



The International Institute for Justice
and the Rule of Law

**TOOLKIT ON JUVENILE JUSTICE
IN A COUNTER-TERRORISM CONTEXT**

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Glossary

In this Toolkit, the following working definitions will be used:

Child: a child means every human being below the age of eighteen years.

Source: Article 1 [United Nations Convention on the Rights of the Child](#)

While the [Neuchâtel Memorandum](#) and this Toolkit refer to “children”, they do not exclude that specific measures may be applied to young adults above the age of 18.

Child in conflict with the law: Anyone under the age of 18 who comes into contact with the justice system as a result of being suspected of or charged with committing an offense.

Deprivation of liberty: any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority.

Source: *UN Rules for the Protection of Juveniles Deprived of their Liberty* ([Havana Rules](#))

Gender-sensitive: criminal justice practices, programs, assessments or policies that take into account the differences between gender in terms of societal and cultural background, characteristics and life experiences.

Source: [European Institute for Gender Equality](#)

Radicalization: a dynamic process whereby an individual increasingly accepts and supports violent extremism. The reasons behind this process can be ideological, political, religious, social, economic or personal.

Source: [Council of Europe Guidelines for prison and probation services regarding radicalisation and violent extremism](#), CM/Del/Dec(2016)1249/10.2, 2 March 2016

Violent extremism: promoting, supporting, justifying or committing violent acts which are aimed at defending an ideology advocating racial, national, ethnic or religious supremacy or opposing core democratic principles and values.

Source: [Council of Europe Guidelines for prison and probation services regarding radicalisation and violent extremism](#), CM/Del/Dec(2016)1249/10.2, 2 March 2016

Terrorism-related offenses: *while no internationally agreed definition of terrorism exists, the following definition drafted by the UN Special Rapporteur on Terrorism and Human Rights will be used to refer to terrorism and related offenses, as defined under national law, for the purpose of this Toolkit:*

Terrorism means an action or attempted action where: 1. The action: (a) Constituted the intentional taking of hostages; or (b) Is intended to cause death or serious bodily injury to one or more members of the general population or segments of it; or (c) Involved lethal or serious physical violence against one or more members of the general population or segments of it; and

2. The action is done or attempted with the intention of: (a) Provoking a state of terror in the general public or a segment of it; or (b) Compelling a Government or international organization to do or abstain from doing something; and

3. The action corresponds to: (a) The definition of a serious offence in national law, enacted for the purpose of complying with international conventions and protocols relating to terrorism or with resolutions of the Security Council relating to terrorism; or (b) All elements of a serious crime defined by national law.

Source: Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, 'Ten areas of best practices in countering terrorism', A/HRC/16/51, 22 December 2010.

Abbreviations and Acronyms

CVE: Countering Violent Extremism

GCCS: Global Center for Cooperative Security

GCTF: Global Counterterrorism Forum

IJJ: International Institute for Justice and the Rule of Law

OSCE: Organization for Security and Co-operation in Europe

PVE: Preventing Violent Extremism

UN: United Nations

UNGA: United Nations General Assembly

UNCRC: United Nations Convention on the Rights of the Child

UNICEF: United Nations Children's Fund

UNICRI: United Nations Interregional Crime and Justice Research Institute

UNODC: United Nations Office on Drugs and Crime

UNSC: United Nations Security Council

Foreword

The increasing number of children radicalized to violence, recruited, and involved in terrorism-related activities is a rising trend in many regions around the globe. This poses questions regarding the different phases of the criminal justice response, which includes prevention, investigation, prosecution, sentencing, and reintegration. Increasingly children are recruited by terrorist groups within or outside their country. Some are abducted or forcibly recruited, some are enticed by promises of money or other material advantages, some join voluntarily, and some have little or no choice but to accompany their parents or other family members to territories controlled by terrorists. This reality requires an appropriate response by states that is grounded in international human rights law and the rule of law.

In 2015-2016, under the auspices of the GCTF Criminal Justice and Rule of Law Working Group, the International Institute for Justice and the Rule of Law (IIJ) supported the development of the *Neuchâtel Memorandum on Good Practices for Juvenile Justice in a Counterterrorism Context*, in consultation with experts from relevant UN entities and international organisations. The Neuchâtel Memorandum was developed as part of the GCTF's *Initiative to Address the Life Cycle of Radicalization to Violence*, and adopted by the GCTF Ministers at their Seventh Plenary Meeting in New York in September 2016. In 2017, the IIJ launched an *Initiative for Juvenile Justice Practitioners* in order to promote awareness and implementation of the GCTF Neuchâtel Memorandum by law enforcement, prosecutors, defense attorneys, judges, prison officials, probation officers, and civil society. This effort aims at strengthening the capacity of countries to comply with the internationally protected rights of the child while addressing the increasing involvement of children in terrorism-related crimes, by integrating the Neuchâtel Memorandum good practices into the curricula of national judicial schools and relevant training institutes.

The present *Toolkit on Juvenile Justice in a Counter-Terrorism Context* is meant to support the implementation of a series of IIJ training activities for practitioners in the field of juvenile justice. Based on the GCTF Neuchâtel Memorandum, IIJ's methodology follows the multi-disciplinary approach needed to safeguard children rights while delivering counter-terrorism justice, and emphasizes the need to address these challenges at the national level.

The structure and content of the toolkit are shaped around the five sections of the GCTF Neuchâtel Memorandum. Available in Arabic, English and French, the toolkit provides a practical reference document in support of the work of the IIJ and any other organisation seeking to promote respect for the rights of the child in the context of counter-terrorism across regions.

The IIJ wishes to warmly thank the Government of Switzerland for their generous support in the elaboration of this toolkit.

Thomas A. Wuchte
Executive Secretary
The International Institute for Justice and the Rule of Law

About the Toolkit

Committee on the Rights of the Child's General Comment No. 10 (2007) on Children's Rights in Juvenile Justice (Para. 10)

"Children differ from adults in their physical and psychological development, and their emotional and educational needs. Such differences constitute the basis for the lesser culpability of children in conflict with the law. These and other differences are the reasons for a separate juvenile justice system and require a different treatment for children. The protection of the best interests of the child means, for instance, that the traditional objectives of criminal justice, such as repression/retribution, must give way to rehabilitation and restorative justice objectives in dealing with child offenders. This can be done in concert with attention to effective public safety."

Whilst not a new phenomenon, many countries in different regions have recently experienced an increase in the recruitment, training and use of children by terrorist groups. Whereas international law regulates the administration of juvenile justice, the justice responses to the involvement of children in terrorism-related activities differ greatly from one national system to another. The difficulties of providing adequate responses to the challenges posed by the simultaneous objectives of countering terrorism and respecting and enhancing children's rights should not be overlooked. They are shared by States and practitioners throughout the world, and it is precisely with the aim of providing them with tools and guidance to face those challenges effectively that this Toolkit has been drafted.

The Toolkit is designed to be used as a practical tool to support the IJJ's training activities with a range of different practitioners working with children who are either at risk of being involved in terrorism-related activities or charged with or convicted of terrorism-related offenses. These practitioners include law enforcement officials, prosecutors, defense attorneys, judges, prison officials and staff, probation officers, and national judiciary schools' and training institutes' officials. The Toolkit may also be of interest to others working in this field as reference.

The Toolkit takes international norms and standards relating to children in conflict with the law as its starting point. The international legal framework is universally applicable to all children regardless of the severity or nature of the offense in question; norms and standards therefore apply to children charged with or convicted of terrorist and related offenses as much as they do to children charged with or convicted of minor offenses.

The Toolkit is firmly rooted in the guidance provided by the [Neuchâtel Memorandum on Good Practices for Juvenile Justice in a Counter terrorism Context](#) (hereinafter the Neuchâtel Memorandum) which was developed and adopted by the Global Counterterrorism Forum in September 2016. It should be read and used with a copy of the Neuchâtel Memorandum in hand

for reference. As well as setting out the relevant international framework relevant for each Good Practice of the Neuchâtel Memorandum, the Toolkit also seeks to provide practitioners with concrete examples of relevant national practices in the justice response to children involved in terrorism-related activities. A gender-sensitive approach acknowledging that girls and boys may be very differently influenced and affected by participation in terrorist activity and involvement in the justice system is encouraged throughout.

The Toolkit begins with a short overview of key principles emerging from the international legal framework on children's rights and is then organized into five sections, each looking at different aspects of the treatment of children suspected of, charged with or convicted of involvement in terrorism-related offenses:

- I. The Status of Children and their Protection under International Law and Juvenile Justice Standards;
- II. Prevention;
- III. Justice for Children;
- IV. Rehabilitation and Reintegration;
- V. Capacity Development, Monitoring and Evaluation.

Each section examines recommendations made in the Neuchâtel Memorandum and provides some practical case studies to highlight learning and experiences from different countries. It was not always possible to locate case studies demonstrating good practices for all of the recommendations in the Neuchâtel Memorandum. The present Toolkit is a work in progress. The IJJ would be grateful if any relevant experience could be shared via info@theijj.org. Exercises and assessment questions are provided at the end of each section so that practitioners can reflect on their professional knowledge and on how to develop implementation strategies adapted to their local context and practice.

The IJJ conceptualized the present toolkit to facilitate its work under the core Initiative *Implementing the GCTF Neuchâtel Memorandum on Juvenile Justice in the Counter-Terrorism Context*.

The III is thankful to Ms. Frances Sheahan and Ms. Sophie Duroy who contributed to its elaboration.

Overview of relevant international norms and standards

The international legal framework relevant for children in conflict with the law has at its core the United Nations Convention on the Rights of the Child (UNCRC), open for signature 1989. The UNCRC has the unique distinction of being ratified by every Member State of the UN aside from the US.

The overarching principle of the UNCRC regarding children in conflict with the law is that they must be *‘treated in a manner consistent with the promotion of the child’s sense of dignity and worth (...) and which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society.’*¹

The obligations set out in the UNCRC make it clear that criminal justice systems for children (commonly referred to as juvenile justice systems) should promote the well-being of the child and react proportionately to the nature of the offense taking into account the individual characteristics of the child. Both justice and welfare systems should aim to prevent crime, make decisions which are in a child’s best interests, treat children fairly and in a manner which is appropriate to their development, address the root causes of offending and rehabilitate and reintegrate children so they can play a constructive role in society in the future.

As far as possible, children should be dealt with outside of the formal criminal justice system and diversion should be used wherever appropriate because entry into the criminal justice system creates an additional risk of violations of rights, secondary victimization and of re-offending. States must guarantee their right to a fair trial and create procedures that are focused upon rehabilitation and reintegration of the child rather than on punishment or retribution. The standards reflect the principle that children's accountability for criminal behavior is not equivalent to that of adults and should be modified taking into account their maturity because they *‘differ from adults in their physical and psychological development, and their emotional and educational needs. Such differences constitute the basis for the lesser culpability of children in conflict with the law.’*² The UNCRC also addresses the issue of sentencing. In particular, the deprivation of liberty of children should only be used *‘as a measure of last resort and for the shortest appropriate period of time’*.³

These are universally applicable principles that hold true for all children, regardless of the severity or nature of the offense in question.

