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## REPORTS OF THE COURSE

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### GROUP 1

### SPECIAL MEASURES IN DEALING WITH CHILD VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM

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### I. INTRODUCTION

The theme of the 163rd International Training Course was “Children as Victims and Witnesses”. The course was held at the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) from May 18th to June 23rd, 2016.

During the training course, participants from 21 countries had the opportunity to attend lectures delivered by both visiting experts and professors from UNAFEI, and also to visit child centres, child foster homes, juvenile institutions, courthouses and other institutions related to the issue at stake. All the participants also wrote Individual Presentation Papers (IPP) in which they provided relevant information on the serious problem of the violence against children (VAC) in their respective countries. The papers were presented and discussed by all the participants.

Afterwards, three working groups were formed in order to discuss the theme of the course. The current report is the result of the discussions had by Group 1, which consisted of participants from Brazil, Japan, Jordan, Maldives, Malaysia, Mali, Pakistan, and Thailand. The purpose of this document is threefold: a) to provide a brief account of the current situation of the issue in the countries of the members of the group; b) to summarize the main topics concerning the protection of the children in the criminal justice system; c) to make recommendations to their respective countries in order to improve the response to the problem.

The group was particularly interested in discussing and presenting practical recommendations that could be incorporated in the criminal law of each country regardless of the legal system adopted by it (either adversarial or inquisitorial). These recommendations are grouped into three main topics: a) detecting and reporting VAC; b) special procedures for interviewing child victims and witnesses during the investigation and the trial phase; c) protective measures that shall be adopted by the States in order to ensure the rights of the children.

The group acknowledged the importance of taking into account not only the rights of the children as victims and witnesses but also the rights of the defendant, especially those related to the due process of law. This statement is according to the document *Justice in Matters involving Child Victims and Witnesses of Crime*<sup>1</sup>, developed by the UN Office on Drugs and Crime in cooperation with the UN Children's Fund (UNICEF) and the International Bureau for Children's Rights, article 1: “Every child, especially child victims and witnesses, in the context of the Law, has the right to have his or her best interest given primary consideration, while safeguarding the rights of an accused or convicted offender”.

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<sup>1</sup> Available at: <[https://www.unodc.org/documents/justice-and-prison-reform/UNODC\\_UNICEF\\_Model\\_Law\\_on\\_Children.pdf](https://www.unodc.org/documents/justice-and-prison-reform/UNODC_UNICEF_Model_Law_on_Children.pdf)>.

## II. CURRENT SITUATION OF VAC IN THE PARTICIPANTS' COUNTRIES

As it is shown in the appendix of this report, Brazil, Japan, Jordan, Maldives, Malaysia, Mali, Pakistan, and Thailand have established in their criminal legislation all the offences set out in the Convention on the Rights of the Child and its Protocols. The member from Mali, however, remarked that in the Penal Code of his country it is not clearly stated that female genital mutilation is an actual criminal offence. Therefore, in general terms, the group found that there are no major loopholes in the domestic legislation of the countries regarding the duty to criminalize the offences set by the international community.

The survey conducted by the group also found that child sexual abuse, followed by physical abuse, neglect and child labour, are the most common offences committed against children in the countries cited above. Participants also mentioned sexual exploitation, child pornography and forced marriage as other common offences in their respective countries.

### A. Duty to Investigate

Despite the establishment of mechanisms such as hotlines and special police stations or administrative bodies in Brazil, Japan, Malaysia, Maldives, and Thailand, the participants agreed that cases of VAC remain *under detected and underreported* mostly because officers in charge are not sufficiently sensitized, trained or prepared to deal with such cases. Traditional cultural practices such as physical punishment by parents and teachers in Pakistan, Brazil, Malaysia, Mali, Thailand, and Japan, as well as female genital mutilation in several countries in Africa have been pointed out as another reason for underreporting cases of VAC.

Also, it was pointed out that there is a *general lack of special procedures for investigating VAC cases*, with the exception of Jordan, Malaysia, Maldives (only for child sexual abuse cases), and Thailand. In Brazil, notwithstanding, several police stations and prosecution units are specialized in investigating violence against children and women.

Regarding the topic of special provisions for protecting child victims and witnesses of crimes during the investigation phase, most of the countries (with the exception of Mali) have adopted measures such as pre-trial detention of the alleged offender, restraining orders, and temporary custody (reported by the participants from Brazil, Japan, and Maldives).

Attending to the measures taken during investigation by the respective agencies, most of the countries have not fully developed sensitive plans and systems for the protection of children. For example, most of the participants' countries have not done enough research or study about the best practices for interviewing child victims and witnesses.

### B. Duty to Prosecute and to Adjudicate

In respect of the protection of child victims or witnesses during trial, we learned that some countries have special provisions stipulated in their laws: for example, a special procedure in Brazil, Maldives, Japan and Malaysia to take child testimony based on a video-audio link system, the presence of parents or guardians during the testimony and/or child friendly courtrooms. However, we also found that even these countries face challenges in the application of these provisions in practice.

The group also noticed a general lack of special training for law enforcement members who are dealing with VAC cases. Participants from Brazil, Jordan, Maldives, Mali, and Thailand reported that most police officers, prosecutors and judges are not properly trained nor sensitized to tackle the issue. On the other hand, the members from Japan and Malaysia reported practical training in cooperation with Child Guidance Centres and other relevant programmes.

## III. STATE MEASURES TO DEAL WITH THE PROBLEM OF VAC

### A. Establishing Effective Detection and Reporting Mechanisms

#### 1. Awareness

Creating awareness among the people about the subject matter is the most important step for establishing an effective detection and reporting mechanism. If people in the community do not know *what the*

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*crimes are, how to respond to them, or why it is necessary to take immediate action against those crimes, the issues regarding the matter would be left unattended.*

Despite the collective efforts around the world to create awareness about violence against children (VAC) or child victims and witnesses, most among the target groups still either do not believe that VAC is an issue or they keep enduring/committing VAC because of their cultural and religious beliefs.

