

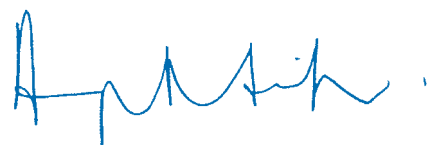
# FOREWORD

Over the past few years, significant changes have occurred in UNICEF's approaches to child protection programming. Analysis of our experiences has led to shifting perspectives. One result of this evolving commitment is the development by the East Asia and Pacific Regional Office (EAPRO) of a Child Protection Programme Strategy and Programming Process in 2007. This new way of looking at child protection problems and interventions has already resulted in a significant change in the way UNICEF and its counterparts are approaching child protection programming at the country level. We are pleased now to issue this Toolkit as the next step in the ongoing process of programme partnership and programme development.

As the UNICEF Global Child Protection Strategy acknowledges, "child protection is an issue in every country and a high priority for UNICEF". The global strategy promotes the strengthening of national child protection systems as the best approach for child protection. The East Asia and Pacific region has been at the forefront of the development of this systems-building approach to child protection.

We are all clear and agreed about our aims for creating a protective environment: one where *all* girls and boys are free from violence, exploitation and unnecessary separation from their family. This environment is achieved when the laws, services and attitudes act together to minimize children's vulnerability, address risk factors and strengthen children's resilience. This Toolkit focuses on the elements of laws and supporting public services and behaviours and on how country programmes can work with partners to ensure all the necessary components are in place to achieve our aims.

Achieving our aspirations to create a protective environment will take time. Abuse, exploitation, neglect and violence towards children are problems bound up in the stresses and complexities of life: within families and communities; at work and in school; in social attitudes, beliefs and structures; and particularly in the power relationships between adults and children. EAPRO eagerly offers this Toolkit as a means of further encouraging discussion, debate and the sharing of experiences in our work towards the goal of protecting *all* children.



**Anupama Rao Singh**  
Regional Director  
UNICEF East Asia and Pacific Regional Office



# PREFACE

The UNICEF East Asia and Pacific Regional Office developed a Child Protection Programme Strategy in 2007 to improve the effectiveness and efficiency of our programme delivery. This strategy is based on the understanding that strengthening child protection systems is the best way to provide a protective environment for children. In contrast to the previous approaches, which focused on individual problems or single components of child protection activities, the new strategy concentrates on developing comprehensive child protection systems. This *Child Protection Programme Strategy Toolkit* will help with implementing the regional strategy and thus help improve child protection programming at the country level.

A first step in developing programme interventions is to understand the components of a system in some detail: What are the laws required, or which should be in place? How are they – or how should they – be implemented and reinforced? What are the necessary elements of a social welfare system for protecting children? What are the links between the legal system and a social welfare system? What social behaviours, norms, attitudes and practices will support these systems? This Toolkit provides practical guidance to begin addressing these questions.

Next, programme staff will identify gaps, deficiencies and opportunities in the existing systems, and then select the best available strategies and interventions to resolve them. Strengthened child protection systems will respond more effectively to the abuse, exploitation, neglect and violence of children – including the prevention of such circumstances as much as possible.

This Toolkit is not a fixed set of prescriptions; different country programmes will need to add material that fits their circumstances. As interventions are developed and tried in various countries of the EAPRO region, an invaluable body of experience will be built up. This experience should of course be shared, and the Regional Office will need to ensure that the circulating of experience takes place on a regular basis.

Change is a fundamental part of human life and the work of child protection will change in response to new problems and circumstances and solutions. As UNICEF staff and partners gain experience with this Toolkit, we will find ways to improve it. For now, some parts are clearly more developed than others.

Together, the regional strategy and this Toolkit mark the beginning of a new approach to the design and implementation of child protection interventions for the region.



**Sawon Hong**  
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# ACKNOWLEDGEMENTS

This Toolkit is the result of collective efforts of many people inside and outside of UNICEF. There has been collaboration at every step of the Toolkit's creation, from conceptualization, preparation of the introductory pieces, writing the first draft and during the numerous revisions of the technical chapters. Many people also participated in the countless exchanges of views as well as the final editing and administrative support. Some of the earlier drafts changed totally, while some have transformed into different parts of the Toolkit.

Without the contributions of all these colleagues and development partners, this Toolkit would never have come to fruition. Although we could not list the names of everyone who shared their insights on this Toolkit, their contributions are very much appreciated. Thank you all sincerely.

