

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: THE CHECKLIST

*Yvon Dandurand**

In order to support Member States in 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”, UNODC has developed a “Checklist” to the “Model Strategies”.

It is a tool to help Member States undertake initial steps in assessing the readiness and capacity of a State’s justice system to protect children who are in contact with the justice system from all forms of violence. I will present the checklist briefly and suggest how it may be used as a basis for strategic planning for the elimination of violence against children.

Given the focus of the present panel on the experience of children in contact with the criminal justice system, I would also like to refer more specifically in my presentation to Part III of the Model Strategies, the part that deals with the prevention of violence against children within the justice system. I will therefore highlight some practical measures that could be taken by Member States to prevent and respond to violence against children who are in conflict with the law and, in particular, against children deprived of their liberty.

I. THE MODEL STRATEGIES

As was mentioned the Model Strategies include three main parts corresponding to three very important aspects of any crime prevention and criminal justice strategy to eliminate violence against children. They are: (1) Implementing broad prevention strategies; (2) Ensuring appropriate and effective criminal justice response to incidents of violence against children; and (3) Eliminating violence during children’s contacts with the justice system.

The Model Strategies use a very broad definition of violence against children, essentially the same definition found in the Convention on the Rights of the Child. In total, it includes 17 main strategies and 47 related practical measures.

A. Many Ways to Use the Model Strategies

The Model Strategies can be used to systematically review existing mechanisms and legislation to protect children against violence and to identify gaps. In fact, the Model Strategies can be used as a basis for developing a comprehensive plan to prevent and respond to violence against children. The checklist was effectively designed to assist this process.

* School of Criminology and Criminal Justice, University of the Fraser Valley, British Columbia, Canada, and Fellow and Senior Associate, International Centre for Criminal Law Reform and Criminal Justice Policy.

If you look at the checklist more closely, you will notice that it consists essentially of a number of questions that are logically prompted by the different measures included in the Model Strategies. I am not sure if you can see it clearly, but the screen shows a picture of a typical page of the checklist. This one deals with strategy 1, and two groups of practical measures: one dealing with the formal prohibition of violence, and the other, below, with the prohibition of various harmful practices. On the left-hand side, for each group of measures, there is a group of questions that the user is meant to try to answer as part of a quick assessment of the situation in his or her country. On the right-hand side, there is some reference material to put the questions into context and, when relevant, to refer the reader to other resources.

B. How to Use the Checklist

How can one use the checklist? Agencies and actors responsible for the implementation of the Model Strategies can use the Checklist to quickly review their current capacity to prevent and respond to violence against children and to develop a comprehensive strategy and action plan to improve their response to such violence.

A first step in the implementation of the Model Strategies would usually consist of making a commitment to a strategic approach and identifying focal points with responsibility for initiating the strategic planning process. A second step involves a process through which key ministries and organizations that bear a level of responsibility for children's rights, welfare and protection are identified together with their respective roles, mandates and responsibilities. This then leads to systematic efforts to mobilize these agencies and engage them in a joint process of strategic planning. At a very early stage in the implementation process, and as a crucial stage in the strategic planning exercise, it will be necessary to systematically review the current situation and assess the present capacity of the justice system to respond to incidents of violence against children. This Checklist offers a quick reference tool to assist that very important part of the implementation process. At a later stage, the checklist can of course also be used to monitor progress in implementing reforms.

C. Elements of a Good Plan of Action

Based on past experience with similar large-scale justice reform initiatives, it is fair to say that an effective plan of action should include the following:

- Clear priorities for action
- Well-defined responsibilities for the relevant institutions, agencies and personnel involved in implementing preventive measures
- Mechanisms for the appropriate coordination of preventive measures among government agencies and between governmental and non-governmental agencies
- Reliance of evidence-based methods for effectively identifying, mitigating and reducing the risk of violence against children
- Close interdisciplinary cooperation, with the involvement of all relevant agencies, civil society groups, local and religious leaders and, where relevant, other stakeholders

- Participation of children and families in policies and programmes for the prevention of criminal activities and child victimization

II. PREVENTING VIOLENCE AGAINST CHILDREN IN THE JUSTICE SYSTEM

Now that I have introduced the Checklist, at least in general terms, and stressed the importance of good planning to ensure that the criminal justice system does all that it can to address the problem of violence against children, I would like to focus your attention for a few minutes on the question of preventing violence against children in contact with the justice system.