So it is vital for each country to:

- Identify who the target groups are
- Determine what issues awareness should be carried out
- Determine how to respond to such issues
- Where they should report to
- Build trust within the community about the country's criminal justice system

By doing so, the countries can develop trenchant content for the awareness programme and then the relevant authorities could determine the type of campaign and who will carry it out:

- For children and adolescents: related components could be included in the educational system;
- For adolescents and adults in developed areas: media and social media could be very effective;
- For underdeveloped areas: dissemination of necessary information by conducting sessions within the area, different and separate sessions for different target groups;
- For teachers, parents, medical and Internet service providers: awareness on the detection of VAC;
- For the public in general: public media, social media, leaflets, brochures etc.

## 2. Identifying the Risk Factors and Indicators of VAC

To further ensure effective detection of these crimes, it is crucial to establish a mechanism where criminal justice professionals, including investigating officers, prosecutors, social welfare authorities and other stakeholders who regularly deal with VAC are informed about the probable risk factors and indicators of the issues.

To do so, the relevant authorities of each country should establish a mechanism in which they could gather necessary information from concerned agencies and assess the data to identify the risk factors and indicators; such measure would contribute to the detection of VAC cases. In addition to developing such mechanisms, the relevant authority could also utilize academic research and expert opinions by scholars in the field.

## 3. Accessibility and Confidentiality of the System

Furthermore, to ascertain effective reporting and protection of child victims and witnesses, the relevant authority of each country (such as the police, administrative agencies etc.) shall establish easily accessible procedures. A mechanism by which anyone could report the crime anytime with utmost trust in the system, in which the identity of the reporter would be kept confidential if necessary, hence encouraging children or their representatives or even a third party to report cases without fear. The relevant authorities shall also guarantee that VAC reports made in good faith will be protected from any kind of reprisal.

The relevant authority could set up a toll free helpline which would operate 24/7 to which anyone could call. Also, the calls could be made anonymous and thus invigorate reporting despite the financial or

social background of the reporter.

#### 4. Mandatory Reporting and Accountability

It could be made legally mandatory for people who are aware of or are actual witnesses to a case of VAC to report it to the relevant authorities. If they fail to report, sanctions could be predicated upon such omission considering the nature and severity of the crime, especially in cases where the person knows that a child is in serious danger or his/her safety is at risk. Such measures are extremely crucial to prevent crimes.

In addition, the related agencies where reports shall be made (police, social welfare authorities etc.) shall set up means to monitor the response taken after the reports are received to ensure an effective response to VAC.

The group also acknowledged that *local administrative bodies* (such as the Japanese “Child Guidance Centre” or the “Tutelary Councils” in Brazil) are granted powers to receive, scrutinize and forward reports on alleged cases of VAC, as well as to summon the parents of the child, constitute another important mechanism of detection.

### **B. Interviewing Child Victims and Witnesses during Investigation and Trial**

After thorough discussion, the group members came to the understanding that applying special measures during a child victim’s interview is necessary to avoid re-victimization of the child due to insensitive procedures or questioning during investigation, to avoid re-victimization caused by repetitive interviews done by multiple agencies on the same matter, and to elicit accurate information from the child victim.

The members of the group came to the understanding that such interviews shall only be carried out by trained forensic experts. However, all the relevant stakeholders including the investigating body and social welfare authorities shall be present to observe the interview and give input if necessary.

The group agreed that the protocol set by the Eunice Kennedy Shriver National Institute of Child Health and Human Development (NICHD)<sup>2</sup> as well as the document *Achieving Best Evidence (ABE Interviewing) in Child Sexual Abuse Cases*<sup>3</sup> provided by the Criminal Justice Joint Inspection (CJJI) on Child Victim Interviewing are methods that may be applied among the countries. Thus, our model on child victim interviewing is based on these protocols.

#### 1. Interviewing a Child During the Investigation

##### (a) *Planning and preparation for the interview*

Before the interview takes place, interviewers should engage in multi-disciplinary planning with the related agencies and consider factors such as:

- How the content, structure and rules of the interview will be explained to the child;
- Child’s gender, age, race, culture, and use of language, his or her religion, any special needs, the child’s cognitive abilities, memory and linguistic abilities, his or her current emotional state and range of behaviours, relationships with family members, the child’s sexual education and sexual knowledge, family routines, the use of discipline, the presence of any recent stress and whether the child needs to be assessed by a psychologist or psychiatrist to find out his or her mental status. This information could be collected through the victim’s parents, schoolteachers, and through established facts of the case. For example, if the child had suffered grievous harm as a result of sexual or physical assault, and the child has undergone massive trauma, the interviewers could foresee that it is important for an evaluation of the victim’s mental status. Also in cases where the gathered facts suggest that the child victim might have mild cognitive disability, although the victim fully understands and reacts to situations, to ensure the credibility of the interview, a psychological evaluation can be done beforehand. So, by gathering such information

<sup>2</sup> Available at: <<http://nichdprotocol.com>>.

<sup>3</sup> Available at: <[https://www.justiceinspectors.gov.uk/cjji/wp-content/uploads/sites/2/2014/12/CJJI\\_ABE\\_Dec14\\_rpt.pdf](https://www.justiceinspectors.gov.uk/cjji/wp-content/uploads/sites/2/2014/12/CJJI_ABE_Dec14_rpt.pdf)>.

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the interviewers can prepare for the interview accordingly.

