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## **VIOLENCE AGAINST CHILDREN: INTERNATIONAL CRIMINAL JUSTICE NORMS AND STRATEGIES**



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# VIOLENCE AGAINST CHILDREN: INTERNATIONAL CRIMINAL JUSTICE NORMS AND STRATEGIES

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## I. INTRODUCTION

“The history of childhood is a nightmare from which we have only recently begun to awaken. The further back in history one goes, the lower the level of child care, and the more likely children are to be killed, abandoned, beaten, terrorized and sexually abused.... That this pattern has not been previously noted by historians is because serious history has long been considered a record of public not private events.”<sup>1</sup>

Millions of children throughout the world are victims of violence. They continue to be abused, exploited and trafficked. Violence against children is certainly not new. However, what we understand as “violence” against children is continually changing. International publicity and scrutiny have compelled greater awareness of different categories of violence to children, from abuse in the family and in institutions, to organized sexual abuse, including child prostitution, sex tourism and child pornography. In addition to this evolving concept of violence against children, the definition of “violence” to children varies from country to country and culture to culture. Different countries have differing levels of “legal” violence to children, characterizing such violence as forms of allowable punishment. Only a few countries prohibit all violent punishment of children.<sup>2</sup>

The international community has responded to this increased awareness and public scrutiny with the development of standards and norms prohibiting violence to children and establishing a framework of principles and standards to respond to victimized children and children as perpetrators. International norms prohibiting some forms of violence against children, such as trafficking for the purposes of prostitution, date back to the beginning of this century<sup>3</sup>. Yet it has been only in the past decade that this issue has become a priority within various United Nations entities. The adoption of the *Convention on the Rights of the Child* in 1989 provides a clear statement prohibiting all forms of violence against

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<sup>1</sup> deMause, L. (ed.) *The History of Childhood*, Bellew Publishing Co., London 1991 (as cited in innocenti digest No. 2 “*Children and Violence*” UNICEF, 1997)

<sup>2</sup> Following countries that have laws that prohibit all violence to children include: Sweden, Finland, Denmark, Norway, Austria and Cyprus.

<sup>3</sup> Early treaties include the International Agreement of 1904 for the Suppression of the White Slave Traffic, the 1910 International Convention for the Suppression of the White Slave Traffic, the 1921 International Convention for the Suppression of the Traffic in Women and Children, the 1923 International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications and the 1926 League of Nations Slavery Convention.

children, reaffirming previous human rights instruments. Within the United Nations Commission on Crime Prevention and Criminal Justice, attention is paid to the development of concrete criminal justice standards and strategies that address children's roles within the criminal justice system, both as victims and perpetrators.

National criminal justice systems must be involved in responding to violence against children. Abuses and injustices towards children will not be corrected by reforming these systems alone. However, criminal justice systems can become more effective tools in denouncing, preventing and responding to incidents of violence against children. At the very least, measures must be taken to ensure that crime prevention and criminal justice practices are themselves not contributing to the revictimization of children, whether the children are victims or perpetrators. It is in developing a framework of standards, principles and guidelines that the UN Commission on Crime Prevention and Criminal Justice can provide guidance to countries reforming their criminal justice system to respond to the needs of children. International technical cooperation is imperative to ensure that national systems are made more effective for combating violence against children and avoiding revictimization of the child. After briefly setting out the problem, this paper will detail the established human rights norms that prohibit violence against children before discussing the activities of the UN Commission on Crime Prevention and Criminal Justice in the area of children and their role in the criminal justice system.

## **II. SCOPE OF THE PROBLEM**

### **i) Definition**

For the purpose of this paper, violence against children is defined broadly to include deliberate behavior by people against children that is likely to cause physical or psychological harm. This includes physical abuse, sexual abuse and exploitation, societal forms of violence, such as exploitative child labour, and children's involvement in armed conflict. The focus is not simply on "child abuse" for such definition varies in different countries and cultures. Many forms of violence that are harmful to children lie outside common definitions of child abuse. A child is defined by the *Convention on the Rights of the Child* as anyone under 18 years.