Special appreciation is extended to the following individuals who made noteworthy contribution:

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- The UNICEF Child Protection Programming Process: Shelley Casey, Charulata Prasada, Andy West, Will Parks, Sawon Hong
- Technical Guide on the Social Behaviour Change System: Sawon Hong, Andy West, Amalee McCoy
- Technical Guide on the Legal and Regulatory System: Jane Kim (guides 4.1-4.4), Shelley Casey (guides 4.5-4.7)
- Technical Guide on the Social Welfare System: Alexander Krueger, Stephanie Delaney
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# INTRODUCTION

**How to use this toolkit**

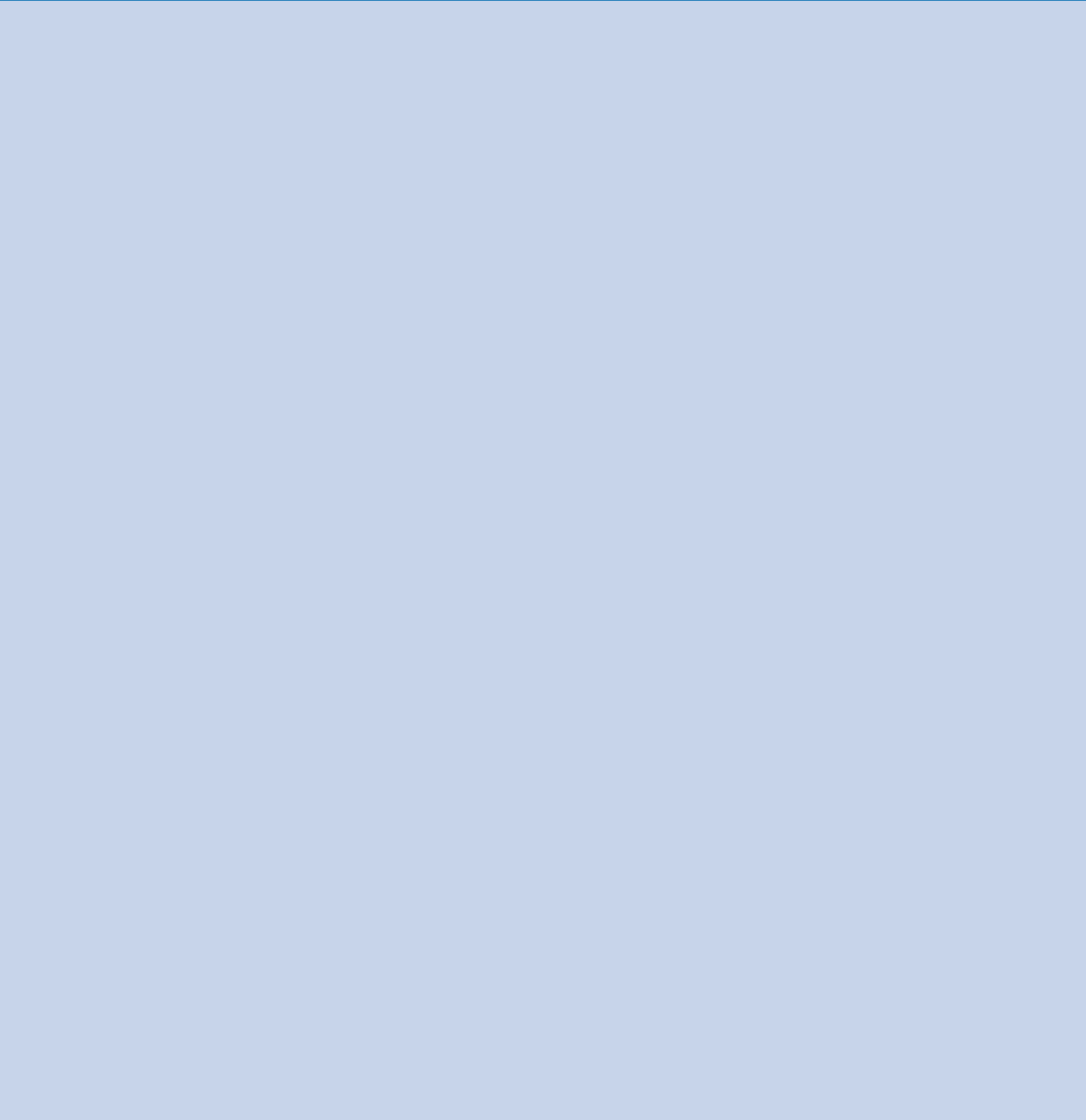
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Why a new approach?

