, 5 March 2015, §4.

¹⁵⁷ *Ibid.*, §13.

¹⁵⁸ See in particular A/70/L.1, Sustainable Development Goal (SDG) 16, targets 16.2 and 16.3 and SDG 5.

Annex

A/RES/69/194

**United Nations Model Strategies and Practical Measures
on the Elimination of Violence against Children
in the Field of Crime Prevention and Criminal Justice**



General Assembly

Distr.: General
26 January 2015

Sixty-ninth session
Agenda item 105

Resolution adopted by the General Assembly on 18 December 2014

[on the report of the Third Committee (A/69/489)]

69/194. United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice

The General Assembly,

Recalling the Universal Declaration of Human Rights,¹ the International Covenant on Economic, Social and Cultural Rights,² the International Covenant on Civil and Political Rights,² the Convention on the Rights of the Child³ and all other relevant international and regional treaties,

Recalling also the numerous international standards and norms in the field of crime prevention and criminal justice, in particular on juvenile justice, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules),⁴ the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines),⁵ the United Nations Rules for the Protection of Juveniles Deprived of their Liberty,⁶ the Guidelines for Action on Children in the Criminal Justice System,⁷ the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime,⁸ the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),⁹ the updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice,¹⁰ the Guidelines for the Prevention of Crime,¹¹ the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems,¹² the guidelines for

¹ Resolution 217 A (III).

² See resolution 2200 A (XXI), annex.

³ United Nations, *Treaty Series*, vol. 1577, No. 27531.

⁴ Resolution 40/33, annex.

⁵ Resolution 45/112, annex.

⁶ Resolution 45/113, annex.

⁷ Economic and Social Council resolution 1997/30, annex.

⁸ Economic and Social Council resolution 2005/20, annex.

⁹ Resolution 65/229, annex.

¹⁰ Resolution 65/228, annex.

¹¹ Economic and Social Council resolution 2002/13, annex.

¹² Resolution 67/187, annex.



cooperation and technical assistance in the field of urban crime prevention,¹³ the Code of Conduct for Law Enforcement Officials,¹⁴ the Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials¹⁵ and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,¹⁶

Recalling further its relevant resolutions, as well as those of the Economic and Social Council, the Human Rights Council and the Commission on Human Rights,¹⁷

Convinced that violence against children is never justifiable and that it is the duty of States to protect children, including those in conflict with the law, from all forms of violence and human rights violations and to exercise due diligence to prohibit, prevent and investigate acts of violence against children, eliminate impunity and provide assistance to the victims, including prevention of revictimization,

Acknowledging the value of the joint report of the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children on prevention of and responses to violence against children within the juvenile justice system,¹⁸ the report of the United Nations High Commissioner for Human Rights on access to justice for children¹⁹ and the joint report of the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Representative of the Secretary-General on Violence against Children on accessible and child-sensitive counselling, complaint and reporting mechanisms to address incidents of violence,²⁰

Noting with appreciation the important work on child rights in the context of crime prevention and criminal justice conducted by United Nations agencies, funds and programmes, including the United Nations Office on Drugs and Crime, the Office of the High Commissioner and the United Nations Children's Fund, and by the Special Representative and relevant mandate holders and treaty bodies, and welcoming the active participation of civil society in this field of work,

Emphasizing that children, by reason of their physical and mental development, face particular vulnerabilities and need special safeguards and care, including appropriate legal protection,

Emphasizing also that children in contact with the justice system as victims, witnesses or alleged or recognized offenders must be treated in a child-sensitive manner and with respect for their rights, dignity and needs,

Stressing that the right for all to have access to justice and the provision that child victims or witnesses of violence and children and juveniles in conflict with the law are entitled to the same legal guarantees and protection as are accorded to adults, including all fair trial guarantees, form an important basis for strengthening the rule of law through the administration of justice,

¹³ Economic and Social Council resolution 1995/9, annex.

¹⁴ Resolution 34/169, annex.

¹⁵ Economic and Social Council resolution 1989/61, annex.

¹⁶ *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August–7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.2, annex.

¹⁷ Including General Assembly resolutions 62/141, 62/158, 63/241, 64/146, 65/197, 65/213, 66/138, 66/139, 66/140, 66/141, 67/152 and 67/166; Economic and Social Council resolutions 2007/23 and 2009/26; and Human Rights Council resolutions 7/29, 10/2, 18/12, 19/37, 22/32 and 24/12.

¹⁸ A/HRC/21/25.

¹⁹ A/HRC/25/35 and Add.1.

²⁰ A/HRC/16/56.

Recognizing the complementary roles of crime prevention, the criminal justice system, child protection agencies and the health, education and social sectors, as well as civil society, in creating a protective environment and preventing and responding to incidents of violence against children,

Being aware of the different economic, social and cultural contexts of crime prevention and criminal justice prevailing in each Member State,

Recalling its resolution 68/189 of 18 December 2013, in which it requested the United Nations Office on Drugs and Crime to convene a meeting of an open-ended intergovernmental expert group, in collaboration with all relevant United Nations entities, in particular the United Nations Children's Fund, the Office of the High Commissioner and the Special Representative, to develop a draft set of model strategies and practical measures on the elimination of violence against children in the field of crime prevention and criminal justice, to be considered by the Commission on Crime Prevention and Criminal Justice at its session following the meeting of the open-ended intergovernmental expert group,

1. *Strongly condemns* all acts of violence against children, reaffirms the duty of the State to protect children from all forms of violence in both public and private settings, and calls for the elimination of impunity, including by investigating and prosecuting, with due process, and punishing all perpetrators;

2. *Expresses its extreme concern* about the secondary victimization of children that may occur within the justice system, and reaffirms the responsibility of States to protect children from this form of violence;

3. *Welcomes* the work done at the meeting of the expert group on the development of draft model strategies and practical measures on the elimination of violence against children in the field of crime prevention and criminal justice, held in Bangkok from 18 to 21 February 2014, and takes note with appreciation of its report;²¹

4. *Adopts* the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice annexed to the present resolution;

5. *Urges* Member States to take all necessary and effective measures, as appropriate, to prevent and respond to all forms of violence against children who come in contact with the justice system as victims, witnesses or alleged or recognized offenders, and to provide for consistency in their laws and policies and in the application thereof in order to promote the implementation of the Model Strategies and Practical Measures;

6. *Also urges* Member States to remove any barrier, including any kind of discrimination, that children may face in accessing justice and in effectively participating in criminal proceedings, to pay particular attention to the issue of the rights of the child and the child's best interests in the administration of justice and to ensure that children in contact with the criminal justice system are treated in a child-sensitive manner, taking into account the specific needs of those children who are in particularly vulnerable situations;

7. *Encourages* Member States that have not yet integrated crime prevention and children's issues into their overall rule of law efforts to do so, and to develop and implement a comprehensive crime prevention and justice system policy, with a

²¹ See E/CN.15/2014/14/Rev.1.