- Examine all the pieces of information gathered in the investigation before the interview. For example, if a forensic report or a witness statement was previously taken, the officers in charge shall go through them and collect as much information as they can regarding the case, and, if possible, also the previous records, case files, background and behaviour of the suspect.

*(b) The interview*

*(i) Phase one of the interview: rapport building*

The interviewer shall build rapport with the child victim and try to bring him/her to a comfort zone where the victim can freely express himself or herself. However, the interviewer must maintain neutrality throughout the interview and be careful not to present him- or herself as being in favour of the victim.

The interviewer shall start with neutral topics to continue a normal conversation for a few minutes. The interviewer may use this moment to observe the victim's cognitive abilities, test his or her memory and indirectly prepare the victim for the main part of the interview.

It is also crucial for the interviewer to inform the child victim of the ground rules of the interview and the significance of telling the truth during the interview.

*(ii) Phase two of the interview: free narrative*

This is the most important part in an interview. The free narrative means all of what happened with the child victim should be expressed by the child victim him- or herself. The child should not be led or guided, and it is strictly necessary to elicit all the essential information from the victim him- or herself. Interviewers should refrain from interfering with a child who is freely recalling significant events.

*(iii) Phase three of the interview: questioning*

After the free narrative, relying on the facts that the victim has shared, the interviewer may ask questions to the victim filling out the gaps and clearing out inconsistencies in the story told by the child. If necessary, the interviewer may ask closed questions to cover compulsory areas still not clarified by the interviewee.

*(iv) Phase four of the interview: closure*

When the interviewer has covered all the necessary areas and has elicited all the facts or information from the victim, the interviewer should recapitulate the interview.

*(v) Further interviews*

A further interview may be necessary in some circumstances. These include:

- Where the initial interview opens up new lines of enquiry or wider allegations that cannot be satisfactorily explored within the time available for the interview;
- Where significant new information emerges from other witnesses or sources;
- Where the witness indicates to a third party (e.g. a care-giver) that they have significant new information that was not disclosed at the initial interview, but which they now wish to share with the interviewing team;
- Where in the preparation of their defence, the accused raises matters not covered in the initial interview.

In such circumstances, a further interview may be incumbent. However, further interviews should only be conducted if the investigation team is sure that it is necessary, after consultation with the prosecution.

## 2. Interviewing a Child during Trial

The group agreed that the alleged perpetrator should be given the right of cross examination during the trial in accordance with the due process of law. However, all members agreed that the child victim

should not be summoned to the same courtroom or should not be presented for testimony in the presence of the alleged suspect. So the group concurs that it would be ideal to establish a mechanism where a child should be cross-examined in a special room, using audio-video link in a manner where the child cannot see the accused, though the judge, prosecutor and the defence lawyer can have a visual link to see the child during the examination. For a balanced and fair trial for the accused, the group members also believe that the relevant parties have the right to examine the child victim or witness; it is in the best interest of the child that those questions are directed to the child victim by a qualified expert. In addition, the group also agreed that the judge in such cases should closely supervise cross-examination as much as possible in order to ensure the rights of the defendant.

### **C. Protective Measures for Child Victims and Witnesses**

When a case of VAC is reported or detected, it is important for the all the relevant agencies to act promptly to the situation. Along with the investigation of the case, the social welfare authorities should also assess the case in order to decide on the necessary protective measures and on how intervention should be done. This is because in most of the cases the crime committed against the children is done by someone related to the child. So depending on factors like the relationship between the perpetrator and the child victim, the position or status of the perpetrator in the community, and the probable risk of the perpetrator getting in contact with the child victim should be considered when deciding on the intervention method for the protection of the child victim.

#### **1. Temporary Custody, Alleged Offender's Detention and Other Similar Measures**

Among the intervention methods for the safety of the child, placing a child in temporary custody is one way of ensuring a child victim's protection. This method is usually acted upon if the perpetrator is related to the child victim or lives in the same place with the child. There are two methods in which temporary custody can be provided. First, to hand over the child's custody to a relative of the child who could take the full responsibility of him or her. This way the child would feel more comfortable, and the impact from being separated from his/her home would be lessened.

The second way to ensure the safety of the child is to take the child into state custody. This means the child will be taken to shelters provided by the state, and the state would be the guardian of the child. In such cases, utmost priority should be given to the child victim to minimize the impact on being separated from the family and try as much as possible to ensure that the new shelter is a comfortable zone for him or her.

However, in both cases the process should be carried out in an accountable manner. For example, the relevant authority of the country can come to an official agreement with the substitute guardian regarding the temporary transfer of guardianship, or this process could be done through a court order.

In addition, the relevant authority should also develop guidelines or regulations to monitor the status of the child victim during temporary custody to further ensure the child's safety. For example, if the child is placed in the care of a substitute parent, spontaneous home visits could be made by the relevant authority to ascertain the status of the child. In cases where the child is taken into state custody, it could be made mandatory for the institutions to report back to the relevant authorities regarding the status of the child. It is also equally important to establish a mechanism where relevant authorities could directly get feedback from the child victim regarding his or her temporary custody.

Another main protective measure of the child victim protection is the pre-trial detention of the alleged offender. The topic was intensively discussed and debated among the group members. The fact that the detention of a person not yet convicted of a crime would be a violation of human rights, or the fact that protection of a child victim could be ensured without detaining the suspect, was a heavy discussion topic within the group. After hours of debate and discussion on the matter, the group subsequently agreed that considering certain factors and the facts of the case, the necessity of pre-trial detention may arise. Nevertheless, the group strictly urges that measures be taken to protect the rights of alleged offenders as well.