### **ii) Scope of the problem**

Violence against children manifests itself in a number of forms. Children are recruited, encouraged, entrapped and forced into sexual slavery, prostitution, pornography, and sex tourism. They are sold under the cover of inter-country adoptions, for organ transplants, exploited for their labour, and instrumentally used in criminal activities, such as selling drugs, robbery, burglary and petty theft. These manifestations appear in both developing and developed countries. However the exact scope of the problem is not known as it has been only in the last few decades that the prevalence of deliberate physical and mental

violence to children by parents and others has begun to be widely acknowledged and documented.

Victimized children have various experiences with the national criminal justice systems. They cannot always count on the criminal justice system for protection. In terms of combating violence against children, there often exists gaps and ambiguities in the laws criminalizing violence to children. Laws tend to be piecemeal, focusing on specific forms of violence rather than dealing comprehensively with all forms of violence to children. When the law is in place, there is often weak law enforcement. This can lead to victim apathy and distrust and avoidance of the system. In certain situations, such as trafficking in children, corruption among police and other enforcement officials is cited as a major obstacle. Some child victims of trafficking report being transported by or with police in uniform, armed and often in police cars across borders and to brothels.<sup>4</sup> Once in brothels, victims report extensive police usage of brothels for free and brothels being under the protection of police. In other situations, such as sex tourism, a concern exists over the high level of State participation and complicity. It has been suggested that this complicity is due to the reluctance of some States to restrict the promotion of tourism in general.<sup>5</sup>

Children as victims and witnesses in criminal matters are often seen as unreliable witnesses which frequently lead to their complaints or requests for help being disbelieved or ignored. Child victims of sexual abuse or exploitation often must endure rough and probing police investigation followed by cross examination by the accused's lawyer and judge in court. Most children are too intimidated by the insensitive, lengthy and public process to take the case to trial.<sup>6</sup> The legal framework in many societies remains defined by adult male perceptions and male standards, often resulting in a criminal justice system that is callous and insensitive to the needs of children in general and the girl child in particular.

Victimized children may be treated as perpetrators of crime in certain circumstances. The danger is enhanced when children have been instrumentally used in criminal activities. In most countries, children who have been trafficked for prostitution have been picked up by authorities and end up in a justice system geared to adults and are treated as criminals rather than victims. There still exists a tendency to make distinctions between the victims of child sexual abuse, such as incest or rape and juvenile delinquents like prostitutes or the sexually promiscuous. These distinctions are laden with value judgments about good and bad children, which may predetermine which children should be rehabilitated and which should be punished. In some countries, street children are detained illegally, beaten and tortured and sometimes killed by police who view them as vagrants and criminals.<sup>7</sup> "Clean up" city street campaigns have been conducted to round up alleged street children and send them to closed camps, without due process measures. Children who have been trafficked across borders have been treated like criminals in the countries of destination, as

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<sup>4</sup> This is cited in the Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, UN doc. E/CN.4/1997/47, 12 Feb 1997 and also Human Rights Watch, The Human Rights Watch Global Report on Women's Human Rights (1995) p. 196.

<sup>5</sup> Report of the Special Rapporteur on violence against women, *ibid.*

<sup>6</sup> SEAFIELD, a CIDA Fund newsletter, article on the International Centre for Criminal Law Reform and Criminal Justice Policy's project in Thailand.

<sup>7</sup> Human Rights Watch [Police Abuse and Killings of Street Children in India](#)

illegal immigrants or as prostitutes. They have been placed in “education camps” or transported to “rehabilitation centres” without due process. If illegally in another country, children are subjected to arrest, detention and deportation. Back in their own country, they have been prosecuted as criminals or been refused re-entry. These current policies in many countries deter children from reporting to authorities. The failure to distinguish these children as victims from perpetrators is a significant drawback to the implementation of UN standards.