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# HOW TO USE THIS TOOLKIT

This toolkit is designed primarily for UNICEF child protection practitioners. It is a guide for developing national systems for protecting children from abuse, exploitation, neglect and violence. And it is a compass for implementing the UNICEF child protection programme strategies, especially in the East Asia and Pacific region.

### The Toolkit contains:

- information on child protection and the reasons for a systems-building approach;
- guidance on child protection programming processes;
- an outline explanation of social behaviour change and strategies;
- an explanation of the legal and regulatory system;
- an explanation of the justice system and the United Nations Approach to Justice for Children;
- a list of the instruments for a legal framework for child protection;
- an outline of a model law for justice for children in conflict with the law;
- an explanation and guidance on diversion, restorative justice and alternatives to detention;
- a guide to training in the justice sector;
- an explanation of social welfare systems for children and families;
- a list of the components of a social welfare system for children and families;
- guidance on strategies for developing a social welfare system for children and families.

### If you want to find out:

- The purpose of this Toolkit ➔ go to the Introduction
- Why are child protection systems being promoted ➔ go to the Introduction and Part Two
- What is UNICEF's role and approach in child protection ➔ go to Parts One and Two and guide 5.2
- What is child protection programming ➔ go to Part Two
- What is social behaviour change ➔ go to Part Three
- What is a legal and regulatory system ➔ go to guide 4.2
- What is a justice system ➔ go to guide 4.2
- What is diversion, restorative justice and alternatives to detention ➔ go to guide 4.6
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- What is a social welfare system and its role in child protection ➔ go to guide 5.2
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# ABOUT THIS TOOLKIT

This child protection programming toolkit is a first step in building up an environment for protecting children from abuse, exploitation, neglect and violence in the countries of East Asia and the Pacific. It is being developed by the UNICEF East Asia and Pacific Regional Office (EAPRO) to help country offices apply the agreed Regional Child Protection Programme Strategy (2007) and the UNICEF Global Child Protection Strategy (2008) within each national context.

The most important issue to remember about this Toolkit is that it is a living document, intended to change and grow as the new approach is implemented and as we learn from the first implementing process. As such, it will be periodically updated.

This section is a brief introduction to the new approach and the Toolkit.

## Why a new approach?

Every year, millions of children are victims of abuse, exploitation, neglect and violence.<sup>1</sup> International recognition of the depth and extent of those violations of children's rights has increased in recent years through national and international research.

The unrelenting level of harm inflicted on children triggered many questions on what works and a reconsideration of the nature and effectiveness of responses since the introduction of the UN Convention on the Rights of the Child (CRC). A kind of programmatic soul-searching evolved on how to better protect children. A primary conclusion of many agencies, particularly UNICEF, was the need within each country for a systematic, comprehensive and national strategy to child protection that includes prevention as well as crisis interventions.

UNICEF EAPRO responded by developing a Child Protection Programme Strategy, with extensive input from child protection specialists in the region and elsewhere. The strategy reflects a re-evaluation of previous approaches in order to better protect *all* children: Rather than focus on particular manifestations of abuse, exploitation and violence or on categories of children affected, the strategy takes a step back to embrace child protection systems that exist within each country for protecting children. The strategy recognizes that strengthening or creating those systems will produce more fundamental and tangible impact in terms of solidifying a protective environment for all children.

The question now is how do we operationalize that strategy?

The short answer is a set of inter-locking systems that focus on wide-ranging prevention and response activities as much as creating protective attitudes, beliefs and values towards children's human rights.

This Toolkit on building up those systems is the long answer.

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<sup>1</sup> See p. 17, footnote 5, in Landgren, K. 2005. "The Protective Environment: Development Support for Child Protection" in *Human Rights Quarterly* 27, pp. 214-48

## The systems-building approach

Over the years, UNICEF has developed different frameworks for protecting children, taking into account new revelations on the variety of children's circumstances. But until 2000, the approach essentially was issue-specific programming, such as commercial sexual exploitation, trafficking, street children, juvenile justice and children affected by armed conflict. Since 2000, UNICEF has been shifting its focus towards a broader approach to child protection that covers the range of abuse, exploitation, neglect and violence.

In 2003, UNICEF developed the Protective Environment Framework to move towards a programming response that better protected children. Through this approach, UNICEF began advocating and supporting the creation of a protective environment for children in collaboration with governments, national and international partners and civil society. The protective environment, as UNICEF explained, was a 'web' of interconnected elements that create layers of safety nets and ensure appropriate responses when needed.

However, UNICEF programming continued to focus on categories of children in specific problems.