The group agreed that a judge would be the most appropriate authority to take the decision on this matter. The burden lies upon the prosecution or the investigative body to strictly establish certain factors before the judge to decide on the detention of the perpetrator. The factors include:

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- Nature/severity of the crime: depending on the nature or the severity and how the crime was committed, the prosecution can emphasize the need to detain the suspect on the ground that the alleged offender is a threat to the community as a whole.
- The risk of repetition: the prosecution should also bring forth the previous criminal record of the suspect and also stress the probable risk factors for repetition of the crime either to the same victim or multiple victims.
- Lack of protective shelters: in countries where there are no mechanisms to provide protective shelters to child victims, in order to ensure the children's safety, the detention of the alleged offender would be important.
- Risk of influencing or threatening child victims or witnesses: although there are mechanisms to provide protection for child victims, there are no special measures to ensure child witnesses' safety or measures to avoid the risk of the child witness getting in contact with the suspect. In cases where the perpetrator is not in police custody, the risk of the child witness or victim being influenced by the suspect is higher.
- Relationship with the victim: this would be the most important reason for a child victim to be taken into protective custody. The likelihood of the child victim to be threatened or influenced is very high if the perpetrator is related to the child or if the perpetrator lives in the same household with the child victim. Moreover, in such cases the probability of having witnesses within the home is also high. Thus, the risk of witnesses being threatened or influenced by the perpetrator is also more likely.
- Risk of fleeing or destroying evidence: if the prosecution finds reasonable facts to believe that the suspect might flee or destroy evidence, it shall be disclosed before the judge. For example, if the perpetrator is a foreigner, the chances that he or she may flee the country would be high. If the crime committed against the child is done on the Internet, the chances of the suspect hiding or destroying evidence is higher.

Although the group believes that pre-trial detention may be necessary, the group also believes the necessity may vary depending on the case. For instance, if the perpetrator is a first-time offender, or is not related to the child, or if the offence is relatively minor, there may be no reasonable grounds for him or her to be detained. Nonetheless, other mild measures like restraining orders or supervised house arrest could be adopted.

The group was further convinced with the issue of pre-trial detention considering the document "Justice in Matters involving Child Victims and Witnesses of Crime", developed by the UN Office on Drugs and Crime in cooperation with the UN Children's Fund (UNICEF) and the International Bureau for Children's Rights, article 11:

At any stage in the justice process where the safety of the child victim or witness is deemed to be at risk, [the competent authority] shall arrange to have protective measures put in place for the child. Those measures may include the following:

- a) Avoiding direct contact between a child victim or witness and the accused at any point in the justice process;
- b) Requesting restraining orders from a competent court, supported by registry system;
- c) Requesting pre-trial detention order for the accused from a competent court with "no contact" bail conditions;
- d) Requesting order from a competent court to place the accused under house arrest;
- e) Requesting protection for a child victim or witness by the police or other relevant agencies and safeguarding the whereabouts of the child from disclosure;
- f) Making or requesting from competent authorities other protective measures that may be deemed appropriate.

## 2. Protection of the Identity of the Victim during the Investigation and the Trial Phases

It is also essential to follow certain special procedures during the trial for the protection of the child, such as:

- Expunging child victim or witness names, addresses, information about the family, school or any other information that could reveal the identity of the child victim or witness from statements and case reports which may be published;
- In order to provide a fair opportunity for the defence lawyer to prepare for the case or for cross-examination, the court could disclose the documents after expunging the necessary details of the child. The judge can also assign pseudonym numbers to child victims or witnesses.
- The child victim or witness testimony should be carried out in the manner explained in section B (2) of this report.
- The hearing should not be open to the public. However, the court could issue summarized news briefs to the public after the hearing.
- The prosecution could file for a non-disclosure order, prohibiting the defence lawyer from giving any information to the public that may reveal the identity of the child victim or witness.

In short, special procedures need to be followed regarding child victims and witnesses during investigations and trials. However, the procedures may vary depending on the facts of the case and also the situation of the child victim or witness.

## IV. RECOMMENDATIONS

As a result of the discussions and lectures, the group agreed on the following main recommendations:

### A. **Detection and Reporting**

All the participants agreed that it is necessary to strengthen the mechanisms of identification of the *risk factors* of VAC especially through:

- Data collection and analysis by a national level agency;
- Funding of academic research on the issue.

The participants also agreed that *community policing* as well as other community-oriented initiatives (such as “door-to-door campaigns”) are an important strategy to enhance detection of VAC cases.

Local administrative bodies granted with powers to receive, scrutinize and forward reports on alleged cases of VAC, as well as to summon the parents of the child, constitute another important mechanism of detection.

*Awareness campaigns* against VAC shall be permanently developed and shall involve multiple stakeholders, especially schoolteachers, medical services, media, and internet service providers. Also, with the growth of sexual tourism in Eastern Asia and Latin America, people working in the tourism industry should also be sensitized and work together with law enforcement agencies. The campaigns shall specifically address the cultural issues that contribute to practices such as female genital mutilation (in several countries) and physical punishment by parents.

A 24/7 toll-free child helpline service shall be established as a mechanism of reporting VAC.

*Mandatory reports* by schoolteachers, medical services and internet service providers shall be considered by countries as a way to improve the capacity of the criminal justice system to respond to VAC.

## **B. Interviewing Child Victims and Witnesses During Investigation and Trial**

All the participants highlight the crucial importance of *sensitizing* and *training* all members who deal with VAC cases including all workers who are involved in different levels of the criminal justice system. The training should be carried out according to the work in the field done by those members. For example, frontline officers shall have different training compared to those who are in charge of interviewing and investigating VAC cases. Those involved in the interviewing of the child victim should have more extensive and sensitive training. Law enforcement agencies shall provide permanent programmes and policies on this matter, as well as appropriate resources and funding.

With the aim of avoiding revictimization, states shall consider *reducing to the minimum necessary the number of times a child is interviewed by law enforcement agencies and other administrative bodies*. That requires strong integration between the agencies and, in many cases, legal reform.