The traditional assumption that parents and adults have authority over children due to their dependent nature increases the child’s vulnerability. Despite the growing recognition of children’s rights as human rights, children continue to be seen as property on the part of adults who treat them as though they were inanimate objects, to sell, buy, exploit or to get rid of. The low status of children is reflected in the fact that only a handful of countries have adopted laws to give children the same protection that adults enjoy from physical assault. In most states, violent punishment, including beatings, remain common and sanctioned by law<sup>8</sup>. These traditional assumptions about children flow over to their treatment in the criminal justice system.

With the growing concern of the international community to violence to children, a framework of international human rights instruments and UN mechanisms have been developed to respond to this problem. Somewhat piecemeal, these norms cover a wide range of the manifestations of violence against children. Setting standards is a first step, and while it is an important and necessary one, it is not enough. There must be effective implementation at the national, regional and international levels. The next section details briefly the international human rights framework that has been developed to address this problem.

### **III. INTERNATIONAL HUMAN RIGHTS NORMS PROHIBITING VIOLENCE AGAINST CHILDREN**

#### **i) The general concept of children’s rights**

Children’s rights are a relatively new concept. The child rights movement, which culminated in the adoption of the 1989 *Convention on the Rights of the Child (the Children’s Convention)*, ensures that the child is to be regarded as a human being and a member of society with full human and legal rights, and not simply as an object of care or control by adults. In treaty form and widely ratified, the standards contained in the *Children’s Convention* are binding and truly universal. While most of the provisions are not new but reaffirm earlier human rights standards, the convention is the only binding instrument of its kind specifically intended to define the basic rights of children.

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<sup>8</sup> It should be noted that in many countries, either under criminal or civil law or both includes specific confirmation of parents’ and other carers’ rights to use violent forms of punishment. For example, in Canada, Section 43 of the Canadian Criminal Code provides that “every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.”

The convention adopts a rights-based approach setting out four general principles: non-discrimination, including gender-sensitivity; upholding the best interest of the child; the right to life, survival and development; and the respect for the views of the child. Article 12 mandates State Parties to assure to children, capable of forming their own views, the right to express those views freely in all matters affecting them. The child is to have the opportunity to be heard in any judicial and administrative proceedings either directly or through a representative or an appropriate body. This right is significant not only for what it says, but because it recognizes the child as a full human being, with integrity and personality, and with the ability to participate fully in society.

Before detailing the specific norms prohibiting violence against children it should be noted that any treatment of a child which amounts to exploitation is rarely due to the violation of a single right, rather it involves cumulative breaches of several fundamental human rights, such as the unlawful interference with family life, and the right to education, health and leisure; all of which are essential for the healthy development and survival of the child. The increasing marginalization of children with no alternatives to education, health, housing and employment, increases their vulnerability to be exploited and subjected to violence.

#### **i) Children as victims of violence and abuse**

The United Nations standards prohibiting violence against children are primarily set out in the *Children's Convention*. Article 37(a) provides that no child shall be subject to torture or other cruel, inhuman or degrading treatment or punishment, encompassing those acts committed by State agents, such as law enforcement officers and correctional personnel. Article 19 is broader in recognizing the right of children to be protected from all forms of physical and mental violence, injury and abuse, neglect or negligent mistreatment or exploitation by parents or others. Specific forms of exploitation are prohibited in Articles 32-35, whereas Article 36 is a catch-all provision requiring States to protect children from all other forms of exploitation prejudicial to any aspects of their welfare.

The *Children's Convention* also addresses the needs and rights of children who have been victimized. Article 39 imposes a duty on States to “promote physical and psychological recovery and social rehabilitation” of children who have been victims of “any form of neglect, exploitation or abuse”. Such recovery and reintegration is to take place in an environment which fosters the health, self-respect and dignity of the child.

#### **ii) Children as victims of sexual exploitation and trafficking for the purpose of sexual exploitation**

The *Children's Convention* specifically refers to the child's right of protection against all forms of sexual exploitation and abuse. Article 34 mandates State Parties to take all appropriate measures to prevent the inducement or coercion of a child to engage in any unlawful sexual activity, child prostitution and child pornography. Article 35 requires States to make every effort to prevent the sale, trafficking and abduction of children.