The new strategy, now referred to as 'the systems-building approach', has moved away from categories of problems and moved towards preventing and responding to abuse, exploitation, neglect and violence together.

The Child Protection Programming Strategy developed by EAPRO in 2007 suggests that the principal means for establishing a protective environment for children can be categorized into three core 'systems' for children and families that:

- sensitize the public on the ideal behavioural norms – the *social behaviour change system*;
- create the official basis for prevention and response by enabling legislative and regulatory mechanisms – the *legal and regulatory system*;
- provide prevention and response services, both formal and non-formal – the *social welfare system*.

Such a broader-based approach recognizes that children are likely to experience more than one of many problems during their childhood and youth. And it recognizes that by having strong prevention interventions in general, any child is more likely to be protected from the array of potential problems.

The many elements within each system cut across different ministries/departments of government, across civil society and pull in communities and individuals, particularly children. To orchestrate all these elements to move in harmony, thus establishing a comprehensive protective environment for children, the regional strategy recommends establishing a coordinating mechanism. But what form this takes will be a decision that each government makes.

## The purpose and the structure of this toolkit

The Toolkit is to help UNICEF officers understand the systems-building approach, how to apply it within a national context and how to use it with government and civil society counterparts as well as other partners.

Although it is still a work in progress, the Toolkit focuses on the practical work of UNICEF staff in the building up and strengthening of the three categories of systems, by assessing:

- the existing systems (judicial, legal, child and family welfare, etc. in whatever way a government has organized them);
- identifying gaps in terms of child protection;
- selecting approaches and programming.

The structure of the Toolkit breaks down as follows:

- **Part One** explains the concepts within the systems-building approach.
- **Part Two** explains the UNICEF child protection programming process.
- **Parts Three, Four and Five** are the technical guides, each focused on one of the three categories of systems. The technical guides provide expanded operational direction to UNICEF child protection programme staff and include tools (such as questionnaires and checklists), promising practices and lessons learned.

There will be some references repeated throughout this Toolkit; the technical guides are intended to be used as individual manuals and thus it is necessary to include key points that have been noted earlier.

Also, the legal and justice systems and the social welfare systems in any society are quite broad. The UNICEF approach and the programming guidance discussed in this Toolkit refer only to the segment of those systems that applies to child protection; any reference to a system implicitly means 'for children and families', even if it is not explicitly stated.

## The toolkit as a beginning

As it stands at the end of 2008 (with this first publication), the Toolkit is a 'beginning'. The tools are not prescriptive or rigid. Nor is the Toolkit complete. It has been assembled to initiate discussion, debate and further work. More sections and information can be added, and eventually existing sections can be replaced. Child protection systems are being promoted by a few international organizations but the methods and approaches need to be put to use, then evaluated and documented. The tools included here will be used and assessed in the East Asia and Pacific region and amended as necessary.

The background and detail in the different sections of the Toolkit are at different stages of preparation, especially the technical guides for the three categories of systems:

- The technical guide on the social behaviour change system is largely an outline at this point. There is a range of activities and interventions to be evaluated, documented and shared in the future. Material for this area remains forthcoming.
- The technical guides on the legal and regulatory system is further advanced, with overviews explaining the operation of the legal and justice systems along with a reference list for the legal framework and links to international instruments. This section also provides guidance on legislation for children in conflict with the law and on diversion, restorative justice and alternatives to detention. Guidance on justice training provided at the end of the section will prove useful to staff preparing training in other sectors.
- The technical guides on the social welfare system is also much more advanced. A vision of the components of a comprehensive system is laid out, together with a checklist for use in assessments and a guide on the process.

The technical guides also offer relevant guidance on programming. They should be read and used in conjunction with the general guidance on child protection programming provided in Part Two and in relation to UNICEF procedures for human rights-based programming and situation analyses.

Only a short section on monitoring and evaluation is provided, which will need expanding as work progresses.

As the work of developing systems progresses, further information and explanations will be prepared to replace the material in Part One.

The key to using this Toolkit is to make it specific to the local country and context. UNICEF staff should add their own materials and replace sections as new information and material becomes available.



Extensive discussion and debate has taken place regarding terminology alone for this regional strategy and Toolkit. And those discussions remain ongoing. What is presented here has been included for ease in explaining the new approach. Throughout the Toolkit are boxes – such as this one – where some background information or further explanation on word choice is provided, again for help in clarifying the ideas.