A. Victimization

Studies reveal that children within the justice system, and in particular those deprived of their liberty, are especially vulnerable to violence. In 2012, the UNODC held a meeting of experts on the question, and the many risks of violence faced by children in contact with the justice system were identified.

Examples of violence against children in the justice system include: violence by staff, violence by adults or other young detainees in detention institutions, violence during arrest, interrogation, or in police custody, and violence as a sentence, such as corporal or capital punishment. The consequences of violence perpetrated against children when in contact with the justice system cannot be underestimated. It may increase the possibility for further criminal activity.

Modern psychology and physiology now inform us better than ever about the various serious impacts of traumatic experiences on the development of children and their future ability to function normally in society. We better understand the crucial importance of developing trauma-informed interventions for these children.

B. Protecting Children against Hardship During their Contacts with the Police and During the Justice Process

There is a concern obviously for what happens to children in conflict with the law and how they are treated by law enforcement and the justice system. However, there are also some significant concerns about how the justice system treats children victims or witnesses of crime. Another instrument that has not been mentioned very often so far is the UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime. As you can see, the Guidelines cover a number of important areas, including:

- The right to be protected against hardship at all stages of the criminal justice process
- The need to consider the best interest of the child
- The need to support and accompany children victims and witnesses throughout the process
- The need to ensure that process is fair and expeditious
- Precautions to be taken and the use of child sensitive methods during the investigation and the collection of evidence

- The need for procedural reforms, in part to introduce child-sensitive practices
- The importance of protecting against intimidation and retaliation
- The importance of providing information to victims and their parents in a timely manner

C. Strategies to Protect Children Victims or Witnesses of Crime

There are many strategies that are essentially covered in both the Model Strategies and the Guiding Principles. They include:

- Providing assistance and support
- Expediting investigation and proceedings
- Ensuring child-sensitive medical examination
- Implementing child-sensitive procedures at the investigative stage

There is most definitely a heightened risk of violence faced by children in conflict with the law. The Model Strategies emphasize the need to prevent children from becoming involved in the criminal justice system. They propose a number of measures for mitigating the risk of violence against children at various stages of their contacts with that system.

In that regard, the Model Strategies emphasize the need to prevent children from becoming involved in the criminal justice system, and it introduces a number of measures for preventing the risk of violence against children at various stages of their contacts with that system. It recommends measures to limit the involvement of children in the justice system, prevent violence associated with law enforcement and prosecution activities, ensure that deprivation of liberty is only used as a measure of last resort, and prohibit violent, arbitrary or inhuman punishment of children. It contains a number of measures to detect, protect and assist children who are victims of violence as a result of their involvement with the justice system, including measures to prevent and respond to violence against children in places of detention.

Most importantly, the Model Strategies emphasize the crucial importance of establishing accessible, child-appropriate and safe procedures for children to complain about incidents of violence during their arrest or interrogation, while in custody, and at any stage of the criminal justice process.

Finally, as one would expect, the Model Strategies accord a great deal of importance also to oversight and accountability measures and their essential role in preventing violence against children within the justice system.

Considering that one important objective of the criminal justice system is the protection of children's rights, violence against children within that system thwarts its achievement and defeats any efforts of rehabilitation and reintegration of these children. It is also a sad thing to observe that many of the children in conflict with the law were themselves victims of abuse

or neglect; in many ways, children in conflict with the law are those very same children whom the child protection and crime prevention agencies failed to protect in the first place.

I hope that these few remarks were useful and that they will encourage you to familiarize yourself with the Model Strategies and to use the Checklist as soon as possible to determine how you can improve the current response of the justice system to violence against children.