¹ Article 40(1) UNCRC.

² UN CRC General Comment N°10.

³ Article 37(b) UNCRC.

The UNCRC and other applicable human rights treaties (in particular the ICCPR⁴ and regional human rights conventions) are complemented by additional international and regional soft-law instruments.⁵ They have significant moral and political force and provide useful and practical guidance regarding specific rights and situations. The international legal framework as a whole has evolved and been elaborated upon over time in order to provide for further necessary guidance regarding particular standards.⁶

Children involved with terrorist groups may be living in areas of armed conflict. The UNCRC is a non-derogable instrument, which means that its provisions continue to apply during an armed conflict or indeed any declared ‘state of emergency’. International humanitarian law also applies in armed conflicts, and provides relevant rules regarding the involvement of children in international and non-international armed conflicts. The recruitment of children under the age of 15 by armed forces is prohibited both in the UNCRC and in the two first Additional Protocols of 1977 to the Geneva Conventions. The Optional Protocol to the UNCRC on the Involvement of Children in Armed Conflict further provides that armed groups should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.

Frequently, non-state armed groups will be designated as terrorist groups by States. This raises the question of how children who are members of these groups should be treated if arrested. In deciding whether or not to prosecute children associated with non-state armed groups, States should take into account the Paris Principles and Guidelines on Children associated with Armed Forces and Armed Groups, which provide that ‘*children who are accused of crimes under international law allegedly committed while they were associated with armed forces or armed groups, should be considered primarily as victims and not as perpetrators.*’ States parties to the Optional Protocol to the UNCRC on the involvement of children in armed conflict should also take all feasible measures to ensure that former child soldiers are demobilized or otherwise released, and that they are provided with all appropriate assistance for recovery and reintegration. The UN Security Council resolution 2225 (2015) further encourages member states to consider non-judicial measures as alternatives to prosecution and detention and to focus on the

⁴ International Covenant on Civil and Political Rights, 16 December 1966.

⁵ The standards include the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) adopted in 1985; the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) adopted in 1990; the UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) adopted in 1990; and the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) adopted in 2010. Other relevant standards are set out in detail at the end of this Toolkit for reference.

⁶ See for example, UN Committee on the Rights of the Child, General comment No. 10 (2007): Children's Rights in Juvenile Justice, The Guidance Note on Justice for Children issued by the UN Secretary General (2008), Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice (2010), and the UN Principles and Guidelines on Access to Legal Aid in the Criminal Justice System (2012).

rehabilitation and reintegration of children formerly associated with armed forces and armed groups.⁷

In dealing with children alleged of or charged with terrorism-related offenses, justice practitioners should be aware of this international legal framework and its implications for procedural, judicial and sentencing matters. The relevance and applicability of the above-mentioned standards and norms will be developed further throughout the Toolkit, and illustrated with practical examples from a broad range of countries.

⁷ UN Security Council resolution 2225 (2015) [on children and armed conflicts], 18 June 2015.

Section I. The status of Children and their Protection under International Law and Juvenile Justice Standards

Good Practice 1: Address children alleged to be involved in terrorism-related activities in accordance with international law and in line with international juvenile justice standards



KEY LEARNING POINTS

- All responses to children alleged to be involved in terrorist-related activity should be grounded in international human rights law and the rule of law.
- The international standards for children in conflict with the law should be applied for all children regardless of the nature or severity of the offense concerned.
- The best interests of the child should be a primary consideration in all decisions taken by actors at all stages of the justice procedure.
- Children charged with terrorist-related activity should remain in the specialized justice system for children. The main objective when dealing with children involved in terrorist-related activity is to rehabilitate and reintegrate them back into society – in this way public safety is preserved and children's rights are upheld.



RELEVANT INTERNATIONAL STANDARDS

UNCRC Article 3:

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, **the best interests of the child shall be a primary consideration.** [...]

UNCRC Article 40:

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and **which takes into account the child's age and the**

desirability of promoting the child's reintegration and the child's assuming a constructive role in society. [...]

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

UN Committee on the Rights of the Child (CRC), General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, 6 December 2016, CRC/C/GC/20

88. ...The focus should be on rehabilitation and reintegration, including for those adolescents involved in activities categorized as terrorism, in line with the recommendations in general comment No. 10 (2007) on children's rights in juvenile justice.

PUTTING IT INTO PRACTICE

Case Study on the involvement of the Family Courts in terrorist cases in England and Wales⁸

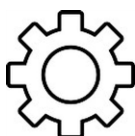
In England and Wales, the High Court Family Division has dealt with cases involving: the planned or attempted removal of children by their parents to areas of Syria under ISIS control; children who are at risk of, or who are being radicalized by their parents; children who are, or who have been at risk of being involved in terrorist activities in England or abroad and girls who planned to travel to territories controlled by ISIS to become a 'jihadi bride'. Using its inherent jurisdiction in the civil, child welfare system, the Family Court has been able to intervene early in risky cases and provide for child-friendly justice measures in cases where adult criminal courts may also have had jurisdiction over the acts of children. Doing so, the Court has stressed that the best interests of the individual child are paramount, even in the context of counter-terrorism policies or security operations. This principle therefore informed the Court's decision over the appropriate measures in each individual case.

Wardship orders (i.e. making the child a ward of the court, a measure used very sparingly in the past but increasingly often in terrorism-related cases) have for example been used to prevent radicalized children from traveling abroad to join armed groups in ISIS controlled territories and particularly in Syria, an act which would constitute a terrorist offense under national law and could

⁸ For more information see "Radicalisation Cases in the Family Courts" Guidance issued by Sir James Munby President of the Family Division on 8 October 2015, accessible at: <https://www.judiciary.gov.uk/wp-content/uploads/2015/10/pfd-guidance-radicalisation-cases.pdf> Hamilton, C. et al, *Children and Counter-Terrorism*, United Nations Interregional Crime and Justice Research Institute (UNICRI), 2016, pp.61-64, accessible at: http://www.unicri.it/in_focus/files/Children_counter_terrorism.pdf

trigger the jurisdiction of an adult criminal court. In such cases, the High Court Family Division has been prepared to make the children wards of court and to issue a passport seizure order or an order requiring the child and their parents to hand over the children's passports to make it impossible for them to leave the country.

Referral of these children to national prevention and de-radicalization programs has also been used as a protective and rehabilitative measure. The Family Court has emphasized multiple times the importance of working hand in hand with local authorities and law enforcement officers in order to provide children with the protection they require to prevent serious terrorism-related offending and enhance rehabilitation prospects.



HIGHLIGHTS & LESSONS LEARNED

- Making use of the child protection capacity of courts whenever possible under the national legal system to avoid putting children through criminal justice procedures and to enhance rehabilitation prospects.
- Using existing tools (for example orders of wardship) for the new types of cases coming in front of the court.
- Ensuring multi-disciplinary cooperation to ensure early intervention and to provide the child with the protection and care they require to distance themselves from extremist thoughts and behaviors.

Good Practice 2: Assess and address the situation of children in a terrorism-related context from a child rights and child development perspective



KEY LEARNING POINTS

- Children's reasoning and cognitive abilities are different to those of adults: they can be more easily influenced and may not fully appreciate the consequences of their actions.
- Children's recruitment by armed groups is prohibited by international law: they cannot voluntarily enroll into armed groups and should be treated first and foremost as victims of a violation of international law.
- Children suspected of or prosecuted for terrorism-related acts should be treated with full understanding of their cognitive capacities, their vulnerabilities, and if applicable, of their victim status under international law. To gain this understanding, it is vital that they are listened to and given the opportunity to express their views.
- Girls are one of the most vulnerable groups involved in terrorist-related activities because of their age, gender and small numbers – a gender-sensitive approach that takes into account the rights and needs of both girls and boys is needed.



RELEVANT INTERNATIONAL STANDARDS

UNCRC, Article 38:

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
 2. States Parties shall take all feasible measures to **ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.**
- [...]

UNCRC, Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided **the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body**, in a manner consistent with the procedural rules of national law.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Article 4:

1. Armed groups that are distinct from the armed forces of a State **should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.**
2. States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.

Paris Principles and Guidelines on Children associated with Armed Forces and Armed Groups (Paris Principles)

3.6 Children who are accused of crimes under international law allegedly committed while they were associated with armed forces or armed groups **should be considered primarily as victims of offences against international law**; not only as perpetrators. They must be treated in accordance with international law **in a framework of restorative justice and social rehabilitation, consistent with international law which offers children special protection** through numerous agreements and principles.

UN Committee on the Rights of the Child (CRC), General comment No. 10 (2007): Children's Rights in Juvenile Justice, 25 April 2007, CRC/C/GC/10

6. States parties have to take all necessary measures to **ensure that all children in conflict with the law are treated equally**. Particular attention must be paid to de facto discrimination and disparities, which may be the result of a lack of a consistent policy and involve vulnerable groups of children, such as street children, children belonging to racial, ethnic, religious or linguistic minorities, indigenous children, girl children, children with disabilities and children who are repeatedly in conflict with the law (recidivists). In this regard, training of all professionals involved in the administration of juvenile justice is important.....as well as the establishment of rules, regulations or protocols which enhance equal treatment of child offenders and provide redress, remedies and compensation.

UN Committee on the Rights of the Child (CRC), General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, 6 December 2016, CRC/C/GC/20

29. **Traditional concepts of masculinity and gender norms linked to violence and dominance can compromise boys' rights.** These include the imposition of harmful initiation rites, exposure to violence, gangs, coercion into militia, extremist groups and trafficking.



FURTHER READING

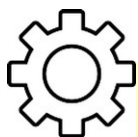
- ✓ International Criminal Court, [Case of the Prosecutor v. Thomas Lubanga Dyilo](#), judgment of 14 March 2012, para. 607-618. In particular see at para. 612: 'the line between voluntary and forced recruitment is not only legally irrelevant but practically superficial in the context of children in armed conflict'.

PUTTING IT INTO PRACTICE

Case Study on how Colombia has responded to a high number of child soldiers⁹

Colombia has one of the highest number of child soldiers in the world; most of them associated with the FARC (Revolutionary Armed Forces of Colombia), an illegal armed group that was engaged in an internal armed conflict with the government for more than 50 years until the recent peace agreement of 2016. Under the 2011 Victims Law and the 2005 Peace and Justice Law, children associated with illegal organizations (including the FARC) who escape, are captured by the military, or are released as part of the implementation of the Peace Agreement of 2016 are automatically considered to be victims.

