

STOP VIOLENCE AGAINST CHILDREN!

CHILDREN IN CONFLICT WITH THE LAW

DEFINITION

- The term ‘children in conflict with the law’ refers to anyone under 18 who comes into contact with the justice system as a result of being suspected or accused of committing an offence.

WHO ARE THESE CHILDREN?

- Children may come into conflict with the law for a variety of reasons, sometimes even when no crime has been committed. Some of the reasons children come into conflict with the law are :
 - ➔ When children commit petty crimes or minor offences such as vagrancy, truancy, begging or alcohol use. Some of these are known as ‘status offences’ and are not considered criminal when committed by adults.
 - ➔ When children engage in criminal behaviour including theft, gang fights, peddling or using drugs or causing bodily harm to another person. In many of such cases, children have more than likely been used or coerced by adults.
 - ➔ When children seek asylum in another country or is an unaccompanied refugee, without formal documentation.
 - ➔ Sometimes, prejudice related to race, ethnicity or social and economic status may also bring a child into conflict with the law even when no crime has been committed, or result in harsh treatment by law enforcement officials.
- Another aspect of children who come into contact with the law is juvenile detention, due to the following reasons:
 - ➔ being born to a parent while in detention
 - ➔ accompanying a parent to detention
 - ➔ lack of appropriate alternative care facilities for children with special needs or children with a disability.

FACTS AND FIGURES - GLOBAL

- More than 1 million children worldwide are detained by law enforcement officials. ⁱ
- In many prisons and institutions, children and young persons are often denied the right to medical care, education and individual development. ⁱⁱ
- In 2002, 136,000 children in the CEE/CIS region were sentenced for criminal activities, compared to 117,000 in 1990. Russia alone accounted for 65 per cent of these numbers. ⁱⁱⁱ

HUMAN RIGHTS AND LEGAL FRAMEWORKS

- The Convention on the Rights of the Child (CRC) is the most widely ratified of all UN agreements. It rests on four foundation principles: non-discrimination (article 2); best interests of the child (article 3); the child's right to life, survival and development (article 6); and respect for the views of the child (article 12).
- **Article 19** of the CRC contains general provisions against violence and abuse of children:

“States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical and mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child”.
- Additionally, there are provisions related to juvenile justice in the CRC that promotes the dignity and worth of children who come into conflict with the law, taking into account their age and aims at their reintegration into society. These include:
 - **Article 37:** Children who break the law should be protected from torture and inhuman or degrading treatment and should not be treated cruelly. They should not be put in prison with adults and should be able to keep in contact with their families.
 - **Article 40:** Children who are accused of breaking the law should receive legal help. Prison sentences for children should be avoided whenever possible. If it has to be applied, it should only be used as a measure of last resort and for the most serious offences.
- The convention prohibits the imposition of the death penalty and sentences of life imprisonment for offences committed by persons under the age of 18.

ⁱ Defence for Children International, 'No Kids Behind Bars: A global campaign on justice for children in conflict with the law', <www.kidsbehindbars.org>.

ⁱⁱ Defence for Children International, Kids Behind Bars: A study on children in conflict with the law: towards investing in prevention, stopping incarceration and meeting international standards, Amsterdam, 2003, p. 22.

ⁱⁱⁱ United Nations Children's Fund, 'Child Protection: A resource package for Central and Eastern Europe and the Commonwealth of Independent States', available at <http://ceecis.org/child_protection>.