



International Standards and Norms Related to the Elimination of Violence against Children

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“Over the last decade, recognition of the pervasive nature and impact of violence against children has grown. Still, the phenomenon remains largely undocumented and underreported. This can be attributed to a variety of reasons, including the fact that some forms of violence against children are socially accepted, tacitly condoned or not perceived as being abusive. Many victims are too young or too vulnerable to disclose their experience or to protect themselves. And all too often when victims do denounce an abuse, the legal system fails to respond and child protection services are unavailable.”

(UNICEF, 2014)

United Nations Convention on the Rights of the Child (CRC)



The first **legally binding** international agreement setting out the civil, political, economic and social and cultural rights of every child, regardless of their race, religion or abilities



United Nations Convention on the Rights of the Child



United Nations Convention on the Rights of the Child



Monitored by the
**Committee on the
Rights of the Child**



United Nations Convention on the Rights of the Child



Optional Protocol on the Involvement of Children in Armed Conflict

Ensures that no children under 18 years of age are forcibly recruited into armed forces



Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography

Prohibits child prostitution, child pornography and the sale of children into slavery



Optional Protocol on a Communications Procedure

Enables children whose rights have been violated to complain directly to the UNCRC Committee

3 Optional Protocols



United Nations Convention on the Rights of the Child

Adopted in May 2000
and entered into force
in January 2002

Prohibits:

- sale of children
- child prostitution
- child pornography

Delineates:

- Criminal, civil and administrative responsibility for participation in the offenses denied
- Jurisdiction and extradition
- Mutual Legal Assistance
- Prevention
- The rights of child victims
- International assistance and cooperation



Optional Protocol on the Sale of Children,
Child Prostitution and Child Pornography



United Nations Convention on the Rights of the Child

Japan – Punishing Acts related to Child Prostitution and Child Pornography, and for Protecting Children (1999 – amended in 2004)

Complies with many of the requirements of the Optional Protocol

“It prohibits the prostitution of any child below the age of 18 and defines prostitution broadly to include not only intercourse but also “similar” acts and acts “for the purpose of satisfying one’s sexual curiosity”. The use of child prostitutes is punishable by five years’ imprisonment and the facilitation of child prostitution by imprisonment for seven years. Production, distribution, sale, possession or transportation of child pornography as a business is punishable by up to three years of imprisonment. Legal entities whose employees commit such crimes can be fined up to 10 million yen. The law gives Japanese courts jurisdiction over nationals involved in child prostitution and child prostitution abroad, and recognizes the duty to provide children who have suffered mental or physical damage, or both, as a result of prostitution or pornography, with protection and recovery assistance. According to ECPAT, the amendment to the law “has had a significant deterrent effect.”

UNICEF, 2009

United Nations Convention on the Rights of the Child

A legally binding
instrument

State parties are
increasingly adopting
National Plans of Action

Relatively
consistent
monitoring efforts

Optional Communications
Procedure allows individuals to
file complaints with the
Committee for violations of
their rights under the
convention if domestic
remedies have been exhausted



Successes



United Nations Convention on the Rights of the Child

After 26 years of the CRC's adoption, the number
of children not in school, children suffering
from preventable diseases, child labour, and
children in detention facilities are still high

Delayed progress
in legal reform

Resistance to State interventions
(formal criminal justice process)
to comprehensively protect
children from violence

Challenges



United Nations Convention on the Rights of the Child

Despite CRC Committee's emphasis that all corporal punishment should be prohibited, even with the family, <40 countries have reformed their laws to prohibit corporal punishment in the family rooted in the principle of "reasonable" or "moderate" chastisement of children within the private sphere

LEGAL CHANGE ≠
SOCIAL CHANGE

Challenges

At least 58 million children are not in school. 168 million children are engaged in child labour and every year, an estimated 14 million girls around the globe (38,000 per day) are married before they reach 18 years of age



United Nations Convention on the Rights of the Child

Harmonization of of existing national legal provisions on children with the provisions of the CRC:
External harmonization and Internal harmonization

Challenges



United Nations Convention on the Rights of the Child

Need for robust
legal reform

Improvement of
public education
on child rights



Ways Forward

Comprehensive
overhaul of policy
framework



United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice

First international instrument to **fully articulate the responsibility of the police and other criminal justice institutions and agencies** to prevent and respond to violence against children

A new set of international standards and norms adopted by the UNGA in Dec 2014 that are grounded in the CRC to not only improve the effectiveness of the criminal justice system in preventing and responding to VAC but also to protect against any violence that may result from their contact with the system (TIJ, 2015)

Overview



United Nations Model Strategies and Practical Measures
on the Elimination of Violence against Children
in the Field of Crime Prevention and Criminal Justice

General
prevention
strategies

Part I

Strategies to
improve the ability
of the criminal justice
system to respond
to VAC

Part II

Strategies to
prevent and respond
to violence against
children within the
justice system

Part III

Overview



How can the model strategies on VAC be used?