While the *Children's Convention* is the principle legal reference to combat sexual exploitation of children, there exists a whole structure of international human rights instruments and UN mechanisms affecting sexually exploited children. Earlier treaties addressing child prostitution and pornography include the *1949 UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* and the *1923 International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications* (amended in 1947). These conventions reflect the historical concept of trafficking as the trade of women and children for the purpose of prostitution. They do not accommodate the newer forms of trafficking for domestic labour and sweatshops. The *1926 League of Nations Slavery Convention* and the *1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Practices Similar to Slavery* prohibiting slavery include such practices and institutions as servile forms of marriage and the exploitation of children and adolescents.

The *Convention on the Elimination of all Forms of Discrimination Against Women* is useful in dealing with matters relevant to women and girls, especially after the adoption of the *Beijing Platform of Action* which refers specifically to girls as a “special area of concern”. Article 6 of the *Women's Convention* requires States Parties to take all appropriate measures “to suppress all forms of traffic in women and exploitation of prostitution of women”. This now includes girls. The *Declaration on the Elimination of Violence Against Women* defines violence against girls and requires States to ensure that “revictimization” does not occur as a result of “insensitive” law enforcement practices.

There are a number of United Nations mechanisms that elaborate on these standards, monitor the implementation in domestic jurisdictions and suggest strategies for their effective implementation. In 1990, the UN Commission on Human Rights appointed a Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography to report on specific cases and undertake fact-finding missions to investigate specific trends and situations in various regions or countries. The Special Rapporteur on Violence Against Women's mandate covers young girls and her reports have reviewed the sexual abuse young girls are subjected to in all societies.

With the growing concern of sex tourism in recent years, the World Tourism Organisation adopted the Tourism Bill of Rights and the Tourist Code (1985) requiring States to prevent any possibility of using tourism to exploit others for prostitution purposes. The Commission on Human Rights' Working Group on Slavery developed a Programme for Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography. This Programme advocates a multi-pronged approach based on information and education, social measures and development assistance, legal measures and law enforcement, rehabilitation and international coordination.

In 1996, the first World Congress against Commercial Sexual Exploitation of Children in Stockholm, Sweden, developed a Declaration and Agenda for Action that provides a framework for the eventual eradication of the sexual exploitation of children worldwide.

The Congress' multidimensional approach addresses coordination at all levels, preventative measures, protection of children already within the sex trade, recovery and reintegration of children, and promotion of the participation of children, including child victims to express their views on actions designed to protect children from commercial sexual exploitation.

### **iii) Children as victims of economic exploitation**

The *Children's Convention* in Article 32 recognizes the right of the child to be protected from economic exploitation and from performing any work that threatens his or her health, education or development. Further, the State is to set minimum ages for employment and regulate working conditions. The UN has recognized that the exploitation of child labour is a form of sale of children.

The International Labour Organisation (ILO) has established various standards on child labour with *Convention 138* setting a minimum age for child labour, which is specifically referred to in Article 32 of the *Children's Convention*. *Conventions No. 29 and 105* address the issue of forced labour and the abolition of forced labour. Other instruments that address child labour include the recently adopted ILO Programme of Action Against Child Bondage and the Commission on Human Rights' Programme of Action for the Elimination of the Exploitation of Child Labour.

### **iv) Children as victims being sold for organ transplants or for international adoption**

No international instrument exists on the issue of human organ transplantation. However, the implication of the *Children's Convention* makes the sale of children for the purpose of organ transplantation illegal. The World Health Organization (WHO) has issued a set of Guiding Principles on Human Organ Transplantation, prohibiting the removal of organs from the body of a living minor and forbidding commercialization. The adoption of children for commercial purposes is prohibited by the *Hague Convention on the Protection of Children and Cooperation in respect of Inter-country Adoptions*.