Also, the adoption of a *forensic method of interviewing* children is strongly recommended. The group agreed that the *Investigative Interview Protocol* set by the Eunice Kennedy Shriver National Institute of Child Health and Human Development (NICHD), as well as the document *Achieving Best Evidence (ABE interviewing) in child sexual abuse cases* provided by the Criminal Justice Joint Inspection (CJJI), provides a secure basis for the enhancement of our law enforcement system and shall be considered as a valuable resource for forensic experts, police officers, prosecutors and judges who deal directly with the issue. The method could be applied both during the investigation and the trial phases, regardless of the system (inquisitorial or adversarial) adopted by the countries. Legal reform may be necessary for this purpose.

Basically, the method states that the interviews shall be planned in advance and shall consider, among other factors, the gender, age, race, culture, and current emotional state of the child, his or her relationship with other family members, and whether the child needs to be assisted by a psychologist, a psychiatrist or a social worker.

The interviewer shall build rapport with the child by trying to bring him/her to a comfort zone where the victim or witness could freely express himself or herself. However, the interviewer must maintain neutral ground throughout the session in order to ensure the credibility of the evidence during trial.

Besides, it is also crucial to stimulate a free narrative of the events as much as possible. The child shall not be at all led or guided, and it is strictly necessary to elicit all the essential information from the victim himself or herself. Questions may be asked to the child only in the final part of the interview, aiming at filling out the gaps and clearing out inconsistencies in the story told by the victim or witness.

Whenever it is necessary to ensure the search for truth, as well as the right to a fair trial, the child victim or witness may be heard by the Court. However, in such cases the child shall not be summoned to the same courtroom and must not be presented for testimony in the presence of the alleged suspect. Therefore, the group agreed that it would be important to establish a mechanism where the child could be cross-examined in a room specially designed to ensure safety, privacy, comfort, and adequate reception conditions to him or her. The room shall be equipped with a video-recording system and the interviews shall be conducted by a forensic expert (a psychologist, a social worker or a trained officer) of the same gender as the child, upon his or her request. The group also agreed that the judge in such cases shall closely supervise cross-examination as much as possible in order to ensure the rights of the defendant.

## **C. Protective Measures for Child Victims and Witnesses**

### **1. Temporary Custody, Alleged Offenders' Detention and Other Similar Measures**

The group agreed that the main purpose of protective measures such as temporary custody of the child and the detention of the alleged offender shall be the protection of the integrity and safety of the victim or witness. On the other hand, the rights of the suspect/defendant must not be taken for granted.

Given that, states shall adopt among others the following protective actions stated in the document "Justice in Matters involving Child Victims and Witnesses of Crime": a) to avoid direct contact between a child victim or witness and the accused at any point in the justice process; b) to request restraining orders from a competent court (such as "stay away" and "no contact" orders); c) to request pre-trial detention order for the offender from a competent court; d) to request temporary custody for the child, in cases

where he or she must not stay with his or her family. The group agreed that the latter two measures shall be only adopted as a last resort, in cases where there is either an actual threat to the child, the possibility of the repetition of the crime, or a risk that the suspect may flee. Accountability and judicial review shall be strictly adopted and enforced in those cases aiming at protecting the interests and needs of both parties involved.

2. Protection of the Victim's Identity during the Investigation and the Trial Phases

Officials shall ensure confidentiality of any piece of information related to child victims and witnesses both during the investigation and during the trial phase. Personal information such as name, image and address shall be kept confidential in order to protect them from any negative impact that can cause revictimization.

Furthermore, the criminal justice system shall adopt all the necessary measures to prohibit the publication or broadcasting of such information by the media, to the extent that, even when such information leaks out despite the restrictions, the media are prohibited from making use of it.

Holding closed trial sessions is another important measure that shall be taken by the criminal justice systems of the states, in order to protect the privacy of child victims and witnesses.

3. Medical Examinations.

Medical examinations – especially those related to child sexual abuse cases – shall be conducted by trained health providers and shall include appropriate treatment.

## V. CONCLUSION

In light of the discussions, the group concludes that even though most of the countries do have specific provisions criminalizing violence against children, there are many challenges and issues in this regard that have not been sufficiently addressed by many states.

Most VAC cases remain under-detected and underreported even in developed countries, especially due to cultural issues. Furthermore, lack of a proper framework and public policies on detection and reporting has been acknowledged.

Additionally, most of the law enforcement members are admittedly not prepared, nor sensitized to deal with VAC.

A child-sensitive approach shall be considered in all stages of the criminal justice system and shall be balanced with the rights of the defendant, ensuring for both parties, therefore, the right of a fair trial.

The implementation of the recommendations stated above, which are the result of our lectures, discussions and own experiences, would be, in our view, an important step towards the improvement of the criminal justice systems of our countries on this matter.

However, our aim can only be achieved if we all play our roles according to our responsibilities effectively and efficiently as citizens, parents, police officers, prosecutors and judges.