view to preventing the involvement of children in criminal activities, promoting the use of alternative measures to detention, such as diversion and restorative justice, adopting reintegration strategies for former child offenders and complying with the principle that deprivation of liberty of children should be used only as a measure of last resort and for the shortest appropriate period of time, as well as to avoid, wherever possible, the use of pretrial detention for children;

8. *Encourages* Member States, where appropriate, to strengthen multisectoral coordination among all relevant government agencies in order to better prevent, identify and respond to the multidimensional nature of violence against children and to ensure that criminal justice and other relevant professionals are adequately trained to deal with children;

9. *Also encourages* Member States to establish and strengthen child rights monitoring and accountability systems, as well as mechanisms for the systematic research, collection and analysis of data on violence against children and on the systems designed to address violence against children, with a view to assessing the scope and incidence of such violence and the impact of policies and measures adopted to reduce it;

10. *Stresses* the importance of preventing incidents of violence against children and of responding in a timely manner to support child victims of violence, including to prevent their revictimization, and invites Member States to adopt knowledge-based, comprehensive and multisectoral prevention strategies and policies to address the factors that give rise to violence against children and that expose them to the risk of violence;

11. *Requests* the United Nations Office on Drugs and Crime to take steps to ensure the broad dissemination of the Model Strategies and Practical Measures;

12. *Also requests* the United Nations Office on Drugs and Crime, at the request of Member States, to identify the needs and capacities of countries and to provide technical assistance and advisory services to Member States in order to develop or strengthen, as appropriate, legislation, procedures, policies and practices to prevent and respond to violence against children and to ensure respect for the rights of the child in the administration of justice;

13. *Further requests* the United Nations Office on Drugs and Crime to closely coordinate with the institutes of the United Nations crime prevention and criminal justice programme and with other relevant national and regional institutes with a view to developing training materials and offering training and other capacity-building opportunities, in particular for practitioners working in the areas of crime prevention and criminal justice and for providers of support services for the victims of violence against children and for child witnesses within the criminal justice system, and to disseminate information on successful practices;

14. *Invites* the Commission on Crime Prevention and Criminal Justice and the Human Rights Council, as well as the United Nations Office on Drugs and Crime, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Human Rights, the Special Representative of the Secretary-General on Violence against Children, the Committee on the Rights of the Child and relevant regional and international intergovernmental and non-governmental organizations, to strengthen cooperation in supporting the efforts of States to eliminate all forms of violence against children;

15. *Encourages* Member States to promote country-to-country, regional and interregional technical cooperation in sharing best practices in the implementation of the Model Strategies and Practical Measures;

16. *Invites* Member States and other donors to provide extrabudgetary contributions for the purposes outlined in the present resolution, in accordance with the rules and procedures of the United Nations.

*73rd plenary meeting
18 December 2014*

Annex

United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice

Introduction

1. The United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice have been prepared to help Member States to address the need for integrated strategies for violence prevention and child protection, thereby offering children the protection to which they have an unqualified right.

2. The Model Strategies and Practical Measures take into consideration the complementary roles of the justice system on the one hand, and the child protection, social welfare, health and education sectors on the other, in creating a protective environment and in preventing and responding to violence against children. They draw attention to the need for Member States to ensure that criminal law is used appropriately and effectively to criminalize various forms of violence against children, including forms of violence prohibited by international law. The Model Strategies and Practical Measures will enable criminal justice institutions to strengthen and focus their efforts to prevent and respond to violence against children, and to increase their diligence in investigating, convicting and rehabilitating perpetrators of violent crimes against children.

3. The Model Strategies and Practical Measures take into account the fact that children who are alleged as, accused of or recognized as having infringed criminal law, especially those who are deprived of their liberty, face a high risk of violence. Because special attention must be paid to the especially vulnerable situation of these children, the Model Strategies and Practical Measures are aimed at not only improving the effectiveness of the criminal justice system in preventing and responding to violence against children, but also at protecting children against any violence that may result from their contact with the justice system.

4. The Model Strategies and Practical Measures reflect the fact that some of the perpetrators of violence against children are themselves children and often victims of violence. The need to protect child victims in such instances cannot negate the rights of all of the children involved to have their best interests considered as a matter of primary importance.

5. The Model Strategies and Practical Measures are grouped into three broad categories: general prevention strategies to address violence against children as part of broader child protection and crime prevention initiatives; strategies and measures to improve the ability of the criminal justice system to respond to crimes of violence

against children and to protect child victims effectively; and strategies and measures to prevent and respond to violence against children in contact with the justice system. Good practices are set forth, to be considered and used by Member States within the framework of their national legal systems in a manner consistent with applicable international instruments, including relevant human rights instruments, and taking into consideration relevant United Nations standards and norms in crime prevention and criminal justice. Member States should be guided by the Model Strategies and Practical Measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.

Definitions

6. For the purposes of the Model Strategies and Practical Measures:

(a) “Child” means, as in article 1 of the Convention on the Rights of the Child,²² “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”;

(b) A “child protection system” refers to the national legal framework, formal and informal structures, functions and capacities to prevent and respond to violence against and abuse, exploitation and neglect of children;

(c) “Children in contact with the justice system” refers to children who come into contact with the justice system as victims or witnesses, children alleged as, accused of or recognized as having infringed criminal law, or children who are in any other situation requiring legal proceedings, for example regarding their care, custody or protection, including cases involving children of incarcerated parents;

(d) “Child-sensitive” denotes an approach that takes into consideration the child’s right to protection and individual needs and views in accordance with the age and maturity of the child;

(e) “Child victims” denotes children who are victims of crime regardless of their role in the offence or in the prosecution of the alleged offender or group of offenders;

(f) “Crime prevention” comprises strategies and measures that seek to reduce the risk of crimes occurring and their potential harmful effects on individuals and society, including fear of crime, by intervening to influence the multiple causes of crime;

(g) “Criminal justice system” refers to laws, procedures, professionals, authorities and institutions that apply to victims, witnesses and persons alleged as, accused of or recognized as having infringed criminal law;

(h) “Deprivation of liberty” means any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which that person is not permitted to leave at will, by order of any judicial, administrative or other public authority;

(i) “Diversion” refers to a process for dealing with children alleged as, accused of or recognized as having infringed criminal law as an alternative to judicial proceedings, with the consent of the child and the child’s parents or legal guardian;

²² United Nations, *Treaty Series*, vol. 1577, No. 27531.