### **v) Children as instruments used in criminal activities**

It is recognized that children exploited for use in criminal activities blurs the distinction of the child as victim and as perpetrator. There are a number of international standards dealing with the question of children in conflict with the law which have been developed by the United Nations Commission on Crime Prevention and Criminal Justice which will be addressed in the next section. Within the human rights framework, the traditional forms of child exploitation encompasses the instrumental use of children in criminal activities. Children who engage in criminal activity through coercion, instigation or enticement by adults who profit by their acts should be considered as victims of exploitation rather than perpetrators of crime. Such criminal lifestyles hinder their development and denies them opportunities for a healthy and responsible role in society. The *Children's Convention*

does not explicitly refer to the instrumental use of children for criminal purposes, except for the use of children in the production and trafficking of narcotic drugs which is prohibited by Article 33. However, a general duty to protect children against all other forms of exploitation prejudicial to any aspects of their welfare is imposed on States pursuant to Article 36.

When dealing with children who have been instrumentally used in criminal activities, the previous Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, Vitit Muntabhorn, calls for an approach that avoids stigmatization, victimization and criminalization of the child's conduct<sup>9</sup>. He notes that there must be a "shift in emphasis from the rubric of juvenile justice to a more understanding vision of children endangered by a variety of circumstances and exploited by adult criminal elements"<sup>10</sup>.

Establishing a human rights framework only takes one so far in combating violence against children. National criminal justice systems must be involved in combating this violence. Furthermore these systems must ensure that its procedures do not add to the victimization of these children. The United Nations Commission on Crime Prevention and Criminal Justice has developed a framework of principles, standards and guidelines to respond to victimized children and children who are treated as perpetrators of crime. The next section will discuss the Commission's activities that relate to the role of children in the criminal justice system.

#### **IV. UN COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE ACTIVITIES**

##### **i) General**

There is clearly an international agenda to eliminate all forms of violence against children which involves a number of steps to be taken in the field of crime prevention and criminal justice. Included in these steps are measures to achieve equality and fair and equal access of children to justice, measures to address specific problems arising from children as victims of violence within the criminal justice system, and measures to promote international cooperation to combat violence against children. All components of the criminal justice system, from law enforcement, courts and corrections to victim support and assistance agencies, are the subject of these various measures.

In general, the strategies and measures developed by the Commission promote clear and unambiguous laws on the illegality of violence against children. This prohibitionist approach is to be combined with sensitivity to the need to protect rather than detain or

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<sup>9</sup> Muntabhorn, Vitit "Violence Against Children: The Sale of Children, Child Prostitution and Child Pornography" in Children in Trouble: United Nations Expert Group Meeting (Vienna, Austria 1994)

<sup>10</sup> *supra*

punish the child victims. The legal system and legal procedures are to recognize that the child victim is a victim in need of recovery and reintegration. A non-punitive approach should be adopted and the judges, law enforcement officers and social workers sensitized to this approach.

Children who run afoul with the law are, in reality, invariably victims. They are usually victims of exploitation, seduction or threats, whether or not they are legally considered offenders or victims. Therefore, any discussion of victimized children in the criminal justice system must address the international standards that have been established concerning juvenile justice and the rights of the child. While the primary focus of this paper is on child victims within the criminal justice system, the last part of this section will briefly look at the international standards in juvenile justice established through the Crime Commission.

### *ii) Guidelines for Action on Children in the Criminal Justice System*

In 1997, the Commission adopted a resolution on the Administration of Juvenile Justice which contained a set of guidelines to deal with children in the criminal justice system both as perpetrators and as victims and witnesses. In using the *Guidelines for Action on Children in the Criminal Justice System*, States are to ensure that such measures be rights-based oriented and compatible with the four general principles underlying the *Children's Convention*: non-discrimination; best interest of the child; right to life, survival and development; and respect for the views of the child.