These children are entered into specialized reintegration programs, receive assistance as victims and cannot be prosecuted for actions related to their association with armed groups. When they reach 18, they can receive further assistance, from the adults' programs for demobilization and reintegration run by the Colombian Agency for Reintegration. The Peace Agreement includes provisions for the creation of a transitional justice system to deal with guerrillas, military personnel, and civilians who committed war crimes and crimes against humanity, including the recruitment and use of child soldiers.



HIGHLIGHTS & LESSONS LEARNED

- Children cannot voluntarily enroll into armed groups and are thus considered victims of illegal recruitment into armed forces under national law.
- As victims, children cannot face charges for actions related to their association to armed groups. (but they can be held accountable for criminal acts committed)
- Children who leave armed groups (in any way) are rehabilitated and reintegrated into society through State-run programs designed specifically for children.
- National law provides mechanisms to hold individuals accountable for the recruitment and use of children in armed groups.

⁹ For more information see Ley de Víctimas y Restitución de Tierras, 1448 (2011), Art. 181 and Ley de Justicia y Paz, 975 (2005). On Colombia's Peace Process: <http://colombiapeace.org/> ; On Colombia's reintegration programs, see: http://www.centrodememoriahistorica.gov.co/descargas/informe_comoCorderosEntreLobos.pdf

EXERCISES



When answering the following questions, please base your answers on your national legal system and standards and from your knowledge as a practitioner. Always assume that the country of S. is the country you practice in. Please aim to follow the recommendations of the Neuchâtel Memorandum as closely as possible when developing your answer. Please answer each question separately.

EXERCISE A

(Good Practices 1 and 2)

J., 17, attempts to blow up his suicide-bomb vest in front of a highly-frequented national monument in the country of S., but the bomb fails to explode properly and only leaves him lightly injured.

At the police station a few hours later, J. expresses no remorse and states that he wishes the explosion “would have killed non-believers so that [he] could have gone to heaven”.

He refuses to give any more information to the police about his affiliation, his identity and past.

A. You are a practitioner in the country of S., please explain what the procedure regarding J.’s interview at the police station should be, making reference to your national legal system and the Neuchâtel Memorandum, paying particular attention to the following questions:

- Will authorities at the police station bring a doctor to attend to his injuries before he is questioned?
- Will his family be identified and contacted before he can be interviewed?
- Will a lawyer be present before he is interviewed?
- How long will the interview last?
- How long can he be detained before being brought before a court?
- Will he be detained alongside adults? If not where will he be held?
- Will he be interviewed by specialized law enforcement officials? If so, describe the training these officials receive.

ANSWER

The inquiry into J.'s identity and past reveals he is from the town of G., in the country of S. and had been reported to the police as missing after he disappeared on his way to school 11 months previously. His schoolmates report that he had been in contact with a man known for his radical beliefs for a few months prior to disappearing. They believe the man approached him together with a few other school-aged boys in front of the school, but while the other boys quickly stopped seeing the man, J. appeared to keep in contact with him, as he was then seen waiting for J. in front of the school several times after their first encounter.

The police have very few doubts that J. joined an armed group, considered a terrorist organization by the country of S., which has its main training base in the neighboring country of T.

B. Based on the above facts, please detail the options available in your legal system with regard to J. Please consider J.'s status under national law (victim, witness, suspect, other?); think

about whether he can be prosecuted, whether other non-judicial options are available, and if so what are they; and which court would have jurisdiction over J.'s case if he was prosecuted.

ANSWER

C. Between the different options you identified previously, which one would be the most in line with section (I) of the Neuchâtel Memorandum? Please explain why.

ANSWER

EXERCISE B (Good Practice 2)

During a military operation close to the border of T., the army of country S. captures several militants of the armed group R., considered a terrorist organization by the country of S. Among those militants are three children: two boys ages 14 and 17, and a girl age 16.

A. Based on provisions of your national legal system and the recommendations in Good Practice 2 of the Neuchâtel Memorandum, what should be the procedure regarding those children? Think in particular about:

- Whether (and if yes, how long) they can be kept in military custody?
- What their individual status under national law is (victim, suspect, other?) - does the age and gender of the child matter in the determination of their status?
- Who they should be handed to next (police, social workers, families, other)?
- Whether the procedure would differ if the children were not from the country of S.?

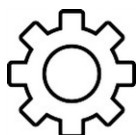
ANSWER

B. Does your legal system allow or prohibit prosecution of these children for their affiliation with a terrorist organization? Please pay particular attention to the age and gender of each child, and explain any difference of treatment between the three children if applicable.

ANSWER

C. Please explain, if applicable, the reasons for a potential difference of treatment between the three children in exercise B and the boy, J. in exercise A above. Do the recommendations of Good Practices 1 and 2 of the Neuchâtel Memorandum have an impact on your answer?

ANSWER



ASSESSMENT

- ✓ What is the Minimum Age of Criminal Responsibility (MACR) in your country?
- ✓ What is the upper age-limit for the applicability of juvenile justice in your country?
- ✓ Does your country give special jurisdiction to a particular court for terrorism-related offenses committed by children? If so, which court for which type of offenses?
- ✓ Has your country ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict?

NOTES FROM SECTION I.



Section II. Prevention

Good Practice 3: Address children's vulnerability to recruitment and/or radicalization to violence through prevention measures



KEY LEARNING POINTS

- Children can be more vulnerable to recruitment by terrorist groups and to radicalization to violence than adults.
- To prevent children from being recruited and radicalized to violence effectively requires an understanding of the local context, conditions and environment that can lead to radicalization such as circumstances of poverty, displacement, migration, discrimination, a sense of marginalization, seeking protection from extremist groups and inadequate access to health care and education services.
- Assessment methods and tools to identify radicalization need to be gender-sensitive, specifically adapted for use with children and used as part of comprehensive prevention strategies directed at children.
- Lessons can be learned from how authorities have responded to other crimes involving children such as gang-related violence and grooming for sexual abuse.
- Prevention work that fuels a sense of marginalization amongst certain groups is counter-productive. Prevention strategies should reduce children's vulnerability to radicalization and address the conditions that can lead to violence including marginalization and discrimination.



RELEVANT INTERNATIONAL STANDARDS

UNCRC Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

UN Security Council Resolution 2250 (2015) on Youth, Peace and Security

13. *Calls on* all relevant actors to consider instituting mechanisms to promote a culture of peace, tolerance, intercultural and interreligious dialogue that involve youth and discourage their participation in acts of violence, terrorism, xenophobia, and all forms of discrimination;

United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)

1. The prevention of juvenile delinquency is an essential part of crime prevention in society. By engaging in lawful, socially useful activities and adopting a humanistic orientation towards society and outlook on life, young persons can develop non-criminogenic attitudes.
2. The successful prevention of juvenile delinquency requires efforts on the part of the entire society to ensure the harmonious development of adolescents, with respect for and promotion of their personality from early childhood.
3. For the purposes of the interpretation of the present Guidelines, a child-centred orientation should be pursued. **Young persons should have an active role and partnership within society and should not be considered as mere objects of socialization or control.**
4. In the implementation of the present Guidelines, in accordance with national legal systems, **the well-being of young persons from their early childhood should be the focus of any preventive programme.**

UN Committee on the Rights of the Child (CRC), General comment No. 10 (2007): Children's Rights in Juvenile Justice, 25 April 2007, CRC/C/GC/10

18. The Committee fully supports the Riyadh Guidelines and agrees that **emphasis should be placed on prevention policies that facilitate the successful socialization and integration of all children, in particular through the family, the community, peer groups, schools, vocational training and the world of work, as well as through voluntary organizations.** This means, inter alia that prevention programmes should focus on support for particularly vulnerable families, the involvement of schools in teaching basic values (including information about the rights and responsibilities of children and parents under the law), and extending special care and attention to young persons at risk. In this regard, particular attention should also be given to children who drop out of school or otherwise do not complete their education. The use of peer group support and a strong involvement of parents are recommended. The States parties should also develop community-based services and programmes that respond to the special needs, problems, concerns and interests of children, in particular of children repeatedly in conflict with the law, and that provide appropriate counselling and guidance to their families.



FURTHER READING

- ✓ The GCTF's [Abu Dhabi Memorandum on Good Practices for Education and Countering Violent Extremism](#)
- ✓ The GCTF's [Doha Plan of Action for Community-Oriented Policing in a Countering Violent Extremism \(CVE\) Context](#)
- ✓ The GCTF's [Ankara Memorandum on Good Practices for a Multi-Sectoral Approach to Countering Violent Extremism](#)
- ✓ The [UN Plan of Action on Preventing Violent Extremism](#), in particular para. 23-37 and para. 51-55.

PUTTING IT INTO PRACTICE

Case study on how Nigeria is countering extremist messages¹⁰

Education is one of the most powerful protective factors against radicalization to violence. In northeastern Nigeria, in the state of Borno, a project led by the International Civil Society Action Network (ICAN) has brought together civil society organizations, women's associations, local government, religious leaders and schools in order to counter the narrative widely disseminated by Boko Haram, and accepted by local communities, that “western” education is inherently incompatible with the values of Islam.

The project initiated and supported community dialogue, and invited recognized Islamic scholars to a call-in radio program where they publicly, and in local languages, challenged the narrative and ideology spread by Boko Haram regarding education. This has resulted in a 40% increase in school enrollment in the region. Building on this dynamic, peace clubs were established in Islamic schools to sustain and deepen the understanding of the compatibility between peace-building and Islam. A manual was also developed and will now be institutionalized to become part of the curricula in Islamic schools throughout the country.



HIGHLIGHTS & LESSONS LEARNED

- Inclusive, multi-sectoral and locally-led initiative.
- Clearly defined objective.
- Information is provided in a user-friendly way, in local languages and through an accessible medium (radio).
- Community-ownership of the initiative and its development.

To go further: Lecture by project-leader Hamsatu Allamin at the 2016 Women Peacemaker Residency <https://www.youtube.com/watch?v=UW39OXSjryo>

Case Study on how a national-level multi-agency approach to radicalization is used in The Netherlands¹¹

Nuansa is a government-led Dutch initiative providing three levels of services:

- An early-warning and advisory service, which provides information about radicalization and the best responses to it to local authorities, citizens, front-line practitioners, children and

¹⁰ For more information, see <http://www.icanpeacework.org/2017/08/09/preventing-violent-extremism-peacebuilding-current-perspectives-field/>

¹¹ For more information, see <http://www.counterextremism.org/resources/details/id/607/nuansa>

their parents. It aims at giving the general population the tools to recognize signs of extremism, enhance the cooperation of citizens with first line practitioners, and promote good practices of de-radicalization.

- A public information database, which acts as a dissemination tool, providing information such as local and national policy documents, training manuals, evaluations of practices and programs, media documents and social scientific studies. It also includes practical information related to workshops, conferences and trainings while highlighting best practices and lessons learned from programs implemented at the local and regional levels.
- Training and exchange of expertise among professionals, during workshops, seminars, conferences and university lectures.