(j) “Informal justice system” refers to the resolution of disputes and the regulation of conduct by adjudication or with the assistance of a neutral third party that is not part of the judiciary as established by law and/or whose substantive, procedural or structural foundation is not primarily based on statutory law;

(k) A “juvenile justice system” comprises laws, policies, guidelines, customary norms, systems, professionals, institutions and treatment specifically applicable to children alleged as, accused of or recognized as having infringed criminal law;

(l) “Legal aid” includes legal advice, assistance and representation for persons detained, arrested or imprisoned as a result of being suspected or accused of or charged with a criminal offence, and for victims and witnesses in the criminal justice process, which is provided at no cost for those without sufficient means or when the interests of justice so require. Furthermore, “legal aid” is intended to include the concepts of legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes;

(m) A “protective environment” is an environment conducive to ensuring to the maximum extent possible the survival and development of the child, including physical, mental, spiritual, moral, psychological and social development, in a manner compatible with human dignity;

(n) “Restorative justice programme” means any programme that uses restorative processes and seeks to achieve restorative outcomes;

(o) “Restorative process” means any process in which the victim and the offender and, where appropriate, any other individuals or community members affected by a crime participate actively together in the resolution of matters arising from the crime, generally with the help of a facilitator. Restorative processes may include mediation, conciliation, conferencing and sentencing circles;

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

Guiding principles

7. In implementing the Model Strategies and Practical Measures at the national level, Member States should be guided by the following principles:

(a) That the inherent rights of the child to life, survival and development are protected;

(b) That the right of the child to have his or her best interests as a primary consideration in all matters involving or affecting him or her is respected, whether the child is a victim or a perpetrator of violence, as well as in all measures of prevention and protection;

(c) That every child is protected from all forms of violence without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status;

(d) That the child is informed of his or her rights in an age-appropriate manner and that the right of the child to be consulted and to express his or her views freely in all matters affecting him or her is fully respected;

(e) That all strategies and measures to prevent and respond to violence against children are designed and implemented from a gender perspective that specifically addresses gender-based violence;

(f) That the specific vulnerabilities of children and the situations they find themselves in, including children in need of special protection and children committing criminal offences under the age of criminal responsibility, should be addressed as part of comprehensive violence prevention strategies and identified as a priority for action;

(g) That measures to protect child victims of violence are non-coercive and do not compromise the rights of these children.

Part one

Prohibiting violence against children, implementing broad prevention measures and promoting research and data collection

8. Child protection should begin with the proactive prevention of violence and the explicit prohibition of all forms of violence. Member States have the duty to take appropriate measures that effectively protect children from all forms of violence.

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

9. Recognizing the importance of the existence of a sound legal framework which prohibits violence against children and empowers authorities to respond appropriately to incidents of violence, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments, to ensure:

(a) That their laws are comprehensive and effective in prohibiting and eliminating all forms of violence against children and that provisions that justify, allow for or condone violence against children or may increase the risk of violence against children are removed;

(b) That cruel, inhuman or degrading treatment or punishment of children is prohibited and eliminated in all settings, including schools.

10. Because a countless number of girls and boys fall victim to harmful practices undertaken under different pretexts or grounds, including female genital mutilation or cutting, forced marriage, breast ironing and witchcraft rituals, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) To establish by law a clear and comprehensive prohibition of all harmful practices against children, supported by detailed provisions in relevant legislation to secure the effective protection of girls and boys from those practices, to provide means of redress and to fight impunity;

(b) To remove from all national legislation any legal provisions that provide justification or allow for consent to harmful practices against children;

(c) To ensure that resorting to informal justice systems does not jeopardize children's rights or preclude child victims from accessing the formal justice system, and to establish the supremacy of international human rights law.

11. Recognizing the serious nature of many forms of violence against children and the need to criminalize these conducts, Member States should review and update their criminal law to ensure that the following acts are fully covered thereunder:

(a) Engaging in sexual activities with a child who is under the legal age of consent, ensuring as well that an appropriate "age of protection" or "legal age of consent", below which a child cannot legally consent to sexual activity, is set;

(b) Engaging in sexual activities with a child using coercion, force or threats, abusing a position of trust, authority or influence over a child, including within the family, and abusing a particularly vulnerable situation of a child, because of a mental or physical disability or a situation of dependence;

(c) Committing sexual violence against a child, including sexual abuse, sexual exploitation and sexual harassment through or facilitated by the use of new information technologies, including the Internet;

(d) The sale of or trafficking in children for any purpose and in any form;

(e) Offering, delivering or accepting, by whatever means, a child for the purpose of sexual exploitation of the child, transfer of organs of the child for profit or engagement of the child in forced labour;

(f) Offering, obtaining, procuring or providing a child for child prostitution;

(g) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography;

(h) Slavery or practices similar to slavery, debt bondage and serfdom and forced labour, including forced or compulsory recruitment of children for use in armed conflict;

(i) Committing gender-related violence against a child and, in particular, gender-related killing of girls.

II. Implementing comprehensive prevention programmes

12. General and context-specific measures should be developed by Member States to prevent violence against children. Prevention measures, building on a growing understanding of factors that give rise to violence against children and addressing the risks of violence to which children are exposed, should be part of a comprehensive strategy to eliminate violence against children. Criminal justice agencies, working together with, as appropriate, child protection, social welfare, health and education agencies and civil society organizations, should develop effective violence prevention programmes as part of both broader crime prevention programmes and initiatives to build a protective environment for children.

13. Preventing the victimization of children through all available means should be recognized as a crime prevention priority. Member States are therefore urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) To strengthen existing child protection systems and to help to create a protective environment for children;

(b) To adopt measures to prevent violence within the family and the community, address cultural acceptance or tolerance of violence against children, including gender-related violence, and challenge harmful practices;

(c) To encourage and support the development and implementation at every level of government of comprehensive plans for the prevention of violence against children in all of its forms, based on in-depth analysis of the problem and incorporating:

(i) An inventory of existing policies and programmes;

(ii) Well-defined responsibilities for the relevant institutions, agencies and personnel involved in preventive measures;

- (iii) Mechanisms for the appropriate coordination of preventive measures between governmental and non-governmental agencies;
 - (iv) Evidence-based policies and programmes that are continually monitored and carefully evaluated in the course of implementation;
 - (v) Parental capacity-building and family support as the primary preventive measures, while strengthening child protection in school and in the community;
 - (vi) Methods for effectively identifying, mitigating and reducing the risk of violence against children;
 - (vii) Public awareness-raising and community involvement in prevention policies and programmes;
 - (viii) Close interdisciplinary cooperation, with the involvement of all relevant agencies, civil society groups, local and religious leaders and, where relevant, other stakeholders;
 - (ix) Participation of children and families in policies and programmes for the prevention of criminal activities and victimization;
- (d) To identify the specific vulnerabilities and risks faced by children in different situations and to adopt proactive measures to reduce those risks;
- (e) To take appropriate actions to support and protect all children, in particular children in different situations of vulnerability and children in need of special protection;
- (f) To be guided by the Guidelines for the Prevention of Crime²³ and play a leading role in developing effective crime prevention strategies and in creating and maintaining institutional frameworks for their implementation and review.
14. The risk of violence against children committed by children should be addressed by specific prevention measures, including measures:
- (a) To prevent physical, psychological and sexual violence exerted, often through bullying, by children against other children;
 - (b) To prevent the violence sometimes exerted by groups of children, including violence by youth gangs;
 - (c) To prevent the recruitment, use and victimization of children by youth gangs;
 - (d) To identify and protect children, in particular girls, who are linked to gang members and who are vulnerable to sexual exploitation;
 - (e) To encourage law enforcement agencies to use multi-agency intelligence to proactively profile local risk and, accordingly, to direct enforcement and disruption activity.
15. The risk of violence associated with trafficking in children and various forms of exploitation by criminal groups should be addressed by specific prevention measures, including measures:
- (a) To prevent the recruitment, use and victimization of children by criminal groups, terrorist entities or violent extremist groups;

²³ Economic and Social Council resolution 2002/13, annex.