**APPENDIX:**

**a. DUTY TO CRIMINALIZE**

**a-1 Does your country cover all the provisions established in the Convention and its Protocols? If does not, what are the offences that are not criminalized in your legal system?**

Country	Answer	Supplement
Brazil	Yes	
Japan	Yes	
Jordan	Yes	
Malaysia	Yes	
Maldives	Yes	
Mali	Yes. However, genital mutilation is not clearly stated as a criminal offence in the Penal Code.	
Pakistan	Yes	
Thailand	Yes	

**a-2 What are the most common offences committed against children in your country?**

Country	Answer
Brazil	Sexual exploitation of children/child prostitution, neglect (either by families and by the society), domestic violence against children
Japan	Physical abuse, child pornography, sexual abuse
Jordan	Domestic violence, child labour
Malaysia	Sexual abuse, physical abuse, neglect, abandonment of babies, and drug trafficking (children as mules)
Maldives	Sexual abuse, assault, neglect, child prostitution, murder
Mali	Genital mutilation, sexual abuse, early/forced marriage, physical violence, forcible recruitment, child labour
Pakistan	Child labour, domestic violence, sexual abuse, kidnapping
Thailand	Sexual abuse, physical violence

**b. DUTY TO INVESTIGATE**

<b>b-1 Detection/Reporting issues. Have VAC cases been properly detected and reported?</b>		
<b>Country</b>	<b>Answer</b>	<b>Supplement</b>
Brazil	Not completely/ properly detected and reported	However, the following have been established: - A national hotline (Dial 100) - A decentralized system of protection composed by elected citizens in every municipality of the country. ("Tutelary councils") Even though, VAC is underreported.
Japan	Yes	- Anonymous Report Dial - Internet Hotline Centre Japan (IHC) (which is founded by the NPA, has dealt with illegal or harmful information) - Amendment of the Child Welfare Act - On-the-spot protection and guidance activity through internet by police
Jordan	Not all of them.	Most cases are reported to and observed by the Family Protection Department, while others are not detected due to social habits and fear by children from consequences. Developing and extending the power of juvenile police department and family protection department in Jordan is a challenge.
Malaysia	Yes	- A national hotline (Talian Kasih 15999) - Emergency call 999 to Police, Hospitals & Fire Brigade - Toll-free call by various agencies including NGOs that work on VAC - Internet sites held by the Police, Minister of Women, social and welfare. private sector, and NGOS - Toll-free lines direct to Prime Minister office
Maldives	Yes and No	Toll free helplines, reports could be made anonymously. However, the rate of reporting depends on the level of awareness and empowerment of the people.
Mali	No	However, an office for children has been established at each court and several NGOs are playing roles, the system is not working properly.
Pakistan	Yes	Although cases of minor gravity are not reported by parents, heinous offences and acts are properly reported to the police.
Thailand	Yes	Toll-free hotlines connected to police stations

<b>b-2 Are there special procedures for investigating VAC in your country?</b>		
<b>Country</b>	<b>Answer</b>	<b>Supplement</b>
Brazil	No	However, there are police stations and prosecution services specialized in violence against women and children.
Japan	No	
Jordan	Yes	There are special procedures to protect the integrity and confidentiality of data. Special rooms are used to interview children and to accommodate their needs.
Malaysia	Yes	Depending on the nature of the offence, children are placed in custody according to the opinion of the investigation officer. Cases are investigated by a special department and the children are interviewed in a special programme conducted by the Child Interviewing Centre.

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Maldives	Yes, except for child sexual abuse offences.	Special remand procedures to keep the accused in detention before and throughout trial, special procedures followed by the investigation on VAC cases, special department, trained IO's, child friendly interview rooms, presence of the guardian or social worker.
Mali	No	
Pakistan	No	Cases of VAC are being investigated as other offences. Police officers should be given training to deal with cases of VAC.
Thailand	Yes	Psychologists and prosecutors join in interviewing juveniles. There are special rooms for interviewing child victims or witnesses.

**b-3 Are there special provisions for protecting children victims and witnesses of crimes during the investigation?**

Country	Answer	Supplement
Brazil	Yes	<ul style="list-style-type: none"> <li>- A general programme for protecting victims and witnesses</li> <li>- A provision in the Criminal Procedure Code ensuring the arrest of the offender, whenever it is necessary</li> <li>- A provision in the Criminal Procedure Code establishing the possibility of a restraining order ("stay away provision")</li> </ul>
Japan	Yes and No	It is not in judicial procedures, in such case, temporary protective custody is provided by Child Guidance Centre.
Jordan	Yes	Consideration of the use of children as witnesses, witness care and of special measures to enable them to give evidence in the best way possible in terms of quality of their evidence and reducing trauma to them.
Malaysia	Yes	<ul style="list-style-type: none"> <li>- A provision in the Criminal Procedure Code ensuring the arrest of the offender, whenever it is necessary</li> <li>- Restraining order against the suspect</li> <li>- Protection of the identity of the victim</li> <li>- Temporary custody</li> </ul>
Maldives	Yes	The special procedure of pre-trial detention is not mandatory; it is in the discretion of the police and prosecution to request detention. However, this is only for sexual abuse cases. The identity of the victim or witness can be protected.
Mali	No	
Pakistan	Yes	All the witnesses and victims are protected by common law including children. Police protection can be provided to them.
Thailand	Yes	There is the witness protection act. If victims/witnesses request, officials will protect them.

**b-4 Are there child sensitive measures and/or procedures regarding forensic examination of children?**

Country	Answer	Supplement
Brazil	Yes and No	<p>There are some specialized forensic services, but they are only available in a few cities of the country (mostly capitals of larger states).</p> <p>Several hospitals provide special medical services for child victims of sexual abuse.</p>

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Japan	Yes	Sensitive measures are taken in such cases. However, they are not stipulated by the Law.
Jordan	Yes	In compliance with the juvenile law, children are examined in a different manner than adults, but the law does not describe how to distinguish children from adults.
Malaysia	Yes	Sensitive measures are taken in such cases, which include compulsory medical treatment, collecting evidence in a sensitive way, Special Scan Teams.
Maldives	Yes	Sensitive measures are taken in such cases. However, they are not stipulated by the Law.
Mali	Yes	Whenever the victim requires the intervention of an expert
Pakistan	Yes and No	Parents and guardian accompany the victim during whole process.
Thailand	Yes	They are not similar to common measures/procedures for adults. Children are examined by psychologists in a separate room.