HIGHLIGHTS & LESSONS LEARNED

- Providing information, tools and advice tailored to the needs of professionals and citizens who have questions or concerns related to radicalization and marginalization;
- Providing training to all types of practitioners in contact with children throughout the country.

Good Practice 4: Develop targeted prevention strategies with a strong focus on the creation of networks to support children at risk



KEY LEARNING POINTS

- Targeted prevention strategies for children should address key structural and social factors at the community level.
- National strategies should also be tailored to the particular needs of regional areas.
- Prevention strategies should seek to prevent the stigmatization of any group of children for example on the basis of their religion, culture, ethnic group, nationality or race.
- When community stakeholders are involved in developing, coordinating and implementing preventive programs, they are more likely to succeed.
- Prevention through the child protection system should also be considered as a valuable tool, in addition to allowing access to additional resources and actors.



RELEVANT INTERNATIONAL STANDARDS

[UN Security Council Resolution 2250 \(2015\) on Youth, Peace and Security](#)

16. Encourages Member States to **engage relevant local communities and non-governmental actors in developing strategies to counter the violent extremist narrative** that can incite terrorist acts, address the conditions conducive to the spread of violent extremism, which can be conducive to terrorism, including by empowering youth, families, women, religious, cultural and education leaders, and all other concerned groups of civil society and adopt tailored approaches to countering recruitment to this kind of violent extremism and promoting social inclusion and cohesion;

[UN Committee on the Rights of the Child \(CRC\), General comment No. 20 \(2016\) on the implementation of the rights of the child during adolescence, 6 December 2016, CRC/C/GC/20,](#)

81. The Committee is [...] concerned about adolescents' vulnerability to being enticed by terrorist propaganda, extremist views and involvement in terrorist activities. **Research with adolescents should be undertaken to explore the factors driving their engagement** in such activities and States should take appropriate action in response to the findings, paying particular attention to measures promoting social integration.



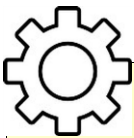
FURTHER READING

- ✓ [United Nations Guidelines for the Prevention of Juvenile Delinquency](#) (The Riyadh Guidelines)
- ✓ The GCTF's [Good Practices on Community Engagement and Community-Oriented Policing as tools to Counter Violent Extremism](#)
- ✓ The GCTF's [Good Practices on Women and Countering Violent Extremism](#)
- ✓ The GCTF's [Teacher's Guide on the Prevention of Violent Extremism](#)

PUTTING IT INTO PRACTICE

Case Study on how a mosque is a preventive space in Germany¹²

In Berlin, a prevention project has been set up by civil society organizations, national councils and a mosque. The mosque itself has become a safe place for children and their families to ask for advice, attend seminars, talk to educators, religious leaders, social workers, and spread a moderate message about Islam. The mosque welcomes schools, young people, individuals, families and friends of children at risk, and provides targeted, non-stigmatizing intervention strategies for youth at risk of radicalization to violence. It relies on the actions of the whole mosque community as multiplier, and develops awareness-raising activities with and for all members of the community.



HIGHLIGHTS & LESSONS LEARNED

- Non-stigmatizing, safe environment
- Broad range of formal and informal interventions
- Addresses and involves the whole community in its activities
- Targets both the general community and children specifically at risk
- Participation is entirely voluntary
- Partnership of public institutions, religious institution and civil society organizations, with the involvement of a broad range of community actors.

¹² For more information, see <http://www.violence-prevention-network.de/en/projects/bahira-advice-centre>

Case Study on how mothers can safeguard their children¹³

The Mothers School model was first piloted in Tajikistan in 2013, and later expanded to additional countries including India (Kashmir), Indonesia, Nigeria, Pakistan, and Zanzibar. It is now also being implemented in Europe. It supports women to safeguard their children, focusing on threats of radicalization and recruitment by armed groups. The curriculum comprises modules directed at teaching women tools for constructive communication and thoughtful authority in their families while promoting and teaching the use of open dialogue, listening skills, and empathy with one's children. This not only allows mothers to have a deeper understanding of their child's emotional and psychological state, but also lessens the need for children to seek out external methods of coping with the turmoil of adolescence. Other themes covered include the psycho-social processes of child development, de-radicalization techniques, as well as applied parenting skills, and improved family communication.



HIGHLIGHTS & LESSONS LEARNED

- Specific target group and locally tailored curriculum
- Non-stigmatizing, safe environment
- Sense of belonging, of sharing similar experiences
- Empowering mothers to connect with their children and come up with their own solutions to problem situations.

To go further: <https://youtu.be/90diNrGrN08>

¹³ For more information on the Mothers School Model, see <http://www.women-without-borders.org/projects/underway/42/>

EXERCISES



When answering the following questions, please base your answers on your national legal system and standards and from your knowledge as a practitioner. Always assume that the country of S. is the country you practice in. Please aim to follow the recommendations of the Neuchâtel Memorandum as closely as possible when developing your answer. Please answer each question separately.

EXERCISE A

(Good Practices 3 and 4)

Teacher A. is worried about one of his students, B., age 16, who has recently been withdrawing from his friends and social activities but is still attending mosque. Teacher A has overheard B referring to other students as “non-believers”, and is getting concerned he may becoming radicalized.

Please advise Teacher A. about the steps he could take to prevent his student from slipping further towards radicalization. Think in particular about which community actors could step in, and whether there are any preventive or referral programs in place in your community that would be appropriate. Throughout your answer, please aim to refer to Good Practices 3 and 4 of the Neuchâtel Memorandum and additional readings set out in this section.

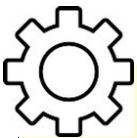
ANSWER

EXERCISE B
(Good Practices 3 and 4)

Mrs. C., who is the director of a non-governmental organization, has obtained funding for the development and implementation of a program aimed at preventing youth radicalization in the locality you practice in.

Please advise Mrs. C. on the needs and priorities of your community in terms of prevention and develop a list of actions you think would be the most useful. Think in particular about training needs, and providing a safe space for children and youth. Throughout your answer, please aim to refer to Good Practices 3 and 4 of the Neuchâtel Memorandum and additional readings set out in this section.

ANSWER



ASSESSMENT

- ✓ Is there a national P/CVE strategy in place in your country?
- ✓ Are you aware of any civil society run prevention programs directed at children in your country/locality?
- ✓ Are you able to work together with other actors and practitioners when it comes to prevention? If not, what are the main obstacles to good cooperation?

NOTES FROM SECTION II.



Section III. Justice for Children

Good Practice 5: Address children prosecuted for terrorism-related offenses primarily through the juvenile justice system



KEY LEARNING POINTS

- International standards and norms of justice for children apply equally to all children in conflict with the law including children allegedly involved in terrorism-related offenses.
- Children suspected of terrorist-related activities should receive protection commensurate with their age at all stages of the justice procedure including arrest, interview, detention, trial and sentence. Protections include access to legal representation, notification of parents/caregivers on arrest, the right not to self-incriminate, the right to be informed of charges, limitations on length of time in police detention and pre-trial detention and not being held alongside adults.
- The explicit objective of the criminal justice system for children should be to promote children's rehabilitation and reintegration back in to society whilst also ensuring accountability for their actions.
- The protection of children's right to privacy is particularly important to prevent stigmatization and avoid jeopardizing their future rehabilitation and reintegration.
- It is imperative to have a specialized workforce that is trained in children's rights and international human rights standards including law enforcement officials, lawyers, social workers, judges, prosecutors, probation officers, detention officials and all others who handle cases concerning children.



RELEVANT INTERNATIONAL STANDARDS

UNCRC Article 40

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) **Every child alleged as or accused of having infringed the penal law has at least the following guarantees:**

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

PUTTING IT INTO PRACTICE

Case Study on how France dealt with its first child alleged “terrorist” offender¹⁴

Y., 15, attempted to kill a Jewish teacher with a machete in the streets of Marseille, France, in January 2016. Upon arrest, Y. said he wanted to “kill some Jew” and at first expressed “regrets that [he] couldn’t complete the murder because [he] didn’t know how to properly use a machete”. He claimed to be affiliated to ISIS, and the first court-ordered psychiatric evaluation described him as having been radicalized. After six months in pre-trial detention, the teenager described his state of mind at the time of the offense: “It was like I was a robot. Like there was a CD in my brain.”

The trial was held in closed hearing in a juvenile court in March 2017 and the relevant juvenile justice standards were applied throughout the investigation and trial process, despite the terrorist qualification of the offense, the claimed affiliation of the offender with a terrorist organization, the

¹⁴ For more factual information about the case, see Le Figaro, 28 February 2017, accessible at: <http://www.lefigaro.fr/actualite-france/2017/02/28/01016-20170228ARTFIG00247-yusuf-un-jeune-djihadiste-de-17-ans-en-proces-a-paris.php>

religious motive and the gravity of the offense. Because Y. was under 16 at the time of the offense, the maximum sentence he incurred was already reduced to 20 years (instead of 30 for an adult).

Following a two-days hearing, closed to the press and public, the juvenile judge eventually sentenced Y. to a seven year custodial sentence, followed by a five year probation period including obligations to follow an education program and to financially compensate the victim. Taking into account the personal circumstances of Y, who left his birth country as a child with his father, who feared persecution in that country; his developing remorse for his actions; and the distance he was able to make regarding his radicalization between the time of the attack and the trial; and balancing those with the severity and aggravating circumstances of the offense, the sentence pronounced by the juvenile judge appears both to be individualized and to follow the proportionality requirements of Article 40 UNCRC.



HIGHLIGHTS & LESSONS LEARNED

- The case was dealt with within the juvenile justice system.
- Juvenile justice standards were applied throughout the whole procedure and the privacy of the child was preserved.
- The sentence appears proportionate to the circumstances of the child and the gravity of the offense.

Good practice 6: Apply the appropriate international juvenile justice standards to terrorism cases involving children even in cases that are tried in adult courts



KEY LEARNING POINTS

- When children are tried in adult courts they often lose key protections such as the right to be heard and to have access to a social worker and this can have a negative impact on their fair trial rights. This should always be taken into account when making a decision about referring a child to be tried in an adult court.
- Even if tried in an adult court, children should still receive the protections and procedural guarantees they need.



RELEVANT INTERNATIONAL STANDARDS

UNCRC Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and **which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.**

UNCRC Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided **the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body**, in a manner consistent with the procedural rules of national law.

Beijing Rules

14.2 **The proceedings shall be conducive to the best interests of the juvenile** and shall be conducted in an atmosphere of understanding, which shall allow the juvenile to participate therein and to express herself or himself freely.



FURTHER READING

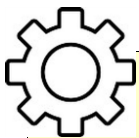
European Court of Human Rights: [V. vs United Kingdom](#). T and V were ten years old when they abducted and killed a two year old boy. At age of 11 they were tried in public in an adult court before a judge and jury (although some allowances were made for their age). They were convicted of murder and abduction and sentenced to an indefinite period of detention. The court concluded that they were denied a fair hearing under Article 6 because they were unable to participate effectively.