(b) To prevent the sale of children, trafficking in children, child prostitution and child pornography;

(c) To prevent the production, possession and dissemination of images and all other materials that depict, glorify or incite violence against children, including when perpetrated by children, particularly through information technologies, such as the Internet, in particular social networking environments.

16. Broad public education and awareness campaigns are required. Member States, in cooperation with educational institutions, non-governmental organizations, relevant professional associations and the media, are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) 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;

(b) 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;

(c) To encourage and support inter-agency cooperation in implementing violence prevention activities and programmes, planning and delivering public information campaigns, training professionals and volunteers, gathering data on the incidence of violence against children, monitoring and evaluating the effectiveness of programmes and strategies and exchanging information on good practices and lessons learned;

(d) To encourage the private sector, in particular the information and communications technology sector, the tourism and travel industry and 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;

(e) To encourage the media to contribute to community efforts to prevent and respond to violence against children and to promote changes in social norms that tolerate such violence, and to encourage the establishment of media-led 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;

(f) To involve children, their families, communities, local leaders, religious leaders and criminal justice and other relevant professionals in discussing the impact and detrimental effects of violence against children and ways to prevent violence and eliminate harmful practices;

(g) To challenge attitudes that condone or normalize violence against children, including the tolerance and acceptance of corporal punishment and harmful practices, and the acceptance of violence.

17. In order to address the vulnerability and the specific risks of violence faced by unaccompanied children, migrant children and children who are refugees or asylum seekers, Member States are urged, as appropriate and without prejudice to their obligations under international law:

(a) To ensure that these children have access to independent assistance, advocacy and advice, that they are always placed in appropriate accommodation and

treated in a manner that is fully compatible with their best interests, that they are separated from adults when necessary to protect them and, when applicable, to sever relationships with smugglers and traffickers, and that a legally appointed representative is available from the moment an unaccompanied child is detected by the authorities;

(b) To conduct regular analyses of the nature of the threats faced by these children and to assess their needs for assistance and protection;

(c) To uphold the principle of burden-sharing and solidarity with the host country and to enhance international cooperation.

III. Promoting research and data collection, analysis and dissemination

18. Member States, the institutes of the United Nations crime prevention and criminal justice programme network, relevant entities of the United Nations system, other relevant international organizations, research institutes, non-governmental organizations and professional associations are urged, as appropriate:

(a) To set up and strengthen mechanisms for the systematic and coordinated collection of data on violence against children, including on violence against children in contact with the justice system;

(b) 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 and, in so doing, to make use of data derived from population-based surveys. The reports should disaggregate data by type of violence and include, for example, information on the age and sex of the alleged offender and his or her relationship to the victim;

(c) To develop 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 to ensure comprehensive data gathering for policy and programme development that will promote child protection;

(d) To develop population-based surveys and child-sensitive methodologies aimed at collecting data regarding children, including crime and victimization surveys, to allow for assessment of the nature and extent of violence against children;

(e) To develop and implement indicators relating to the performance of the justice system in preventing and responding to violence against children;

(f) To develop and monitor indicators relating to the prevalence of violence against children in contact with the justice system;

(g) To evaluate the efficiency and effectiveness of the justice system in meeting the needs of child victims of violence and preventing such violence, including with regard to the way in which the justice system treats child victims of violence, the use it makes of different intervention models and the degree to which it cooperates with other agencies responsible for the protection of children, and also to evaluate and assess the impact of current legislation, rules and procedures relating to violence against children;

(h) To collect, analyse and disseminate data on independent inspections of places of detention, access to complaint mechanisms by children in detention and outcomes of complaints and investigations in accordance with the obligations of States under international human rights law;

(i) To use research studies and data collection to inform policy and practice and to exchange and disseminate information concerning successful violence prevention practices;

(j) To encourage and provide sufficient financial support for research on violence against children;

(k) To ensure that data, periodic reports and research are aimed at supporting the efforts of Member States to address violence against children and are used in the framework of constructive cooperation and dialogue with and among Member States.

Part two

Enhancing the ability and capacity of the criminal justice system to respond to violence against children and protect child victims

IV. Establishing effective detection and reporting mechanisms

19. In order to respond to the need to detect and report acts of violence against children, Member States are urged, as appropriate:

(a) To ensure that measures are taken to identify risk factors for different types of violence and identify signs of actual violence in order to trigger appropriate intervention as early as possible;

(b) To ensure that criminal justice professionals who routinely come into contact with children in the course of their work are aware of risk factors and indicators of various forms of violence, in particular at the national level, and that they have received guidance and are trained on how to interpret such indicators and have the knowledge, willingness and ability necessary to take appropriate action, including the provision of immediate protection;

(c) To legally require professionals who routinely come into contact with children in the course of their work to notify appropriate authorities if they suspect that a child is, or is likely to become, a victim of violence;

(d) To ensure that safe child- and gender-sensitive approaches, procedures and complaint, reporting and counselling mechanisms are established by law, are in conformity with the obligations of Member States under the relevant international human rights instruments, take into account relevant international standards and norms on crime prevention and criminal justice and are easily accessible to all children and their representative or a third party without fear of reprisal or discrimination;

(e) To ensure that individuals, and in particular children, reporting in good faith alleged incidents of violence against children are protected against all forms of reprisal;

(f) To work with Internet service providers, mobile telephone companies, search engines, public Internet facilities and others to facilitate and, where feasible, enact appropriate legislative measures to ensure the reporting of any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes, defined as child pornography under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography²⁴ to the

²⁴ United Nations, *Treaty Series*, vol. 2171, No. 27531.

police or other authorized bodies and the blocking of access to websites where such material is available or the deletion of illegal content, and to keep records, in accordance with the law, and preserve evidence for a period of time and as determined by law for the purpose of investigation and prosecution.