Used by States as
Guidelines

I

Used as a
benchmark for
review and gap
identifications
and priorities
setting

II

Used to identify area of
work and collaboration
(monitoring and sharing
best practices)

III

Remind you about specific rights of child at different
stages of the justice process



United Nations Model Strategies and Practical Measures
on the Elimination of Violence against Children
in the Field of Crime Prevention and Criminal Justice

Clash with the context of some cultures and religions, such as child marriages and corporal punishment

The soft law, non-legally binding nature, and the openness to interpretations

No monitoring mechanism and lack of specially trained personnel to facilitate implementation

Challenges



The ASEAN Regional Plan of Action
on the Elimination of Violence against Children

Adopted in November 2015

Echoed the commitment of ASEAN member states to implement the 2013 Declaration on the Elimination of Violence against Women and Children

Delineates concrete actions for implementation between 2016-2025

Anticipates the need for action on emerging risks to children's protection from violence due to the advent of new technologies

Overview



The International Legal Framework

International Treaties and Conventions
Convention on the Rights of the Children - Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography - Optional Protocol on the Involvement of Children in Armed Conflict
Convention on the Elimination of Discrimination Against Women (CEDAW) - Optional Protocol to CEDAW - Reservations to CEDAW Specify
International Covenant on Civil and Political Rights (ICCPR) - Optional Protocol to the ICCPR - Second Optional Protocol to the ICCPR, aiming at abolition of death penalty
International Convention on the Elimination of all Forms of Racial Discrimination
International Covenant on Economic, Social and Cultural Rights (ICESR)
Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) - Optional Protocol to the Torture Convention
Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
Convention on the Rights of Persons with Disabilities (CRPD) - Optional Protocol to the Convention on the Rights of Persons with Disabilities
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
UN Convention Against Transnational Organized Crime - Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children - Protocol Against the Smuggling of Migrants by Land, Sea and Air
Slavery Convention - Protocol amending the Slavery Convention
Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others
International Convention for the Protection of All Persons from Enforced Disappearance
Convention Against Discrimination in Education
Hague Convention on Intercountry Adoption
Convention relating to the Status of Refugees - Protocol relating to the Status of Refugees
Convention relating to the Status of Stateless Persons
Convention on the Prevention and Punishment of the Crime of Genocide
Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity
Geneva Convention relative to the Treatment of Prisoners of War

Geneva Convention relative to the Protection of Civilian Persons in Time of War - Protocol Additional to the Geneva Conventions, relating to the Protection of Victims of International Armed Conflicts (Protocol I) - Protocol Additional to the Geneva Conventions, relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)
ILO Conventions - Worst Forms of Child Labour Convention (C182) - Forced Labour Convention (C29) - Migration for Employment Convention (C97) - Migrant Workers (Supplementary Provisions) Convention (C143) - Abolition of Forced Labour Convention (C105) - Minimum Age Convention (C138) - Protection of Wages Convention (C95) - Indigenous and Tribal Peoples Convention (C169)



Status of Key International Conventions and Extraterritorial Legislation

STATUS OF KEY INTERNATIONAL CONVENTIONS AND EXTRATERRITORIAL LEGISLATION SOUTHEAST ASIA					
Country	Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	UN Protocol to Prevent, Suppress & Punish Trafficking in Persons	ILO Convention 182, Elimination of Worst Forms of Child Trafficking	Extraterritorial Legislation	
	Signature ²⁷	Ratification ²⁸	Signature	Ratification	Ratification
Brunai Darussalam	-	✓ Accession	x	x	✓ ✓
Cambodia	✓	✓	✓	✓	✓ ✓
Indonesia	✓	✓	✓	✓	✓ ✓
Lao PDR	-	✓ Accession ²⁹	-	✓ Accession	✓ ✓
Malaysia	-	✓ Accession	-	✓ Accession	✓ ✓
Myanmar	-	✓ Accession	-	✓ Accession	✓ ✓
Philippines	✓	✓	✓	✓	✓ x
Singapore	x	x	x	x	✓ ✓
Thailand	-	✓ Accession	✓	✓	✓ ✓
Timor-Leste	-	✓ Accession	-	✓ Accession	✓ ✓
Vietnam	✓	✓	-	✓ Accession	✓ ✓ ³⁰

STATUS OF KEY INTERNATIONAL CONVENTIONS AND EXTRATERRITORIAL LEGISLATION OTHER COUNTRIES					
Country	Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	UN Protocol to Prevent, Suppress & Punish Trafficking in Persons	ILO Convention 182, Elimination of Worst Forms of Child Trafficking	Extraterritorial Legislation	
	Signature	Ratification	Signature	Ratification	Ratification
Australia	✓	✓	✓	✓	✓ ✓
China	✓	✓	-	✓ Accession	✓ ✓
France	✓	✓	✓	✓	✓ ✓
Germany	✓	✓	✓	✓	✓ ✓
Japan	✓	✓	✓	x	✓ ✓
Republic of Korea	✓	✓	✓	x	✓ ✓
Russian Federation	✓	✓	✓	✓	✓ ✓
United Kingdom	✓	✓	✓	✓	✓ ✓
United States of America	✓	✓	✓	✓	✓ ✓



After all these years and standards and norms...

During these decades of CRC implementation we all grow to understand that unless we address *the basic underlying factors*, such as legal identity, multi-dimensional child-poverty, family and other enabling (safeguarding) environments, and spaces for child participation – we may not be able to protect our children.