Section III of the *Guidelines* is concerned with child victims and witnesses and provides a framework to achieve the implementation of the *Children's Convention* and the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*. Child victims and witnesses are to be provided with appropriate access to justice and fair treatment, restitution, compensation and social assistance. This means that settling of penal matters outside the justice system should only be done when it is in the best interests of the child. Criminal justice personnel, including police, prosecutors, lawyers, and the judiciary, should receive special training to deal with cases involving child victims, and the suggestion is made that specialized units should be set up.

The *Guidelines* further state that any measure established to treat child victims should ensure that they are treated with compassion and respect for their dignity. Children should be provided with access to assistance that meets their needs, such as advocacy, protection, economic assistance, counseling, health and social services, social integration and physical and psychological recovery services. The *Guidelines* suggest rehabilitation be family and community-based rather than institutionalized. There are a number of measures dealing with compensation for child victims, including allowing necessary legal representation to bring these actions.

According to the *Guidelines*, States are to review substantive, evidentiary and procedural laws to ensure that children's rights are fully protected. Direct contact should be avoided

between the child victim and the offender during the process of investigation and prosecution as well as during trial hearings. The identification of the child victim in media should be prohibited. States should consider amendments to allow for videotaping of the child's testimony and its presentation in court as official pieces of evidence. Child witness preparation schemes should be developed to familiarize children with the criminal justice process, allow children's views to be considered, minimize the delay and ensure safety from intimidation. The *Guidelines* place emphasis on the special and protective role that prosecutors are to play in these types of cases. Prosecutors are to receive clear directives and specialized training in the performance of their responsibilities.

The *Guidelines* address the specific problem of children who are trafficked across borders and state that they are to be returned to their country of origin. Pending their return, these children are to be kept safe, treated humanely and receive necessary assistance. Upon their return, they should be offered family-based rehabilitation measures.

### **iii) *UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power***

The *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (1985) requires States to establish responsive judicial and administrative processes to meet the needs of all victims, including child victims. Victims are to be informed of their role and the scope, timing and progress of the proceedings. Their views and concerns are to be presented and considered. Proper assistance to victims should be provided throughout the legal process. Measures are to be taken to minimize inconvenience to the victims and to ensure their and their family's safety. Unnecessary delay is to be avoided in the disposition of the case.

*A Guide for Policy Makers on the Implementation of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* was submitted to the seventh Commission on Crime Prevention and Criminal Justice in April 1998. This Guide contains concrete suggestions for the implementation of the *Declaration*. These include: the possibility of separate waiting rooms to avoid undue contact with the suspect and the suspect's family; the possibility of *in camera* proceedings or the provision of videotaped testimony or the use of one-way mirrors to encourage the victim to speak more freely; the possibility of the appointment of child advocates; and the possibility of hearing children by a special investigator, who then relates the testimony to the court. These measures try to minimize the "secondary victimization" that children may experience as witnesses in the criminal process.

### **iv) *Resolution on the Instrumental Use of Children in Criminal Activities (GA Resolution 45/115, 3 April 1991)***

This General Assembly Resolution arising from discussions in the Crime Commission specifically deals with the instrumental use of children in criminal activities. Calling for the development of training and awareness-raising activities, the Resolution recognizes the

need to make law enforcement and other justice personnel, as well as policy makers, sensitive to those situations of social risk that cause children to be manipulated by adults into engaging in crime. Appropriate sanctions are to be applied against adults who are the instigators and authors of crimes, rather than against children. The criminal justice system has an important role to play in tackling the problem of the instrumental use of children in criminal activities through changes in legislation and actions at the various levels of the criminal justice system. However, at the same time, the resolution notes that such a system cannot provide the total solution. The underlying conditions causing the problem to continue must be simultaneously addressed.