Paragraphs 81-91 set out the requirements of the right to fair trial of a child in an adult court tried for a serious offense. In particular, courtroom and procedural arrangements are necessary in order for children to sufficiently understand the proceedings and effectively participate given their maturity levels. In addition, it is important to reduce as much as possible the presence of the press and public in the courtroom to keep the distress and inhibition that court proceedings cause on such young children from preventing them to participate in their trial.

PUTTING IT INTO PRACTICE

Case Study on adaptations made in the German court procedures¹⁵

In Germany, the Penal Code states that individuals accused of committing a terrorist act must be tried in front of a specialized court chamber. This provision also applies to children charged under these specific sections of the Penal Code. However, the specialized court chamber must apply the procedural and sentencing guidelines developed for juveniles. These include the presence of a Juvenile Court Supporter, who is a representative of the child welfare service, and has the task of assisting the child and their family and informing the court about educational and socio-pedagogical alternatives to detention, as well as a reduction of custodial sentences and the availability of more non-custodial options during the sentencing process.



HIGHLIGHTS & LESSONS LEARNED

- Application of juvenile justice standards in the adult court.
- Support and advocacy for juveniles in front of the adult court is ensured by the presence of a Juvenile Court Supporter.
- Procedural standards and sentencing options are the same as in a juvenile court.

¹⁵ For more information, see Hamilton, C. et al, *Children and Counter-Terrorism*, United Nations Interregional Crime and Justice Research Institute (UNICRI), 2016, pp.35-55, accessible at: http://www.unicri.it/in_focus/files/Children_counter_terrorism.pdf

Good Practice 7: Consider and design diversion mechanisms for children charged with terrorism-related offenses



KEY LEARNING POINTS

- Formal criminal proceedings can have negative consequences for children and their future rehabilitation - diverting children away from the criminal justice system, where and when appropriate and desirable can be a more effective and proportionate response.
- Diversion programs for children involved in terrorism-related activities need to be tailored to the characteristics of the child and offense committed.
- They should include disengagement and de-radicalization components as well as educational elements, vocational training and psychological support, all aimed at supporting reintegration.



RELEVANT INTERNATIONAL STANDARDS

UNCRC Article 40

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular: [...]

(b) **Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings**, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Beijing Rules

11.1 Consideration shall be given, wherever appropriate, to dealing with juvenile offenders without resorting to formal trial by the competent authority, referred to in rule 14.1 below.

11.2 The police, the prosecution or other agencies dealing with juvenile cases shall be empowered to dispose of such cases, at their discretion, without recourse to formal hearings, in accordance with the criteria laid down for that purpose in the respective legal system and also in accordance with the principles contained in these Rules.

PUTTING IT INTO PRACTICE

Case Study on how the Italian justice system has responded to children involved in mafia organizations¹⁶

The ‘Ndrangheta is a powerful mafia-type organization born in Italy and widely operating abroad. At a local level, in *Reggio Calabria* (Italy), children as young as 12 are often convicted in the youth court of serious offenses related to their mafia affiliation. Raised in families where mafia culture is deeply rooted and duly transmitted to children, and where going to prison is a ‘mark of honor’, custodial sentences have had little to no rehabilitative effect on children, and their powerful ties to the clan prevent any disengagement from the criminal organization through alternative sanctions.

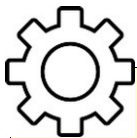
In recent years, a new approach has been tried in the youth courts relying on civil legislation to address serious criminal activity by children. The youth court has assessed in a number of cases that it was in the best interests of the child to be removed from their family in order to promote the child’s well-being and rehabilitation. The youth court has therefore issued orders to separate children from mafia families (understood as families in which one or both parents have been involved in investigations or trials for mafia-related offenses) instead of sentencing the children to custodial or similar criminal law measures, which would have had a foreseeable counter-productive effect with regards to rehabilitation. These children have been put on education programs, been placed in foster care or moved out of the region and been given health and psychological support in order to demonstrate an alternative way of living, away from the familial and environmental pressure to participate in criminal activities.

In one case, the youth court justified the decision to remove parental rights and to send a young girl under formal criminal investigation away from the region, arguing that “this solution appears to be the only feasible one to avoid retaliation, to save the girl from an unavoidable destiny and at the same time to allow her to experience different cultural, emotional, psychological contexts and an alternative way of living different from the deleterious one of origin, hoping that she can free herself from parental conditioning”¹⁷.

On March 21st 2015 a judicial protocol was circulated among both youth and adult courts in the *Reggio Calabria* district to resolve competence issues and facilitate the sharing of information in cases involving children of individuals investigated/charged by the District Anti-mafia Directorate. This protocol validates the existing diversionary practice of the youth court and calls for combined efforts from Antimafia authorities and youth courts.

¹⁶ For more information, see the research paper by Dr. Anna Sergi, *Local ‘ndrangheta. Discussing mafia behaviours, cultural transmission and children protection in Calabria*, accessible at: <http://www.dsps.unict.it/sites/default/files/Slides%202%20prof.ssa%20Sergi.pdf>

¹⁷ Tribunale per i minorenni di Reggio Calabria, procedimento n. 212/14 R.G. Vol. Giur. N.1941



HIGHLIGHTS & LESSONS LEARNED

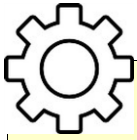
- The best interest of the child is paramount, no matter the nature or severity of the offense.
- Safeguarding the best interests of the child may mean resorting to protection measures from civil or family law in order to handle (serious) criminal behavior by children if the situation calls for it.
- When affiliation to a criminal (or terrorist) organization is at the root of a child's criminal behavior, appropriate measures may include diverting children from the criminal justice system and imposing alternatives to detention involving foster care, education, health and psychological support in order to ensure the well-being, rehabilitation and reintegration of the child into society.
- Decisions to remove parental rights when the family environment is at the root of the child's criminal behavior must always be based on the individual circumstances and needs of each child and may be only temporary or target only one parent if this is best for the child's well-being.

Case Study on diverting former child militants in Pakistan through de-radicalization school¹⁸

Sabaoon was the first child de-radicalization center in Pakistan and is located in the Swat Valley, formerly controlled by the Taliban. Founded in 2009 by the Pakistani Army with the support of UNICEF and civil society organizations, Sabaoon is a school which seeks to re-integrate young (primarily boys aged 12 to 18) former militants of terrorist groups back into their communities, while avoiding putting them through the criminal justice system for their affiliation with the Taliban. Boys attending the school have either been picked up during military operations, sent in by their parents or have voluntarily joined.

On admission, boys are assessed between three levels corresponding to the extent of their indoctrination and trauma: low-risk, medium-risk and high-risk. Their treatment and education program is then tailored to the level of risk they pose, their past experience and individual needs. Sabaoon provides all boys with an academic education, vocational training, psychological counseling and therapy, as well as religious education, which all form part of the individualized de-radicalization and reintegration program. Family interaction is also encouraged. Boys will usually spend two years or more at the school, before going back into their community or to college. A similar facility was opened for girls in 2010.

¹⁸ For more information on the Sabaoon Rehabilitation Center, see Human Rights Council, National Report to Universal Periodic Review, Pakistan, A/HRC/WG.6/14/PAK/1, 5 August 2012, accessible at: <http://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/157/18/PDF/G1215718.pdf?OpenElement>



HIGHLIGHTS & LESSONS LEARNED

- Multi-disciplinary program tailored to the needs and circumstances of each individual child is required for an adequate reintegration plan
- The avoidance of the criminal justice system can produce positive results in conjunction with education goals. Involvement of the community, including employers, can help to set vocational training to prepare children and leverage skills for future job opportunities.
- Trust building between military personnel and the communities to further peace processes can support such actions.

Good Practice 8: Consider, and apply where appropriate, alternatives to arrest, detention, and imprisonment, including during the pre-trial stage and always give preference to the least restrictive means to achieve the aim of the judicial process.



KEY LEARNING POINTS

- Detention measures imposed on children have negative effects on their physical, psychological and social development and well-being, and may thus jeopardize their future reintegration and rehabilitation.
- Alternatives to detention at all stages of the justice process should be used that are proportionate both to the child's individual circumstances and to the offence.
- A variety of protective, supportive, educational and security measures should be offered for judges and prosecutors to choose from, and these may include a de-radicalization component where appropriate.



RELEVANT INTERNATIONAL STANDARDS

UNCRC Article 37

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used **only as a measure of last resort and for the shortest appropriate period of time**;

UNCRC Article 40

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Beijing Rules

18.1 A large variety of disposition measures shall be made available to the competent authority, allowing for flexibility so as to avoid institutionalization to the greatest extent possible. Such measures, some of which may be combined, include:

- (a) Care, guidance and supervision orders;
- (b) Probation;
- (c) Community service orders;
- (d) Financial penalties, compensation and restitution;
- (e) Intermediate treatment and other treatment orders;
- (f) Orders to participate in group counselling and similar activities;
- (g) Orders concerning foster care, living communities or other educational settings;
- (h) Other relevant orders.



FURTHER READING

- ✓ The GCTF's [Recommendations on the Effective Use of Appropriate Alternative Measures for Terrorism-Related Offenses.](#)

Good Practice 9: Apply the principle of individualization and proportionality in sentencing



KEY LEARNING POINTS

- Any sanction imposed on the child should be proportionate to the offense committed, take into account the child's situation and needs, and be in the child's best interests.
- An individual assessment of the child should be made and used when deciding on an appropriate sentence. Such an assessment should examine the child's background, psychological, cognitive and social development, family situation and any other relevant criteria.
- The sentence should have a rehabilitative aim above all else.
- Alternatives to detention should be considered for children for all offenses
- Children cannot be sentenced to the death penalty or to a life sentence without possibility of parole.



RELEVANT INTERNATIONAL STANDARDS

UNCRC, Article 37

(b) **No child shall be deprived of his or her liberty unlawfully or arbitrarily.** The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

UNCRC, Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society [...]

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that **children are dealt with in a manner appropriate to their well-being and proportionate** both to their circumstances and the offence.

Beijing Rules

16.1 In all cases except those involving minor offences, before the competent authority renders a final disposition prior to sentencing, the background and circumstances in which the juvenile is

living or the conditions under which the offence has been committed shall be properly investigated so as to facilitate judicious adjudication of the case by the competent authority.

[...]