V. Offering effective protection to child victims of violence

20. In order to more effectively protect child victims of violence through the criminal justice process and avoid their secondary victimization, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments, to take appropriate measures:

(a) To ensure that laws clearly define the roles and responsibilities of government departments and define standards for the actions of 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;

(b) To ensure that police and other law enforcement agencies have, with judicial authorization where required by national law, adequate powers to enter premises and conduct arrests in cases of violence against children and to take immediate measures to ensure the safety of the children;

(c) To ensure that police, prosecutors, judges and all other relevant professionals who may be in contact with child victims respond promptly to incidents of violence against children and that relevant cases are managed expeditiously and efficiently;

(d) To ensure that criminal justice and other relevant professionals, in dealing with cases of child victims of violence, pay particular attention to child- and gender-sensitive approaches, including through the use of modern technologies in different stages of criminal investigations and criminal proceedings;

(e) To ensure that national standards, procedures and protocols are developed and implemented among relevant national actors in order to respond with sensitivity to child victims of violence whose physical or psychological integrity remains at serious risk and requires their urgent removal from the dangerous context, and that temporary protection and care are provided in an appropriate place of safety pending a full determination of the best interests of the child;

(f) To ensure that the police, courts and other competent authorities have the legal authority to issue and enforce protection measures such as restraining or barring orders in cases of violence against children, including removal of the perpetrator from the domicile and prohibiting further contact with the victim and other affected parties inside and outside the domicile, as well as to impose penalties for breaches of those orders in accordance with national legislation, and to ensure that, when the child victim of violence remains under the care and protection of the non-abusive parent, the parent can safeguard the child and that such protective measures are not dependent on the initiation of criminal proceedings;

(g) To ensure that a registration system is established for judicial protection and restraining or barring orders, where such orders are permitted by national law, so that police and other criminal justice officials can quickly determine whether such an order is in force;

(h) To ensure that an informal or mediated settlement of cases involving violence against children takes place only when it is in the best interests of the child, and does not involve harmful practices, such as forced marriage, taking 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;

(i) 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.

21. Recognizing the fact that, for prosecutions to be effective, it is often necessary for child victims of violence to participate in the criminal justice process, that in some jurisdictions children can be required or compelled to testify and that these children are 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, Member States are required in this regard to ensure that the child's privacy is fully respected at all stages of the proceedings and are urged, as appropriate:

(a) To ensure the availability for children of special services, physical and mental health care and protection that take into account gender and are appropriate to the age, level of maturity and needs of the child in order to prevent further hardship and trauma and promote the physical and psychological recovery and social reintegration of child victims of violence;

(b) To ensure that 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, receive age-appropriate medical advice and counselling and are provided with the requisite physical and mental health care and support;

(c) To ensure that child victims receive assistance from support persons commencing at the initial report and continuing until such services are no longer required;

(d) To ensure that professionals who are responsible for assisting child victims make every effort to coordinate support to avoid unnecessary procedures and limit the number of interviews.

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

22. In order to effectively investigate and prosecute incidents of violence against children and bring the perpetrators to justice, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) To ensure that the primary responsibility for initiating investigations and prosecutions lies with the police, the prosecution and other competent authorities and does not require an official complaint to be filed by the child victim of violence or a parent or legal guardian of the child;

(b) To adopt and implement policies and programmes aimed at guiding all decisions concerning the prosecution of offences of violence against children and ensuring the fairness, integrity and effectiveness of such decisions;

(c) To ensure that the applicable laws, policies, procedures, programmes and practices related to violence against children are consistently and effectively implemented by the criminal justice system;

(d) To ensure that child-sensitive investigation procedures are adopted and implemented so as to ensure that violence against children is correctly identified and to help provide evidence for administrative, civil and criminal proceedings, while according due assistance to children with special needs;

(e) To develop and implement policies and appropriate responses regarding the investigation and collection of evidence, in particular bodily samples, that take into account the needs and views of child victims of violence in accordance with the age and maturity of child victims, respect their dignity and integrity and minimize intrusion into their lives, while abiding by national standards for the collection of evidence;

(f) To ensure that the persons investigating alleged incidents of violence against children have the duty, powers and necessary authorization to obtain all the information necessary to the investigation, in accordance with criminal procedure as laid out in national law, and have at their disposal all the budgetary and technical resources necessary for effective investigation;

(g) 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;

(h) 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, and that such procedures also prevent further acts of violence.

VII. Enhancing cooperation among various sectors

23. Acknowledging the complementary roles of the criminal justice system, child protection agencies, health, education and social service sectors and, in some cases, informal justice systems in creating a protective environment and preventing and responding to incidents of violence against children, Member States are urged, as appropriate:

(a) To ensure effective 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;

(b) To establish stronger operational links, particularly in emergency situations, between health and social service agencies, both public and private, and criminal justice agencies for the purposes of reporting, recording and responding appropriately to acts of violence against children, while protecting the privacy of child victims of violence;

(c) To establish stronger links between informal justice systems and justice and child protection institutions;

(d) To develop information systems and inter-agency protocols to facilitate the exchange of information and enable cooperation in identifying incidents of violence against children, responding to them, protecting child victims of violence and holding perpetrators accountable, in accordance with national laws on data protection;

(e) To ensure that violent acts against children, when suspected by health and social services or child protection agencies, are promptly reported to the police and other law enforcement agencies;

(f) To promote the establishment of specialized units specifically trained to deal with the complexities and sensitivities relating to child victims of violence, from which victims can receive comprehensive assistance, protection and intervention services, including health and social services, legal aid and police assistance and protection;

(g) To ensure that adequate medical, psychological, social and legal services sensitive to the needs of child victims of violence are in place to enhance the criminal justice management of cases involving violence against children, to encourage the development of specialized health services, including comprehensive, free and confidential forensic examinations by trained health providers and appropriate treatment, including HIV-specific treatment, and to facilitate and support inter-agency referrals of child victims for services;

(h) To provide support to children whose parents or caregivers are deprived of liberty in order to prevent and address the risk of violence such children may be exposed to as a result of the parents' or caregiver's actions or situation.

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

24. With respect to criminal proceedings in matters involving child victims of violence, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) To ensure that comprehensive services are provided and protection measures are taken to ensure the safety, privacy and dignity of victims and their families at all stages of the criminal justice process, without prejudice to the ability or willingness of the victim to participate in an investigation or prosecution, and to protect them from intimidation and retaliation;

(b) To ensure that the child's views are given due weight in accordance with the age and maturity of the child, that the child is provided the opportunity to participate fully in any judicial and administrative proceedings, that every child is treated as a capable witness and that his or her testimony is not presumed to be invalid or untrustworthy by reason of the child's age alone, as long as the court or other competent authority deems that his or her age and maturity allow the giving of intelligible and credible testimony, with or without communication aids and other assistance;

(c) To ensure, in appropriate cases, that child victims of violence are not required to testify as part of the criminal justice process without the knowledge of their parents or legal guardians, that a child's refusal to testify does not constitute a criminal or other offence and that child victims of violence are able to testify in criminal proceedings through adequate measures and child-friendly practices that facilitate such testimony by protecting their privacy, identity and dignity, ensuring their safety before, during and after legal proceedings, avoiding secondary victimization and respecting their need and legal right to be heard while recognizing the legal rights of the accused;

(d) To ensure that 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, are 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;

(e) To ensure that the child victim's parents or legal guardian and, where appropriate, a child protection professional accompany the child during interviews conducted as part of the investigation and during trial proceedings, *inter alia*, while testifying as a witness, except in the following circumstances, as dictated by the best interests of the child:

(i) The parent(s) or the legal guardian are the alleged perpetrator(s) of the offence committed against the child;