**b-5 In case of conflict of interest between parents/guardians or in case the child has no guardian, are there special provisions to protect the child during the investigation?**

Country	Answer	Supplement
Brazil	Yes	According to the Criminal Procedural Code, the judge may appoint a third person to defend the interests of the child.
Japan	Yes	Not as a part of judicial procedures. In such cases, the child will be placed under temporary custody of a Child Guidance Center. Consequently, protection of the child is ensured.
Jordan	Yes and No	Not mentioned in the law but implicitly applied to emphasize juvenile interest. No explicit guideline to guarantee implementation, which makes it subject to negligence.
Malaysia	Yes	Temporary Custody and Interim Protection Orders in cases of domestic violence against children and women
Maldives	Yes	No provisions in the law, but there are internal procedures followed by the related agencies. In such cases the interview will be done in the presence of a social worker only and, if need be, the child will be taken into state custody.
Mali	Yes	The juvenile judge can still take steps to protect the child by entrusting him or her to another person, state institution or an NGO.
Pakistan	Yes	
Thailand	Yes	There are both governmental and non-governmental organizations.

**b-6 Is there pre-trial detention of the perpetrator in VAC cases? In which cases?**

Country	Answer	Supplement
Brazil	Yes	Especially in cases of domestic violence against children or women.
Japan	Yes	In many VAC cases perpetrators are detained.
Jordan	Yes and No	No special rules are mentioned; the Judiciary applies the general rules for detention.
Malaysia	Yes	Especially in cases of domestic violence against children or women.

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Maldives	Yes	Special procedures could only be followed in sexual abuse cases, due to extended investigation the accused is often released from pre-trial detention. In any case, depending on the nature, severity, and the risk of influencing the victim or witnesses, the judge could order detention through trial. This is under a special regulation. But in child sexual abuse cases, this is stipulated in the Act 12/2009. In domestic violence cases, even if the judge releases the accused from detention, the victim could apply for a protection order under the domestic violence act from the family court.
Mali	Yes	In case of crime or offence committed by a minor of at least 15 years.
Pakistan	Yes	Police officers may arrest perpetrators for twenty-four hours after the First Information Report.
Thailand	Yes	Only in serious cases. The suspect can apply for bail unless the victim challenges.

**b-7 Are police officers sufficiently trained to deal with VAC cases?**

Country	Answer	Supplement
Brazil	No	Most police officers do not have special training nor are sensitized for the children's needs and interests.
Japan	Yes	Japanese police conduct practical training and role-playing cooperating with Child Guidance Centres.
Jordan	No	Not adequately especially after establishing juvenile police departments because this department is newly established and more training is needed.
Malaysia	Yes	Only a Special Police Division (D-11) can deal with such cases.
Maldives	No	Not every island has a police station, although each police station has a trained IO to deal with VAC cases. However, only one IO in each police station is not sufficient.
Mali	No	Not the majority
Pakistan	Yes	Only police officers having vast experience can deal with cases of VAC.
Thailand	Yes	Some training has been provided but it is not enough for dealing with all the VAC cases. Women police are involved.

**b-8 Have children been interviewed by the police in a sensitive manner and in a friendly environment?**

Country	Answer	Supplement
Brazil	No	Most police officers do not have special training nor are they sensitized for the children's needs and interests.
Japan	Yes	Most of the police officers are aware about the issue of proper interviewing of children. Sometimes they use the reception room for that purpose.
Jordan	Yes	They are privately interviewed and treated in a special manner.

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Malaysia	Yes	<ul style="list-style-type: none"> <li>- Trial Programmes: while the report is being prepared, victims are put in special rooms, according to their gender.</li> <li>- After the report has been completed, the document will be sent to a special unit along with the victim.</li> </ul>
Maldives	Not always	Some islands do not have enough trained officers or special interview rooms.
Mali	No	
Pakistan	Yes	A child victim of violence is always interviewed in a friendly atmosphere.
Thailand	Yes	The number of psychologists and special rooms for interviewing children are not enough.

**b-9 Are there specific policies to avoid the repetition of the testimony (re-victimization)?**

Country	Answer	Supplement
Brazil	No	Due to a lack of integration between the stakeholders, the victim is obliged to tell the story several times (school, police, tutelary council, court).
Japan	Yes	Forensic interview method and MDT (multi-Disciplinary Team)
Jordan	No	
Malaysia	Yes	According to the law, the child would be heard only once during the trial.
Maldives	Yes	Although we follow internal procedures to avoid re-victimization, no special measures are stipulated in our laws. If we find corroborating evidence relying on a child's statement and if the child's statement and witness statement differs, witnesses are questioned further.
Mali	No	
Pakistan	Yes	Child victims and witnesses are examined and testify only once in the courtroom.
Thailand	Yes	Child victims and witnesses are interviewed only once. Psychologists participate in the interview.

**b-10 Have the law enforcement agencies and other administrative bodies been working in an integrative and multidisciplinary way, in order to avoid re-victimization?**

Country	Answer	Supplement
Brazil	No	Due to a lack of integration between the stakeholders, the victim is obliged to tell the story several times (school, police, tutelary council, court).
Japan	Yes	There are "Comprehensive Child and Family Services Centres". In these centres, police officers and Child Guidance Centres are put together and engage in integrated cooperation to avoid re-victimization.
Jordan	Yes	New adjustments are being vastly concentrated on this topic, and cooperation has been made between all parties.
Malaysia	Yes	

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Maldives	Yes	Police, Prosecutors Office and the Ministry of Law and Gender have been engaged in collective efforts to avoid revictimization. We try as much as possible to work together; however, sometimes where the victim is an offender or the offender becomes a victim, doubts arise about which agency's mandate the case falls in.
Mali	No	
Pakistan	Yes	There is an ideal working relationship between departments doing investigation like police, health and others. So there are rare chances of re-victimization. However, if it happens, police register criminal cases. Cases of VAC are being monitored by senior officials of the investigating agency.
Thailand	Yes	Psychologists are the only ones who can interview juveniles. Psychologists generally participate in the interview.

