

Violence related to children and adolescents in conflict with the law: oral report

Background note

The issue

1. Violence against children in conflict with the law is a disturbing worldwide phenomenon. While data on hidden and illegal acts will always be hard to come by, the documentary evidence of such violence is overwhelming from reports by national and international human rights organizations.
2. The risks for children who are perceived as 'criminal' begin even before arrest. Children trying to survive on the streets are often viewed with fear and alarm, and face violence at the hands of community vigilantes as well as the police. In the worst cases, children have been murdered.
3. Arrest and detention further increase the risk that children will experience violence. Reports of beatings at the time of arrest and interrogation are common. Once in detention, children often face violence at the hands of prison personnel, their peers and adult prisoners when they are not held separately. While violent treatment is never justified, its occurrence is all the more stark given that the vast majority of child offenders are arrested for petty, non-violent crimes, or for acts of abuse at the hands of adults, including trafficking. Sexually exploited girls, including those who report rape, are at particular risk of being criminalized and experiencing further sexual violence in detention. In many countries, children who have committed no offence are taken into police custody for 'their own protection'.
4. Children are more likely to come into conflict with the law and to experience related violence when they come from families and communities that are marginalized by poverty and ethnic prejudice, fragmented by violence and coping with the pressures of urbanization and disparity. They have frequently been failed by weak or non-existent care and protection systems. The growing presence of gangs in some communities increases young people's risks both of

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becoming direct victims of violence and also of being drawn into criminal activities. Both detention and violence further rob them of opportunities and options which would allow them to overcome poverty and deprivation and become healthy, productive adults.

5. Children commit violent acts, but they are a small minority. In one country, for example, research undertaken in 2003 found that children were responsible for less than 10 per cent of all offences and less than 2 per cent of serious crimes. The relative rarity of violent crimes committed by children makes these exceptional cases ‘newsworthy’ and results in high media coverage. These negative portrayals often lead to ever-harsher laws, criminalization of ‘offences’ for which an adult cannot be charged, such as being out on the street late or having a tattoo, and mandatory long sentences.

6. The circumstances which lead these children to violent offending, including the wide availability of small arms, ineffective care, protection and justice systems and the instigation of criminal activities by adults involving children, including through gangs, likewise deserve attention. These concerns do not, however, lessen the need to address the problem of impunity for violence against children in conflict with the law.

Action

7. In response, UNICEF works at both country and global levels, together with governmental and non-governmental partners, in the following areas:

(a) In line with its new medium-term strategic plan, UNICEF has expanded its work beyond juvenile justice to address children’s interaction with the justice sector more broadly, including efforts to end impunity for crimes against children and increase children’s access to the justice system. This more comprehensive approach, called “Justice for Children”, helps to enhance partnerships with bilateral and multilateral partners working on governance, justice sector reform and rule of law. A particularly important entry point for this work is the work of UNICEF on the rule of law in the context of transition with United Nations and other partners;

(b) In many countries, UNICEF is working with Governments to apply international juvenile justice norms, encouraging the development of effective juvenile justice systems which decrease children’s exposure to the adult criminal justice system, reduce the recourse to detention and make available a range of appropriate diversion mechanisms;

(c) In addition to strengthening juvenile justice systems, UNICEF works to influence public opinion. Awareness-raising campaigns at local and national levels are designed to counter negative stereotypes of certain groups of children and to prevent and reverse “tough on crime” policies that are contrary to national legislation and the Convention on the Rights of the Child;

(d) At the global level, UNICEF works to promote common policies and programmes for the protection of children in conflict with the law through its participation in the Inter-Agency Panel on Juvenile Justice, an alliance of United Nations agencies and NGOs working on juvenile justice. It also prepared the ground for global advocacy on the problem of violence against children in conflict with the law through the United Nations Study on Violence against Children. Future work will focus on ensuring that the situation of children as both victims and offenders is

fully addressed in efforts by the United Nations to promote the rule of law in transition, and in justice and governance work in development contexts

Impact

8. **Addressing police violence.** In Papua New Guinea, UNICEF supported the development of a juvenile policy for the police which helps to ensure that arrests are lawful and that children are being diverted away from the adult criminal justice system at the earliest possible stage. A monitoring unit has been established to oversee implementation of the new policy and to provide on-site training and counselling.

9. **Decreasing use of detention.** In the Philippines, UNICEF, together with NGO partners and the government, helped to establish Children's Justice Committees as part of the Community-based Prevention and Diversion Programme in Cebu City. The Committees collaborate with law enforcement and social welfare authorities and serve as mechanisms to promote diversion and mediation measures for children in conflict with the law.

10. **Public opinion and pressure for legislation.** In Panama, UNICEF established an alliance with the National College of Journalists, to which 90 per cent of the country's journalists belong, to help dispel myths and exaggerations of adolescent crime. UNICEF facilitated training courses which helped to foster rights-based analysis and reporting on children in conflict with the law. This collaboration with the media succeeded in substantially limiting the number and the severity of regressive reforms.

11. In Honduras, El Salvador and Guatemala, UNICEF has done significant work on advocacy against repressive and punitive measures proposed to fight juvenile crime. In El Salvador, UNICEF participated in and supported the *Mesas de Negociacion*, round tables of government agencies and civil society charged with developing juvenile violence prevention policies and programmes. UNICEF supported national partners in their successful campaign against attempts to make permanent a law which penalized children and young people for the mere appearance of belonging to a gang, in the absence of any crime. In Guatemala, UNICEF advocated against the overuse of detention in cases of minor offences committed by children and youth and helped bring about the decriminalization of status offences.

12. **Protection of child offenders, as well as victims and witnesses of crimes.** In Timor-Leste, UNICEF provided technical assistance to the drafting of two so-called Rules of Operational Procedures for the police, one focusing on juvenile justice and the other on child abuse and children at risk. The new policies are coming along with training to strengthen the capacity of the police to adequately respond to juvenile offenders and child victims of violence and abuse.