(ii) The court deems that it is not in the best interests of the child to be accompanied by his or her parent(s) or legal guardian, including on the basis of credible concern expressed by the child;

(f) To ensure that proceedings relevant to the testimony of the child are explained to the child and conducted in language that is simple and comprehensible to the child and that interpretation into language that the child understands is made available;

(g) To protect the privacy of child victims of violence as a matter of primary importance, to protect them from undue exposure to the public, for example by excluding the public and the media from the courtroom during the child's testimony, and to protect information relating to a child's involvement in the justice process by maintaining confidentiality and restricting disclosure of information that may lead to identification of the child;

(h) To ensure, within the framework of national legal systems, that criminal proceedings involving child victims take place as soon as possible, unless delays are in the child's best interest;

(i) To provide for the use of child-sensitive procedures, including interview rooms designed for children, interdisciplinary services for child victims integrated within the same location, modified court environments that take child witnesses into consideration, recesses during a child's testimony, hearings scheduled at times of day appropriate to the age and maturity of the child, an appropriate notification system to ensure that the child goes to court only when necessary and other appropriate measures to facilitate the child's testimony;

(j) To ensure that, when child victims of violence may be the subject of intimidation, threats or harm, appropriate conditions are put in place to ensure their safety and that protective measures are taken, such as:

(i) Preventing direct contact between a child victim and the accused at any point during the criminal justice process;

(ii) Requesting restraining orders from a competent court, supported by a registry system;

(iii) Requesting a pretrial detention order for the accused from a competent court, with "no contact" bail conditions;

(iv) Requesting an order from a competent court to place the accused under house arrest if necessary;

(v) Requesting protection for a child victim by the police or other relevant agencies and safeguarding the whereabouts of the child from disclosure.

25. Recognizing the serious nature of violence against children and taking into account the severity of the physical and psychological harm caused to child victims, Member States are urged, as appropriate and while taking into consideration relevant

international human rights instruments, to ensure, when informal justice systems are resorted to, that violence against children is appropriately denounced and deterred, that perpetrators of violence against children are held accountable for their actions and that redress, support and compensation for child victims is provided.

26. Recognizing that measures to protect and assist child victims of violence must continue after the person accused of that violence has been convicted and sentenced, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) To ensure the right of a child victim of violence, or his or her parents or legal guardian, to be notified of the offender's release from detention or imprisonment if they so wish;

(b) To develop, implement and evaluate treatment and reintegration and rehabilitation programmes for those convicted of violence against children that prioritize the safety of victims and the prevention of recidivism;

(c) To ensure that judicial and correctional authorities, as appropriate, monitor compliance by perpetrators with any treatment or other court order;

(d) To 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 the offender from detention or imprisonment or the re-entry of the offender into society.

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

27. Recognizing the serious nature of violence against children, while taking into account the fact that the perpetrators of that violence may also be children, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) To ensure that offences involving violence against children are, by law, punishable by appropriate penalties that take into account their grave nature;

(b) To ensure that national law 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;

(c) To ensure that people who commit acts of violence against children while under the influence of alcohol, drugs or other substances are not exempt from criminal responsibility;

(d) To ensure that individuals can be prohibited or restrained by a court order or other means, within the framework of the national legal system, from harassing, intimidating or threatening children;

(e) To ensure that safety risks, including the vulnerability of victims, are taken into account in decisions concerning non-custodial sentences, bail, conditional release, parole or probation, especially when dealing with repeat and dangerous offenders;

(f) To make available to the courts, through legislation, a full range of sentencing dispositions to protect the victim, other affected persons and society from further violence, and to rehabilitate the perpetrator, as appropriate;

(g) To review and update national law to ensure that the decisions made by the courts in cases involving violent offences against children:

- (i) Denounce and deter violence against children;
- (ii) Hold offenders accountable, with due regard to their age and maturity, for their acts involving violence against children;
- (iii) Promote victim and community safety, including by separating the offender from the victim and, if necessary, from society;
- (iv) Allow for the severity of the physical and psychological harm caused to the victim to be taken into consideration;
- (v) Take into account the impact on victims and, if affected, their family members, of sentences imposed on perpetrators;
- (vi) Provide reparations for harm caused as a result of the violence;
- (vii) Promote the rehabilitation of the perpetrator, including by promoting a sense of responsibility in offenders and, where appropriate, rehabilitating and reintegrating perpetrators into the community.

X. Strengthening capacity and training of criminal justice professionals

28. Recognizing the responsibility of criminal justice professionals to prevent and respond to violence against children and to protect child victims of violence, as well as the need to facilitate and support this role, Member States are urged, as appropriate:

(a) To take measures and allocate adequate resources 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;

(b) To enable close cooperation, coordination and collaboration between criminal justice officials and other relevant professionals, especially those from the child protection, social welfare, health and education sectors;

(c) To design and implement training programmes for criminal justice professionals on the rights of the child, in particular on the Convention on the Rights of the Child and international human rights law, and to provide information on appropriate ways to deal with all children, in particular those who might be subject to discrimination, and to educate criminal justice professionals about the stages of child development, the process of cognitive development, the dynamics and nature of violence against children, the difference between regular peer groups and gangs, and the appropriate management of children who are under the influence of alcohol or drugs;

(d) To design and deliver guidance, information and training to informal justice system actors in order to ensure that their practices, legal interpretations and decisions comply with international human rights law and effectively protect children against all forms of violence;

(e) To design and implement mandatory, cross-cultural gender- and child-sensitivity training modules for criminal justice professionals on the unacceptability of all forms of violence against children and on the harmful impact on and consequences for all those who experience such violence;

(f) To ensure that criminal justice professionals receive adequate training and continuing education on all relevant national laws, policies and programmes, as well as relevant international legal instruments;

(g) To promote the development and use of specialized expertise among criminal justice professionals, including through the establishment, where possible, of specialized units or personnel and specialized courts or dedicated court time, and to ensure that all police officers, prosecutors, judges and other criminal justice professionals receive regular and institutionalized training to sensitize them to gender- and child-related issues and to build their capacity with regard to responding to violence against children;

(h) To ensure that criminal justice officials and other relevant authorities are adequately trained in their respective areas of competence:

(i) To identify and respond appropriately to the specific needs of child victims of violence;

(ii) To receive and treat all child victims of violence respectfully, with a view to preventing secondary victimization;

(iii) To handle complaints confidentially;

(iv) To conduct effective investigations of alleged incidents of violence against children;

(v) To interact with child victims in an age-appropriate and child- and gender-sensitive manner;

(vi) To conduct safety assessments and implement risk management measures;

(vii) To enforce protection orders;

(i) To support the development of codes of conduct for criminal justice professionals that prohibit violence against children, including safe complaint and referral procedures, and to encourage relevant professional associations to develop enforceable standards of practice and behaviour.

Part three

Preventing and responding to violence against children within the justice system

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

29. Recognizing the importance of avoiding the unnecessary criminalization and penalization of children, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments, to ensure that any conduct not considered a criminal offence or not penalized if committed by an adult is also not considered a criminal offence and not penalized if committed by a child, in order to prevent the child's stigmatization, victimization and criminalization.