**c. DUTY TO PROSECUTE AND TO ADJUDICATE**

**c-1 Are there special procedures for prosecuting VAC in your country?**

Country	Answer	Supplement
Brazil	No	
Japan	No	
Jordan	Yes	There are stated guidelines during the trial and investigation.
Malaysia	Yes	The law provides for the detention of the perpetrator considering the circumstances. There are also special courts for adjudicating VAC cases.
Maldives	Yes	Not stipulated in regulation. Considered as high priority cases, special supervision and guidance to police during investigation.
Mali	No	
Pakistan	No	No special procedure in law.
Thailand	Yes	There are special prosecutors to prosecute VAC cases.

**c-2 Are there special provisions for protecting children victims and witnesses of crimes during the trial?**

Country	Answer	Supplement
Brazil	Yes	<ul style="list-style-type: none"> <li>- The arrest of the defendant if it is necessary to protect the child. The victim or witness may also opt to get into the programme of protection.</li> <li>- "Hearing rooms" - "harmless testimony" implemented in 120 courthouses so far.</li> <li>- A provision in the Criminal Procedure Code establishing the possibility of restraining orders ("stay away provision").</li> </ul>
Japan	Yes	The Code of Criminal Procedure to protect crime victims of all ages are used to protect children. Protection of victims' identifying information, screens, attendants, video link, witness examination outside of court
Jordan	Yes	There is confidentiality, and the child's parents or guardians must attend.
Malaysia	Yes	Same as c-1

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Maldives	Yes	Special provisions to take child victim and witness testimony, and even in other sexual offences where a child is a witness.
Mali	No	
Pakistan	Yes	According to precedents, courts can protect victims and witnesses and can also provide police protection for them.
Thailand	Yes	There is a witness protection act for these cases. Juveniles will be protected whenever necessary.

**c-3 In case of conflict of interest between parents/guardians or in case the child has no guardian, are there special provisions to protect the child during the trial?**

Country	Answer	Supplement
Brazil	Yes	According to the Criminal Procedural Code, the judge may appoint a third person to defend the interests of the child.
Japan	Yes	It is not a judicial procedure; in such cases, the child will be placed under temporary custody by a Child Guidance Centre officer. Consequently, protection of the child is ensured.
Jordan	Yes	
Malaysia	Yes	- Temporary custody and substitute guardians. - Interim protection order.
Maldives	Yes, but not necessarily only at the trial stage	In such cases guardianship will be transferred to someone who is capable within the family or if not, the child will be taken into state custody.
Mali	Yes	Judges can take steps to protect the child by entrusting him or her to another person, to a state institution or to an NGO.
Pakistan	Yes	Normally it does not happen due to social and religious norms; however, if it happens, courts can appoint any person from civil society as a guardian of the child.
Thailand	Yes	Some organizations will deal with this problem. They will take care of the child during trial.

**c-4 Does your country include some sort of witness or victim preparation before her/his testimony?**

Country	Answer	Supplement
Brazil	No	According to Brazilian law, the preparation of victims or witnesses either by the police or by the prosecution service is prohibited by law.
Japan	Yes	The public prosecutor or the defence counsel who has filed a request for the examination of a witness shall prepare so as to be able to conduct an appropriate examination
Jordan	sometimes	Sometimes, they explain the case and the reason why he is being asked to give testimony.
Malaysia	Yes	It is allowed by the law and it depends on the Attorney General's provisions and discretion.
Maldives	Yes	Witness preparation is conducted by the Witness Assistance Unit of the Prosecutor General's Office.

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Mali	No	
Pakistan	Yes	Child victims and witnesses are briefed by the Prosecutor before the trial.
Thailand	No	According to the law, the preparation of victims or witnesses either by the police or by the prosecution service is prohibited by law.

**c-5 Have prosecutors and judges sufficiently been trained to deal with VAC cases?**

Country	Answer	Supplement
Brazil	No	
Japan	Prosecutors: Yes; Judges: No	Prosecutors have just started training on child interviewing.
Jordan	Yes	Recently, there have been some initiatives on training law enforcement members on VAC.
Malaysia	Yes	Special unit for children in the Attorney General's Office
Maldives	No	No special training given to judges or prosecutors as a whole to deal with such cases.
Mali	Yes	However, they should deepen their knowledge to improve their efficiency including the methodology to detect and manage VAC.
Pakistan	Yes	
Thailand	Yes	There is a special course for them.

**c-6 Have children been interviewed by prosecutors and judges in a sensitive manner and in a friendly environment in court?**

Country	Answer	Supplement
Brazil	Yes	But only in a few courthouses (120 so far).
Japan	Yes	However, it depends on the initiative of judges and prosecutors.
Jordan	Yes	They interview them and take into consideration their ages, social circumstances and gender.
Malaysia	Yes	Can object to summoning the child victims or witnesses to testify in court; sometimes use the interview video recording taken during the investigation at trial.
Maldives	No	Due to lack of facilities, most of the courts across the country cannot apply the special provision to take child victim or witness testimony. Some courts rely on the video recording of the child's interview while other judges continue questioning out of court without video recording. Can object to summoning the child victims or witnesses to the court; sometimes use the interview video recording taken during the investigation at trial.
Mali	No	
Pakistan	Yes	Children are always interviewed in a friendly atmosphere. Courts do not allow the defence counsel to ask questions which can cause re-victimization.
Thailand	Yes	There are special rooms in the court for interviewing child victims and witnesses.