17.1 The disposition of the competent authority shall be guided by the following principles:

(a) **The reaction taken shall always be in proportion not only to the circumstances and the gravity of the offence but also to the circumstances and the needs of the juvenile as well as to the needs of the society;**

(b) Restrictions on the personal liberty of the juvenile shall be imposed only after careful consideration and shall be limited to the possible minimum;

(c) Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response;

(d) **The well-being of the juvenile shall be the guiding factor in the consideration of her or his case.**

17.2 Capital punishment shall not be imposed for any crime committed by juveniles.

17.3 Juveniles shall not be subject to corporal punishment.

17.4 The competent authority shall have the power to discontinue the proceedings at any time.

UNCRC, Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

PUTTING IT IN TO PRACTICE

Case Study on how Britain sentenced its youngest “terrorist” offender¹⁹

Known as the “Anzac day” terror plot, the case of the 14 years old boy from Blackburn (UK) who incited an 18 year old Australian to commit a terrorist attack during Anzac day remembrance parade in Brisbane (Australia), was heard by Manchester Crown Court, with restricted reporting regulations due to the young age of the offender. The boy, who was already taking part in the UK

¹⁹ For more information see The Guardian, 2 October 2015, Anzac day terror plot: British teenager given life sentence, accessible at : <http://www.theguardian.com/news/2015/oct/02/anzac-day-terror-plot-british-teenager-given-life-sentence>

‘Channel’ de-radicalization program at the time of his arrest, and described as an “online jihadi celebrity”, pleaded guilty at Manchester crown court to inciting terrorism overseas.

He was given a life sentence, with a minimum of five years to be served in a youth detention facility, after which release would be considered only if he no longer posed a risk to society. The boy will be taking part in a de-radicalization program while in detention, therefore enhancing his prospects of release.

During the process, the boy was said to have made considerable progress in terms of self-reflection at the detention center where he was being held awaiting sentence, but his pre-sentence report concluded that he still presented a “high risk of serious harm to the public”. “I acknowledge the progress and encourage the work done by [the boy] and others but I have no doubt a significant risk remains,” the judge said reading out the sentence, adding that there was no certainty on how long de-radicalization would take. “I very much hope that the risk will have been removed in five years and he can be released and realize his considerable potential in society,” he concluded.



HIGHLIGHTS & LESSONS LEARNED

- Pre-sentence assessment of the child relied upon to determine the appropriate sentence given the circumstances of the child, his best interests, those of society and the offense committed.
- The boy’s sentence includes participation in a de-radicalization program to enhance the prospects of full rehabilitation and reintegration.

Good Practice 10: Hold children deprived of their liberty in appropriate facilities; support, protect and prepare for reintegration



KEY LEARNING POINTS

- Children should be held separately from adults at all times, including during transportation and whilst in police custody and pre-trial detention.
- Children should be held in detention facilities that are gender-sensitive and specially designed for children where possible, and should never be held in solitary confinement.
- Detention conditions should promote the child's rehabilitation through promotion of the physical and mental development of the child, frequent contact with the family where this is in their best interests, and education and/or vocational training.
- Children in detention have the right to complain about their conditions, treatment and care through mechanisms that are safe, child-sensitive, effective and easily accessible. Upholding the right to complain is very important for giving a voice to children in detention and for ensuring that their other human rights are protected.



RELEVANT INTERNATIONAL STANDARDS

UNCRC Article 37

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

Havana Rules

28. The detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations. The principal criterion for the separation of different categories of juveniles deprived of their liberty should be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being.

29. In all detention facilities juveniles should be separated from adults, unless they are members of the same family. Under controlled conditions, juveniles may be brought together with carefully selected adults as part of a special programme that has been shown to be beneficial for the juveniles concerned.

[...]

38. Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. [...]

[...]

42. Every juvenile should have the right to receive vocational training in occupations likely to prepare him or her for future employment.

[...]

72. Qualified inspectors or an equivalent duly constituted authority not belonging to the administration of the facility should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative, and should enjoy full guarantees of independence in the exercise of this function. Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty, to all juveniles and to all records of such facilities.

[...]

75. Every juvenile should have the opportunity of making requests or complaints to the director of the detention facility and to his or her authorized representative.

76. Every juvenile should have the right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority or other proper authorities through approved channels, and to be informed of the response without delay.

77. Efforts should be made to establish an independent office (ombudsman) to receive and investigate complaints made by juveniles deprived of their liberty and to assist in the achievement of equitable settlements.



FURTHER READING

- ✓ GCCS and ICCT report “[Correcting the Course: Advancing Juvenile Justice Principles for Children Convicted of Violent Extremism Offenses](#)”, September 2017, which provides extensive guidance on the treatment of children in detention when they are convicted of terrorism-related offences.
- ✓ UN General Assembly, [United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders](#) (the Bangkok Rules).

PUTTING IT IN TO PRACTICE

Case study on how Kenya provides facilities for convicted children²⁰

In Kenya, young offenders under the age of 18 can be committed to a Probation Hostel under the Probation of Offenders Act. Offenders committed to a Probation Hostel are offenders charged with a petty crime, but also with a serious crime when the Court decides that, for reasons and circumstances listed in the Act, detention in a juvenile institution is not the best solution and is not in the child's best interests.

There are five Probation Hostels in Kenya including one for girls where female offenders aged between 12 and 22 are housed. The hostel staff deliver skills training, counseling and social activities designed with young female offenders in mind. Probation officers demonstrate a real awareness of gender sensitivity and of the applicable international standards.

Probation Hostels are different from other custodial institutions. Children sent there attend ordinary schools outside the hostel and are in regular contact with their communities as this is deemed to be one of the main conditions for a successful process of rehabilitation and reintegration. The structures host limited numbers of children so as to offer as much as possible a more individualized treatment program.



HIGHLIGHTS & LESSONS LEARNED

- Gender-sensitive housing, care and training of probation officers.
- Attendance in community schools and participation in community activities to enhance good reintegration.
- Provision of counseling and training throughout the rehabilitation program.

Case study on detention for children in Northern Ireland²¹

In Northern Ireland, children over 10 who have not been diverted from the justice system or received sentences of alternatives to detention (restorative justice, community sentences, fines) may be sentenced to a 'juvenile justice centre order'. All children without exception serve this order at

²⁰ Human rights and deprivation of liberty in Kenya: an analysis of the human rights' situation and guidelines for an internal monitoring system, IJJO, 2016.

http://www.oijj.org/sites/default/files/human_rights_and_deprivation_of_liberty_in_kenya-report.pdf

²¹ For more information see National Preventive Mechanism, An announced inspection of Woodlands Juvenile Justice Centre, May 2015. Accessible at : <http://www.justice-ni.gov.uk/sites/default/files/publications/doj/cjini-report-an-announced-inspection-of-woodlands-jjc-may-2015.pdf>

the Woodlands Juvenile Justice Centre. This is usually for a period of six months but can be for up to two years. Half of the time is spent in Woodlands Juvenile Justice Centre (rehabilitation) with the remaining half spent under supervision in the community (reintegration).

All of the young people admitted to the Juvenile Justice Centre receive education, care and support across a wide spectrum of needs, with the provision of a safe, secure and rehabilitative environment as the main objective of the center. Children are housed in individual rooms within residential units divided by gender and age groups. They receive education and care within the center, and have frequent contact with their families/care-givers if this is in their interest. For the parents/caregivers of the young people, a range of interventions is offered, on an individual or group work basis and liaisons with other support services as appropriate.

The complaint mechanism and policy of the center is explained to children upon arrival and they are given a child-friendly copy. Each residential unit has its own complaints folder where original complaint forms are logged and summary details are collated for monitoring purposes. Complaints feature as a standing item at senior management team meetings. This highlights their importance and ensures issues are addressed quickly, lessons learned and shared.

The Centre has been independently inspected on several occasions, with good results. The latest inspection report, of 2015, can be accessed [here](#), and offers detailed information about the administration of the center and its alignment with the requirements of the UNCRC.



HIGHLIGHTS & LESSONS LEARNED

- A Children-only facility, with emphasis on the provision of a safe and secure environment.
- Specially trained staff provide an appropriate response to the difficult behavioral and personal circumstances of the children sent to the center.
- Effective and accessible complaint mechanism in place within the center.
- Regular monitoring by external, independent body.
- Bridge to the community for reintegration: vocational training, skills and other activities are outside of the center.

To go further: 3 young people living at Woodlands reflect about their experience of living in the facility, and a staff member talks about the training provided to workers <https://youtu.be/dY6n1YBbPUY> (International Juvenile Justice Observatory, 2016)

EXERCISES



When answering the following questions, please base your answers on your national legal system and standards and from your knowledge as a practitioner. Always assume that the country of S. is the country you practice in. Please aim to follow the recommendations of the Neuchâtel Memorandum as closely as possible when developing your answer. Please answer each question separately.

EXERCISE A

(Good Practices 5, 8 and 9)

M., 16, does not go to school and is one day caught trying to cross the border between his home country of S. and the neighboring country of T., a conflict-ridden State under the control of para-military groups.

When interrogated by the border guards of S., it appears that M. has been doing the trip back and forth several times a week for a few months.

During further interrogations, M. explains that he was recruited in his hometown by some men, but he did not know who they were. These men hired him to pass small packages from S. to T., and they offered to pay him \$5 for each trip. He doesn't know what is in the packages but says he accepted because he needed the money to buy a motorcycle to find a steady job as a delivery boy to bring money to his family.

The border guards found, among other things, a few dozen grenades and a small bag of explosive powder in the package carried by M. M.'s description of his recruiters and the delivery place made the border guards assume that he was working for the armed group R., considered to be a terrorist organization by the country of S, but the border guards have no proof that the recruiters were in fact from R.

A. Based on the provisions of your national legal system and taking into account the recommendations of the Neuchâtel Memorandum, what happens next to M.?

In drafting your answer, please consider in particular:

- Whether M. could be investigated and prosecuted for a criminal offense under your national legal system;
- What criminal offenses could M. be charged with;

- What evidence would be offered to prove his guilt, if he was prosecuted;
- Who are the first actors in contact with M.;
- Whether M. will be handed over to the police, social services, his family, other;
- What procedure is followed (criminal, social welfare or child protection services, other).

ANSWER

B. M. is eventually charged with offences of participation in terrorist activities.

1/ Based on the provisions of your national legal system and taking into account the recommendations of the Neuchâtel Memorandum, which court has jurisdiction over the case? Please explain why.

ANSWER

2/ Based on the provisions of your national legal system and taking into account the recommendations of the Neuchâtel Memorandum, what is the range of sentences that could be given to M, if he was convicted? Please state if the sentences are the same or different to those faced by an adult charged with an identical offence. Will the court have options such as alternatives to detention owing to M's age?

ANSWER

C. What factors are and/or should be taken into account when deciding on sentencing? Will M and/or his legal representation have the opportunity to make representations regarding sentencing?

ANSWER

D. Assuming M. is convicted, and **given the facts at hand and the provisions of your national legal system, which sentence would you consider to be most appropriate in M.'s case?** Please take into account the recommendations of the Neuchâtel Memorandum and explain the aim of such sentence. Please also describe what happens after sentencing in your legal system (for example, appeals process, rehabilitation, reintegration)?

ANSWER

EXERCISE B
(Good Practices 5 and 10)

A 17 year old girl is arrested at the border after her parents alerted the police that she left a letter saying she was leaving the country to marry the fighter of a terrorist group.