**v) *The Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice***

The *Model Strategies*, developed by the UN Commission on Crime Prevention and Criminal Justice and approved by the General Assembly in December 1997, sets out strategies, measures and activities for States to take to ensure an appropriate “fair treatment” response on the part of the criminal justice system to all forms of violence against women and the girl child. This document calls for the review and evaluation of criminal procedures to ensure that victims have an opportunity to testify in court proceedings equal to that of other witnesses and that measures are available to facilitate such testimony and to protect their privacy. Further, investigative techniques are not to degrade victims, rather they should minimize intrusion while maintaining standards for the collection of best evidence. There are also a number of victim support and assistance strategies found in this document.

**vi) *Model Treaties***

The use of international standards and promotion of networking in law enforcement is crucial to prevent cross border trafficking as well as the phenomenon of the traveling pedophile. Currently, some countries have taken the initiative to introduce laws conferring extra-territorial jurisdiction, to prosecute nationals who commit offences against children in other countries. The Crime Commission’s work has focused on international cooperation issues in developing Model Treaties on Extradition and a Model Treaty on Mutual Assistance in Criminal Matters.

**vii) *Juvenile Justice Standards***

Article 37 and 40 of the *Children’s Convention* specifically refer to juvenile justice. Children who come into conflict with the law must 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 human rights of others and which takes into account the child’s age and the desirability of promoting reintegration and assuming a constructive role in society. There are three other instruments developed by the Crime Commission that are relevant to juvenile justice: The *United Nations Standard Minimum Rules on the Administration of Juvenile Justice* (The Beijing Rules); The *United Nations Guidelines for the Prevention of*

*Juvenile Delinquency* (The Riyadh Guidelines); and *The United Nation Rules for the Protection of Juveniles Deprived of their Liberty*.

The *Guidelines for Action on Children in the Criminal Justice System* summarizes these instruments in setting out specific targets for States to meet. States should establish juvenile courts with special procedures designed to take into account the specific needs of children. Diversion as well as a broad range of alternative and educative measures should be developed for all stages of the criminal process in order to prevent recidivism and promote the social rehabilitation of child offenders. These alternative measures are to comply with UN standards, ensuring for respect for due process and for the principle of minimum intervention. The placement of children in closed institutions should be reduced, should take place as a matter of last resort and be for the shortest period of time possible.

### **viii) *Guidelines on the Role of Prosecutors***

The *Guidelines on the Role of Prosecutors* passed in 1990 at the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders recognize the crucial role in which prosecutors play in the administration of justice. These *Guidelines* have been formulated to assist States in securing the effectiveness, impartiality and fairness of prosecutors in criminal proceedings. The bulk of the *Guidelines* deal with the role of prosecutors in criminal proceedings and reaffirm the importance of prosecutors in considering the views and concerns of victims. Prosecutors are also to ensure that victims are informed of their rights.

## **VII. CONCLUSION**

The *Convention on the Rights of the Child* and other UN standards stress the need for all aspects of the criminal justice systems to promote regard for children as human beings and members of society with human rights. Justice systems and their reform have an important role to play in tackling the problem of violence to children. The criminalization of all forms of violence is required along with effective enforcement. Further, justice systems can be reformed to ensure that its criminal procedures do not revictimize the child victim. The United Nations Commission on Crime Prevention and Criminal Justice's activities in the past few decades provide concrete strategies for States to assist in the effective implementation of UN standards and norms.

Attention is shifting to the strengthening of international cooperation and promoting technical assistance efforts to ensure effective implementation of these standards. The *Guidelines for Action on Children in the Criminal Justice System* is a guide for the development of technical advice and assistance projects, such as assistance in legal reform, strengthening national capacities and infrastructures, training of criminal justice personnel, to name a few. These *Guidelines* respond to the need for technical assistance which has been clearly demonstrated by the number of countries who were suggested by the

Commission on the Rights of the Child to seek technical assistance in the area of juvenile justice. In order to provide assistance, a coordination panel on technical advice and assistance in juvenile justice has been created. This panel develops strategies to activate further international cooperation in the field of juvenile justice, facilitates the identification of common problems, compiles examples of good practices and analyzes shared experiences and needs. The main objective underlying all this is to ensure the well-being and harmonious development of all children.