30. In this regard, Member States are encouraged not to set the minimum age of criminal responsibility at too low an age level, bearing in mind the emotional, mental and intellectual maturity of children, and in this respect reference is made to the recommendations of the Committee on the Rights of the Child to increase the lower minimum age of criminal responsibility without exception to the age of 12 years as the absolute minimum age, and to continue to increase it to a higher age level.

31. Recognizing that an important and highly effective way of reducing the number of children in the justice system is through diversion 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, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) To consider diversion to community-based programmes and to provide police and other law enforcement officers, prosecutors and judges with options for diverting children away from the justice system, including warning and community work, to be applied in combination with restorative justice processes;

(b) To foster close cooperation among the justice, child protection, social welfare, health and education sectors, so as to promote the use and enhanced application of alternative measures to judicial proceedings and to detention;

(c) To consider designing and implementing restorative justice programmes for children as alternative measures to judicial proceedings;

(d) To consider the use of non-coercive treatment, education and assistance programmes as alternative measures to judicial proceedings and the development of alternative non-custodial interventions and effective social reintegration programmes.

XII. Preventing violence associated with law enforcement and prosecution activities

32. Mindful of the fact that police and other security forces can sometimes be responsible for acts of violence against children, Member States are urged, while taking into consideration relevant international legal instruments, to prevent abuse of power, arbitrary detention, corruption and extortion by police officers who target children and their families.

33. Member States are urged to effectively prohibit 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 a child in activities against his or her will.

34. Mindful of the fact that arrests and investigations are situations in which violence against children can occur, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) 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, including summonses and notices to appear, in cases involving children as alleged perpetrators;

(b) To implement the principle that the apprehension or arrest of children should be conducted in a child-sensitive manner;

(c) To prohibit the use of firearms, electric shock weapons and violent methods to apprehend and arrest children, and to adopt measures and procedures that carefully limit and guide the use of force and instruments of restraint by the police while apprehending or arresting children;

(d) To require, ensure and monitor police compliance with the obligation to notify parents, legal guardians or caregivers immediately following the apprehension or arrest of a child;

(e) To ensure that, when considering whether a parent, legal guardian, legal representative or responsible adult or, when necessary, a child protection professional is to be present at, or to observe a child during, the interview or interrogation process, the best interests of the child as well as other relevant factors are taken into consideration;

(f) To ensure that children are informed of their rights and have prompt access to legal aid during police interrogation and while in police detention, and that they may consult their legal representative freely and fully confidentially;

(g) To review, evaluate and, where necessary, update national laws, policies, codes, procedures, programmes and practices 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;

(h) To implement measures to specifically prevent violence related to unlawful practices by the police, including arbitrary arrests and detention and extrajudicial punishment of children for unlawful or unwanted behaviours;

(i) 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;

(j) To ensure that alleged incidents of violence against children during their contact with the police are independently, promptly and effectively investigated and that those alleged to 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;

(k) To take measures to address 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;

(l) To ensure that, when a parent, legal guardian or caregiver is arrested, the child's best interests, care and other needs are taken into account.

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

35. Recognizing that limiting the use of detention as a sentence and encouraging the use of alternatives to detention can help to reduce the risk of violence against children within the justice system, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) Not to deprive children of their liberty unlawfully or arbitrarily and, in cases of deprivation of liberty, to ensure that it is in conformity with the law and used only as a measure of last resort and for the shortest appropriate period of time;

(b) To ensure that children have continued access to government-funded legal aid during all stages of the justice process;

(c) To ensure that children can exercise their right to appeal a sentence and obtain the legal aid necessary to do so;

(d) To provide for the possibility of early release and make available aftercare and social reintegration programmes and services;

(e) To facilitate professional specialization, or at least specialized training, for criminal justice professionals dealing with children alleged as, accused of or recognized as having infringed criminal law.

XIV. Prohibiting torture and other cruel, inhuman or degrading treatment or punishment

36. Recognizing that no child should be subjected to torture or other cruel, inhuman or degrading treatment or punishment, Member States are urged:

(a) To review, evaluate and, where necessary, update their national laws to effectively prohibit sentences involving any form of corporal punishment for crimes committed by children;

(b) To review, evaluate and, where necessary, update their national laws to ensure that, under legislation and practice, neither capital punishment nor life imprisonment without the possibility of release is imposed for offences committed by persons when they were under 18 years of age.

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

37. Recognizing that the majority of children deprived of their liberty are in police custody or pretrial or preventive detention and that those children might be at risk of violence, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) To ensure that children in police custody or pretrial or preventive detention can promptly appear before a court or tribunal to challenge that detention and that they have an opportunity to be heard either directly or through a representative or an appropriate body in a manner consistent with the procedural rules of national law, in order to obtain a prompt decision on any such action;

(b) To reduce delays in the justice process, to expedite trials and other proceedings involving children alleged as, accused of or recognized as having infringed criminal law, and to avoid the resulting prolonged or arbitrary detention of children while they await trial or the conclusion of a police investigation;

(c) To ensure the effective oversight and independent monitoring of all cases of police custody or pretrial or preventive detention of children;

(d) To endeavour to reduce pretrial detention by, inter alia, adopting legislative and administrative measures and policies on its preconditions, limitations, duration and alternatives and by taking measures aimed at the implementation of existing legislation, as well as by ensuring access to justice and legal aid.

38. Recognizing that, when children must be detained, the conditions of detention themselves can be conducive to various forms of violence against children, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) To ensure that all detention facilities have adopted and implemented child-sensitive policies, procedures and practices, and to monitor compliance with them;

(b) To establish a maximum capacity for all places of detention and take concrete and sustained measures to address and reduce overcrowding in such institutions;

(c) To ensure that, in all places of detention, children are separated from adults and girls are separated from boys;

(d) To promote good practices in order to strengthen the protection and safety of children living in custody with an incarcerated parent, including consultation with the parents to determine their views regarding their child's care during the period of custody and the provision of special mother-and-child units or, where parents are detained for violation of immigration laws, separate family units in order to identify their special needs and accordingly provide appropriate protection;

(e) To facilitate the assessment and classification of children held in detention facilities in order to identify their special needs and accordingly provide appropriate protection and individualize treatment and interventions, including with respect to the specific needs of girls, and to ensure that there is a sufficient array of facilities to accommodate and adequately protect children of different ages or with differing needs;

(f) To ensure that treatment and support is offered to detained children with special needs, including to girls who are pregnant, give birth and/or raise children in detention, and that treatment for mental illness, disabilities, HIV/AIDS and other communicable and non-communicable diseases and drug addiction is offered, and to address the needs of children at risk of committing suicide or other forms of self-harm;

(g) To ensure that appropriate care and protection is provided to children accompanying a parent or legal guardian deprived of liberty on any ground, including for a violation of immigration law;

(h) To review, update and improve safety and security policies and practices within places of detention to reflect the obligation of the authorities to ensure the safety of children and protect them against all forms of violence, including violence among children;

(i) To prevent all forms of discrimination against or ostracism or stigmatization of detained children;

(j) To take strict measures to ensure that all alleged incidents of violence, including sexual abuse of children in a place of detention, are immediately reported and independently, promptly and effectively investigated by appropriate authorities and, when well founded, effectively prosecuted.