A. A few hours later, her parents contact you, a family friend, for advice. They are very worried and would like you to help them understand what will happen to their daughter. They ask you the following:

- **How long can she be held at the police station, and will they have the right to visit her?**
- **Should they call a lawyer, and do they have a right to free legal aid?**
- **Can she go to prison?**

Please answer them with as many details as possible, explaining the daughter's rights and the judicial procedure under your national legal system, favoring the responses the most in line with the recommendations of the Neuchatel Memorandum.

ANSWER

B. The parents call you some time later to inform you that their daughter has been convicted and sentenced to 6 months of detention. They are worried that she may become further

radicalized in detention, that the conditions will not be good, she may be harmed by other detainees and that she won't be able to pursue her education while serving her sentence.

Please explain to them where and under which conditions their daughter will serve her sentence, taking into account the fact that she will still be under 18 at the end of the sentence. Detail any rights she is entitled to in detention under the national legal system, and explain to them whether and how those rights are safeguarded in practice.

ANSWER

EXERCISE C
(Good Practices 5 and 7)

A 12 year old boy is reported to social services by his teacher as displaying “violent behavior” after he claimed during class that a recent attack by a right-wing terrorist group in the country of S. was “the best thing that happened recently” and that the victims “only got what they deserved”.

The teacher’s report emphasized that while the boy was probably only repeating the words of adults in his home/family environment, his behavior towards some other students was also worrying: he had been refusing to sit at the same table or to partner with some other students for class activities, had been bragging about going to violent neo-nazi demonstrations with members of his family during the week-end and was heard threatening a student that he was “next on the list” and that his “friends would get him personally”.

Social services open an investigation on the boy’s family and social background, but the family refuses to let them enter their apartment or to talk to them. However, because of the alleged death threat, they contact the police about the matter.

A. Which court(s) would have jurisdiction? Please consider whether the boy has reached the minimum age of criminal responsibility in your national legal system, and what implications this has on the competence of the court(s) and the applicable legal framework(s).

ANSWER

B. Based on the recommendations of the Neuchâtel Memorandum, which measure(s) would you advise the court to take in the best interests of the boy? If different measures are possible under your national legal system, please explain why you picked a particular set of measures, and how it aligns with international standards.

ANSWER

EXERCISE D

(Good Practices 5, 7 and 10)

K, a 15 years old girl, surrenders one day at the police station of a city situated in the country of S. a few miles away from the border with the country of T., her jacket open on a suicide vest. Holding her hands over her head, she begs the police to disconnect the explosive device and explains she was forced to wear it and was supposed to detonate it in the middle of the nearby open market.

During further interrogations, K. reveals that she was forcibly recruited by an armed group in her hometown, in the country of T., after they took over the town by military force a year before. She was forced to undergo military training, to accomplish housekeeping tasks for high-ranking fighters, act as a spy on several occasions, and said she volunteered for the suicide-bombing mission because she saw it as the only opportunity to escape from the sexual advances of one of the chiefs of the military camp she was just transferred to. She says she was dropped off at the entrance of the city, and given instructions on where and how to detonate her suicide vest. She doesn't know where her family is or if they are still alive.

A. Please detail the applicable procedure to handle K.'s case under your national legal framework, taking into account the recommendations of the Neuchâtel Memorandum.

Think in particular about:

- K.'s status under international and national law (victim, witness, suspect, other?)
- Which actors will be involved in her case?
- Whether she will be investigated for involvement in criminal activity and if so for what offenses?
- Which court would have jurisdiction over her case?
- What sort of protection services are available to K?
- Is she eligible for any diversionary measures?
- What is the likely outcome of any criminal proceedings?

ANSWER

B. In your professional opinion, which of the above options would be most suited to protect K.'s best interests? Please explain why, and explain how this would work in practice.

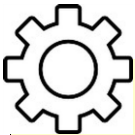
ANSWER

EXERCISE E (Good Practice 6)

In the country of V., children are tried in adult courts when they are charged with terrorism-related offenses. A practitioner from V. contacts you to ask for advice on how they could make proceedings in adult courts more child-friendly.

A. Please advise the practitioner from V. on the steps and actions they could take to ensure that proceedings are more child-friendly, making sure your advice covers all stages of the judicial procedure that you could be involved in in your professional position. Think about communication with the child, their family and the court; effective participation of the child; the presence of other actors during various stages of the proceedings; and the protection of the child's right to privacy.

ANSWER



ASSESSMENT

- ✓ How are the rights listed in Article 40 UNCRC protected within your own legal system in the context of criminal procedures involving children?
- ✓ In your own work, have you experienced significant challenges or problems in ensuring that these rights are effectively protected in practice? What do these problems involve and can you identify their cause (legal framework, practical issues, other)?

NOTES FROM SECTION III.



Section IV. Rehabilitation and Reintegration

Good Practice 11: Develop rehabilitation and reintegration programs for children involved in terrorism-related activities to aid their successful return to society



KEY LEARNING POINTS

- A successful rehabilitation and reintegration program for children prepares them to return to their families and communities while safeguarding the interests of society at large by preventing further involvement in terrorist-related activities.
- Such programs should be available to children who have been diverted from the judicial process as well as to children in detention or who have recently been released.
- They should take a multi-disciplinary approach, involving a broad range of actors.
- The content of such programs should be gender-sensitive and tailored to the individual child and their circumstances and characteristics.
- Support immediately following release from detention should not be overlooked and plays a vital role in reintegrating a child back with their family and community.



RELEVANT INTERNATIONAL STANDARDS

Havana Rules

79. All juveniles should benefit from arrangements designed to assist them in returning to society, family life, education or employment after release. Procedures, including early release, and special courses should be devised to this end.

Paris Principles

7.31 While the reintegration of children into civilian communities should wherever possible be carried out in ways that facilitate local and national reconciliation, it should always be preceded by a risk assessment including a cultural and gender analysis addressing issues of discrimination and should be based on the child's best interests irrespective of national considerations or priorities.

7.31.0 Programmes should build on the resilience of children, enhance self-worth and promote their capacity to protect their own integrity and construct a positive life;

7.31.1 The participation of women and girls in programme development and implementation should incorporate their views with regard to reintegration into family, community and economic and political life;

7.31.2 Activities should always take into account the age and stage of development of each child and any specific needs.

7.32 Programmes to support the reintegration of children associated with armed forces or armed groups should develop links with all programmes, policies and initiatives which may benefit these children and their families either directly, for example through local or national social welfare programmes, or indirectly, through reconstruction and rehabilitation of national institutions and other development programmes.



FURTHER READING

- ✓ GCCS and ICCT report “Correcting the Course: Advancing Juvenile Justice Principles for Children Convicted of Violent Extremism Offenses” September 2017, which provides extensive guidance on the treatment of children in detention when they are convicted of terrorist-related offences.
- ✓ **Push and pull factors of disengagement from violent extremist groups**
 - Unmet expectations
 - Disillusionment with strategy/actions of terrorist group
 - Disillusionment with personnel
 - Difficulty adapting to a clandestine lifestyle
 - Inability to cope with physiological/psychological effects of violence
 - Loss of faith in ideology
 - Burnout competing loyalties to new cause or person/family
 - Positive interactions with moderates
 - Employment/educational demands and opportunities
 - Desire to marry/establish a family or family demands
 - Financial incentives
 - Amnesty

Source: Beth Altier et al., “Turning away from terrorism: Lessons from psychology, sociology, and criminology”, Journal of Peace Research, 2014, Vol. 51(5), 647-661 at 649.

PUTTING IT INTO PRACTICE

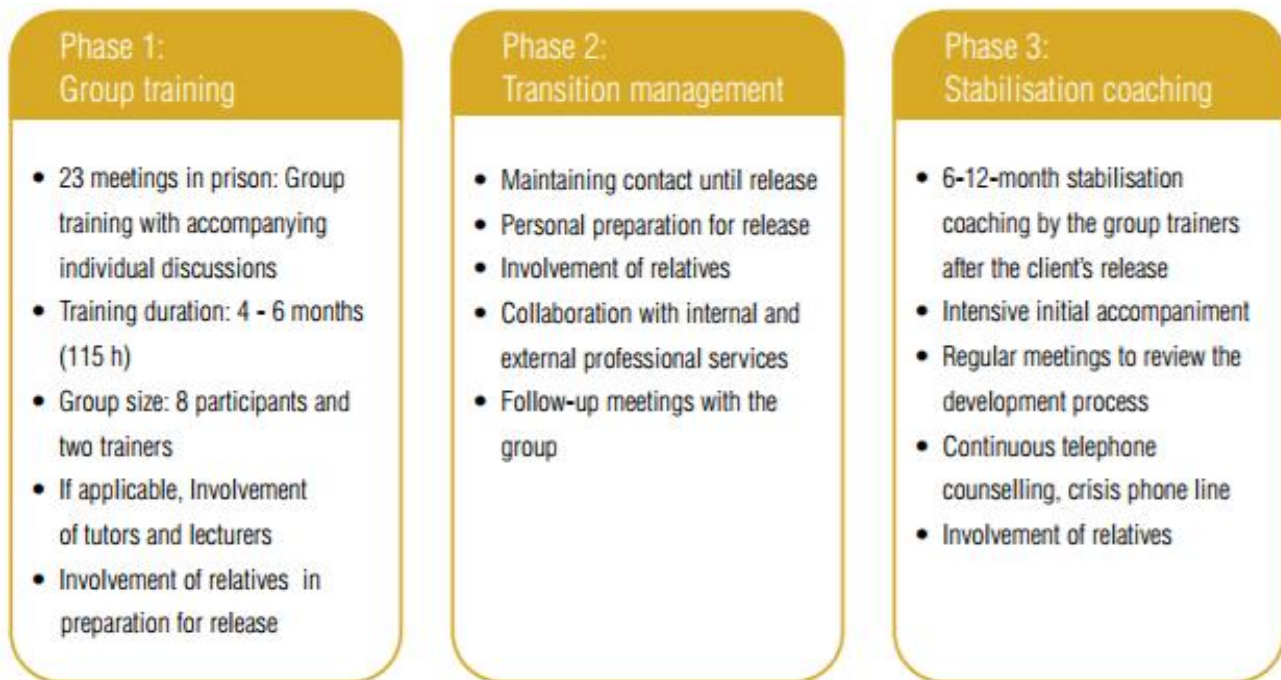
Case Study on de-radicalization of young people in detention in Germany²²

Developed since 2001 in Germany, first for right-wing extremist offenders, and then expanded to target religious extremist offenders, the program ‘Taking Responsibility – Breaking Away from

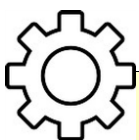
²² For more information, see Taking Responsibility – Breaking Away from Hate and Violence: <http://www.violence-prevention-network.de/en/component/phocadownload/category/1-publikationen?download=15:brochure-taking-responsibility-breaking-away-from-hate-and-violence>

Hate and Violence’ aims at de-radicalizing young ideologically motivated violent offenders in prison. The program is led by the NGO Violence Prevention Network, and is now used in almost all regions of the country, in juvenile and adult detention centers alike. Evaluation results of the program indicate significantly lower rates of re-imprisonment for participants compared to non-participants.

The program consists of three phases, during and after detention, administered by specially trained workers:



Source: Taking Responsibility – Breaking Away from Hate and Violence, Violence Prevention Network.



HIGHLIGHTS & LESSONS LEARNED

- Participation in the program is voluntary.
- The program is conducted by non-state actors, with trained workers (who are not part of prison staff) representing the diversity of the youth they target, thus enhancing trust and facilitating the creation of ties.
- The curriculum emphasizes self-reflection and respect for others.
- The program continues after release to secure reintegration.

EXERCISES



When answering the following questions, please base your answers on your national legal system and standards and from your knowledge as a practitioner. Always assume that the country of S. is the country you practice in. Please aim to follow the recommendations of the Neuchâtel Memorandum as closely as possible when developing your answer. Please answer each question separately.

EXERCISE A

(Good Practice 11)

The director of the main juvenile justice detention center in your country is faced with an increase of children convicted for terrorism-related offenses. He is worried that they are not receiving the care they need in order to be released without posing a risk to society anymore.

He would therefore like to develop a de-radicalization, rehabilitation and reintegration program within the detention facility, which would also bridge with the community outside to enhance reintegration prospects.

He asks you, as a knowledgeable practitioner on the topic, to help him gather ideas on what works, which practitioners he should hire, and how he could implement the program with the children in custody.

In providing your input, please bear in mind that the program should answer the needs of the children in custody for terrorism-related offenses in your country (national context) and respect the rights of children as set by in international standards and the recommendations of the Neuchâtel Memorandum.

PROGRAM DESCRIPTION

Main objective: de-radicalize and reintegrate children convicted of terrorist offenses through the development of social skills, critical thinking, sense of responsibility and connection to the community.

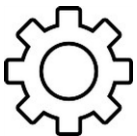
Foreseen target group: boys and girls (under 18) convicted terrorism-related offenses and in custody at the juvenile justice detention center.

Permanent staff to be hired and/or trained:

Participation of other (community or external) actors:

Content of the program (activities, including compulsory education and vocational training as applicable):

Reintegration component (bridging with release and post-release treatment as well as community reintegration):



ASSESSMENT

- ✓ Is there any de-radicalization programs in your country? Do you know if any have been evaluated yet and what the results of the evaluation are?
- ✓ Are de-radicalization programs youth-oriented in your country?
- ✓ Are such de-radicalization and/or disengagement programs used in detention, as an alternative to detention, as a diversionary measure, on voluntary enrollment?

NOTES FROM SECTION IV.



Section V. Capacity Development, Monitoring and Evaluation

Good Practice 12: Design and implement specialized programs for terrorism cases to enhance the capacity of all the professionals involved in the juvenile justice system



KEY LEARNING POINTS

- All actors dealing with children involved in terrorism-related activities must receive specialized training on the relevant international child rights standards and national law for the optimal justice response.
- All states should conduct needs assessments and develop national training programs for responding to children involved in terrorist-related activities.



RELEVANT INTERNATIONAL STANDARDS

Beijing Rules

22.1 Professional education, in-service training, refresher courses and other appropriate modes of instruction shall be utilized to establish and maintain the necessary professional competence of all personnel dealing with juvenile cases.

Havana Rules

85. The personnel should receive such training as will enable them to carry out their responsibilities effectively, in particular training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the present Rules. The personnel should maintain and improve their knowledge and professional capacity by attending courses of in-service training, to be organized at suitable intervals throughout their career.

PUTTING IT INTO PRACTICE

Case study on how Turkey trained staff working with children deprived of their liberty on child rights²³

As part of the ‘Children first’ project, a cooperation of the EU and the government of Turkey, UNICEF trained juvenile detention staff in what has been branded the ‘Ardıç Programme’. The Ardıç Programme was developed for professionals working with juveniles in prisons, detention and education centers in the Republic of Turkey, with Turkish consultants providing management training, tools and information with which to work more effectively with juveniles.

The first module of the Ardıç Programme was designed to train psychosocial personnel employed in Ministry of Justice establishments (psychologists, social workers and some teachers) in handling children with specific problems, anger management, developing confidence and topic related issues; delivering family training; supporting child victims of sexual abuse; and understanding the role of psychosocial staff *vis-à-vis* other staff (especially guards).

The second module for administrators and staff employed in juvenile prisons, detention centers and education centers provided basic awareness of child rights, with two levels of training adapted to the participant’s function: 1) support staff, such as guards, cooks, or drivers; and 2) senior staff and administrators.

In the end, all of the personnel in contact with juveniles deprived of their liberty were trained and held accountable for upholding children’s rights in their daily work. This was achieved through a methodology that empowered and brought together personnel as an interdisciplinary team working in favor of juveniles, rather than against them. The training curriculum was also developed gradually and in a participatory way, ensuring both strong ownership of the program from the staff and long-term sustainability.



HIGHLIGHTS & LESSONS LEARNED

- Participatory needs assessment and development of the modules by the staff themselves.
- Training selected staff to become trainers in order for the training to become self-sustainable.
- Involving all staff (support to senior level) to build understanding of how they work together and support each other in providing adequate responses to children’s needs.

²³ For more information see UNICEF, Good practices and promising initiatives in juvenile justice in the CEE/CIS region, 2010, p.52 accessible at: https://www.unicef.org/albania/unicef_jjgood_practices_web.pdf

Good practices may also include

- Creation of child protection units within lawyers' bars associations, ensuring a pool of specialized lawyers to handle children's cases.
- Participation in "training the trainers" programs on juvenile justice, to ensure dissemination of knowledge to practitioners throughout the country.
- Inclusion of juvenile justice modules in police academies, judges and prosecutors' schools, social worker schools, etc.
- Involvement in regional or local networking opportunities through which practitioners working with children involved in terrorist-related activities can exchange knowledge and develop strategic regional or local responses to systemic challenges faced by children in conflict with the law.



FURTHER READING

Online resources on juvenile justice include:

- ✓ UNICEF's [Implementation Handbook for the Convention on the Rights of the Child](#).
- ✓ UNICEF's Toolkit on diversion and alternatives to detention.
- ✓ The International Juvenile Justice Observatory's [Manual on the participation of children in juvenile justice](#) and Manual of Good Practices on Alternatives to Detention for Juvenile Offenders.
- ✓ Child Rights International Network (CRIN) [Toolkit on child-friendly justice and children's rights](#)
- ✓ Penal Reform International and UNICEF's [Juvenile Justice Training Manual](#)
- ✓ Penal Reform International's [Training manual on protecting children's rights in criminal justice systems](#)
- ✓ UNODC's [Handbook for Professionals and Policymakers on Justice in matters involving child victims and witnesses of crime](#); related Training Program on the Treatment of Child Victims and Child Witnesses of Crime for [judges and prosecutors](#) and for [law enforcement officials](#); and [Free Online Course](#) for justice professionals dealing with child victims.

Online resources on how to treat (young) violent extremist offenders:

- ✓ ICCT and CGGS Report on “[Correcting the Course: Advancing Juvenile Justice Principles for Children Convicted of Violent Extremism Offenses](#)”, September 2017.
- ✓ UNODC’s [Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons](#) - *(an adapted version on juvenile violent extremist offenders will be published in 2018)*
- ✓ UNODC’s Training Module on [Human Rights and Criminal Justice Responses to Terrorism](#)
- ✓ OSCE’s Practical Manual for Law Enforcement Officers: [Human Rights in Counter-Terrorism Investigations](#).
- ✓ OSCE’s guidebook on [Preventing Terrorism and Countering Violent Extremism and Radicalization that Lead to Terrorism: A Community-Policing Approach](#).
- ✓ The Council of Europe’s [Handbook for Prison and Probation Services regarding Radicalisation and Violent Extremism](#).
- ✓ The International Centre for the Prevention of Crime’s “[Prevention of Radicalization: A Systematic Review](#)”.
- ✓ The Radicalisation Awareness Network’s [Collection of Best Practices](#).
- ✓ The Radicalisation Awareness Network Prison and Probation’s working paper on [Dealing with radicalisation in a prison and probation context](#).

Good Practice 13: Design and implement monitoring and evaluation programs to ensure the effective implementation of international juvenile justice standards



KEY LEARNING POINTS

- Criminal justice systems for children should be developed with clear baselines and targets and should be monitored on an ongoing basis to assess their efficiency and effectiveness in relation to the best interests of the child and of the community.
- It is very important to collect disaggregated data on key indicators such as the number of children arrested, number of children charged and with which offenses, number of children held in pre-trial detention, number of children convicted and sentenced to imprisonment etc.



RELEVANT INTERNATIONAL STANDARDS

UNCRC Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights [...]

Beijing Rules

30.1 Efforts shall be made to organize and promote necessary research as a basis for effective planning and policy formulation.

30.2 Efforts shall be made to review and appraise periodically the trends, problems and causes of juvenile delinquency and crime as well as the varying particular needs of juveniles in custody.

UN Committee on the Rights of the Child (CRC), General comment No. 10 (2007): Children's Rights in Juvenile Justice, 25 April 2007, CRC/C/GC/10

98. [...] The Committee urges the States parties to **systematically collect disaggregated data** relevant to the information on the practice of the administration of juvenile justice, and necessary

for the development, implementation and evaluation of policies and programmes aiming at the prevention and effective responses to juvenile delinquency in full accordance with the principles and provisions of CRC.

99. The Committee recommends that States parties conduct **regular evaluations of their practice of juvenile justice**, in particular of the effectiveness of the measures taken, including those concerning discrimination, reintegration and recidivism, preferably carried out by independent academic institutions.



FURTHER READING

Online resources on evaluation and monitoring of child-friendly administration of justice include:

- ✓ UNODC's Juvenile Justice Indicators: http://www.unodc.org/pdf/criminal_justice/06-55616_ebook.pdf
- ✓ Defence for Children International's [Practical Guide on Monitoring places where children are deprived of liberty](#).
- ✓ UNODC's Checklist on "[Planning the Implementation of the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice](#)"
- ✓ EU Agency for Fundamental Rights Agency (FRA) [Checklist for Professionals](#) on child-friendly justice.



ASSESSMENT

- ✓ Are you aware of the applicable international and regional standards concerning children in conflict with the law? How are they integrated into your national legal system?
- ✓ Have you noticed a difference between the provisions in the legal framework and practice when it comes to children alleged to have committed terrorism-related offenses?
- ✓ In your work, what – if any – are the areas where you feel you would benefit from specialized training? Is such training available in your country or region?

NOTES FROM SECTION V.



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