39. Recognizing also that it is imperative to minimize the risk of violence against children in detention, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) 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;

(b) To prohibit 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;

(c) To adopt and implement strict policies guiding the use of force and physical restraints on children during their detention;

(d) To adopt policies prohibiting the carrying and use of weapons by personnel in any facility where children are detained;

(e) 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;

(f) To prohibit any form of violence or threats of violence against children by staff of places of detention in order to force children to engage in activities against their will;

(g) To ensure the effective supervision and protection of children, as necessary, from violence by other children and adults, including through measures to prevent bullying by adults and by other children, and from self-harm;

(h) To prevent violence associated with youth gang activities and racist harassment and violence within places of detention;

(i) To encourage and facilitate, wherever possible and in the best interests of the child, frequent family visits and regular contact and communication between children and their family members, as well as with the outside world, and to ensure that disciplinary sanctions for detained children do not include a prohibition of contact with family members;

(j) To prevent violence against and abuse of children suffering from mental illness or drug addiction, including through treatment and other measures to protect them from self-harm.

40. Recognizing the importance of preventing violence against children through appropriate staff recruitment, selection, training and supervision, Member States are urged, as appropriate:

(a) To ensure that all personnel working with children in places of detention are qualified, selected on the basis of professional capacity, integrity, ability and personal suitability, sufficiently remunerated, adequately trained and effectively supervised;

(b) To ensure that any person who has been convicted of a criminal offence against a child is not eligible to work in an agency or organization providing services to children, and to require agencies and organizations providing services to children to prevent persons who have been convicted of a criminal offence against a child from coming into contact with children;

(c) To train all personnel and 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 against violence in an ethical and child- and gender-sensitive manner.

41. Taking into account the distinctive needs of girls and their vulnerability to gender-based violence, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) To eliminate the risk of all forms of harassment, violence and discrimination against girls;

(b) To ensure that the special needs and vulnerabilities of girls are taken into account in decision-making processes;

(c) To ensure that the dignity of girls is respected and protected during personal searches, which shall only be carried out by female staff who have been properly trained in appropriate searching methods and in accordance with established procedures;

(d) To implement alternative screening methods, such as scans, to replace strip searches and invasive body searches in order to avoid the harmful psychological and possible physical impact of such searches;

(e) To adopt and implement clear policies and regulations on the conduct of staff aimed at providing maximum protection for girls deprived of their liberty from any physical or verbal violence, abuse or sexual harassment.

42. Recognizing the crucial importance of independent monitoring and inspection mechanisms, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) To ensure effective monitoring of, regular access to and inspection of places of detention and community-based institutions by national independent bodies and national human rights institutions, ombudspersons or members of the judiciary, who are empowered to conduct unannounced visits, conduct interviews with children and staff in private and investigate allegations of violence;

(b) To ensure that they cooperate with relevant international and regional monitoring mechanisms that are legally entitled to visit institutions in which children are deprived of their liberty;

(c) To promote international cooperation with regard to best practices and lessons learned related to national monitoring and inspection mechanisms;

(d) To ensure that all deaths of children in detention facilities are reported and promptly and independently investigated, and to promptly endeavour, as appropriate, to investigate injuries suffered by children and ensure that their parents, legal guardian or closest relatives are informed.

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

43. Given the crucial importance of providing children who report abuse and incidents of violence within the justice system with immediate protection, support and counselling, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) To establish complaint mechanisms for child victims of violence within the justice system that are safe, confidential, effective and easily accessible;

(b) To ensure that children receive clear information, in particular when they first arrive in a place of detention, both verbally and in writing, about their rights, relevant procedures, how they can exercise their right to be heard and listened to, effective remedies to address incidents of violence and available services for assistance and support, as well as information on seeking compensation for damages, that such information is age- and culturally appropriate and child- and gender-sensitive, and that parents and legal guardians are equally provided with relevant information on these measures;

(c) To protect children who report abuse, specifically taking into account the risks of retaliation, including by removing those allegedly implicated in violence

against or ill-treatment of children from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, and those conducting the investigation;

(d) To take effective measures to protect children who provide information or act as witnesses in proceedings related to a case involving violence within the justice system;

(e) To provide access to fair, prompt and equitable redress mechanisms and accessible procedures for seeking and obtaining compensation for child victims of violence in the justice system, and to endeavour to adequately fund victim compensation schemes.

44. Recognizing the importance of detecting and responding to all incidents of violence against children as a result of their involvement with the justice system as alleged or sentenced offenders, Member States are urged, as appropriate:

(a) To ensure that laws establishing obligations to report violence against children in the justice system respect children's rights and are incorporated into the relevant regulations of agencies and rules of conduct, and that all those working with children have clear guidance on reporting requirements and consequences;

(b) To implement protection measures for staff who report in good faith alleged incidents of violence against children, and to adopt rules and procedures that protect the identity of professionals and private individuals who bring cases of violence against children to the attention of the competent authorities;

(c) To ensure the prompt, independent and effective investigation of all alleged incidents of violence against children involved with the justice system, as alleged or sentenced offenders, by competent and independent authorities, including medical personnel, with full respect for the principle of confidentiality.

XVII. Strengthening accountability and oversight mechanisms

45. Member States are urged to take all appropriate measures to combat impunity and the tolerance of violence against children within the justice system, including through awareness-raising programmes, education and effective prosecution of violent offences committed against children within the justice system.

46. Member States are encouraged to ensure that there is a clear and sustained commitment and obligation at all levels of justice institutions to prevent and address violence against children, including in a child- and gender-sensitive manner.

47. Member States are urged, as appropriate and while taking into consideration relevant international legal instruments:

(a) To promote accountability for incidents of violence against children in the justice system, including by adopting and implementing effective measures to enhance integrity and prevent corruption;

(b) To establish internal and external accountability mechanisms in policing and in places of detention;

(c) To establish all key elements of an effective accountability system, including independent national oversight, monitoring and complaint mechanisms for agencies dealing with children;

(d) To ensure the independent, prompt and effective investigation and prosecution of offences involving violence against children within the justice system;

(e) To ensure that all public officials who are found to be responsible for violence against children are held accountable through workplace disciplinary measures, termination of employment and criminal justice investigations, where appropriate;

(f) To promote transparency and public accountability regarding all measures taken to hold accountable perpetrators of violence and those who are responsible for preventing such violence;

(g) To undertake criminal or other public investigations into all serious reports of violence against children at any stage of the justice process, and to ensure that such investigations are carried out by persons of integrity, are adequately funded and are completed without undue delay.



OFFICE OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL ON
VIOLENCE AGAINST CHILDREN

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