From 2009, training provided in the region for UNICEF staff will generate further discussion, debate, analysis, ideas, information and materials. These all have a place in this Toolkit. The aim is to develop practice and learning, to document it, to share it and thus to build on what we have now.

Adapting this Toolkit to a specific programme context is important: It is a living process. The process begins now with the premise that it is flexible and open to revision as the different parts are tested and evaluated.

## **Introduction**

# **Part One THE SYSTEMS-BUILDING APPROACH**

- 1.1 Child Protection**
- 1.2 Changing Responses to Child Protection**
- 1.3 UNICEF's Current Response**
- 1.4 The Core Prevention and Response Systems and Their Components**
- 1.5 Partnerships and the Role of UNICEF in East Asia and the Pacific**

## **Purpose**

As a background to the work of systems building, this section describes UNICEF's responses over the past decade. In doing so, it outlines the context for the current child protection approach and the move towards systems building. This includes an explanation of the form and primary components of a system and the importance of children's participation and empowerment as part of any system for child protection.



# 1.1 CHILD PROTECTION

UNICEF uses the term ‘child protection’ to refer to the protection of all children below the age of 18 years from abuse, exploitation, neglect and violence. Protection entails the prevention of problems in children’s lives as well as the services needed when things do go wrong. It also includes services for children who are at-risk of harmful circumstances.

These circumstances can be generally characterized as:

- physical, sexual, emotional or psychological abuse;
- trafficking and commercial sexual exploitation;
- exploitative and harmful child labour;
- children without primary caregivers;
- harmful traditional practices;
- children in conflict with the law;
- children affected by armed conflict.

Abuse, exploitation, neglect and violence, in all their manifestations, exist as potential threats throughout childhood and youth in all countries. They can become major obstacles to children’s survival and development and leave lasting emotional, social and psychological impacts that persist throughout their life.

Along with the damage done to children, these problems can exert a cumulative toll upon a society’s social and economic development. For example, because exploitation can keep children out of school, in poor health and subject to physical and psychological abuse, it robs them of their chance to fulfil their potential. Multiplied many times over, abuse, exploitation, neglect and violence rob a society of its potential for development.

# 1.2 CHANGING RESPONSES TO CHILD PROTECTION

The development of the global and regional UNICEF frameworks and strategies reflects a major shift in the approach to child protection around the world. This change is a move from programmes developed as a response to single issues to programmes with a more comprehensive approach to all child protection problems and their root causes – which are often similar issues. Although UNICEF programming will continue to address the symptoms, it will also work to prevent children from getting to the problem stage.

Historically, programmes were primarily organized around addressing specific issues or their symptoms. The emphasis was on identifying a problem (such as trafficking or sexual exploitation) and then looking for a way to solve it. To some extent, donor interests spurred this largely ad hoc approach to child protection programming.

There has been growing recognition The overall numbers of projects based on categories of children – such as street-based children, working children, trafficked children, child domestic workers, children in conflict with the law, children affected by HIV or AIDS – have increased considerably since the 1980s (for example, from 3 to 350 street children projects in the Philippines between 1986 and 2003).<sup>2</sup>

But these categories of children were found both difficult to define and ultimately interconnected. A single child could fall into each category, and issue-based projects might not deal with any underlying problem. Increasingly, attention has turned towards preventing children from becoming trafficked or homeless or involved in exploitative work, which in turn has identified problems in the home and communities.

In particular, there has been increasing recognition that abuse and violence are contributing and pervasive problems<sup>3</sup> at home, in school and elsewhere. There also has been a growing realization in recent years that child protection problems are complex and inter-related.<sup>4</sup> And that the narrow issue-based approach to problems fails to recognize and address this range of factors involved in protection.

Practitioners have been advocating for a re-consideration of the issues relating to the socio-economic, cultural and political contexts, inclusive of response systems and the child's immediate environment, that contribute to all child protection problems – from violence in the home or at school to sexual or labour exploitation.

Acknowledgment of the interconnections and the gaps in the response mechanisms has required a shift in approaches to the protection of children at the community and national levels. The shift includes an emphasis on prevention as well as the coordination of the many relevant interventions (including rehabilitation of survivors/victims and provision of out-of-home care).

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<sup>2</sup> For example, a first situation analysis on street children in the Philippines conducted in 1986 found only three programmes: by 2003 this had grown to 350 programmes for street children nationwide. Source: Childhope Philippines presentation to regional conference organized by Street Children Consortium, Bangkok, 2003.

<sup>3</sup> Kacker, L., Varadan, S., Kumar, P. 2007. *Study on Child Abuse: India 2007*. New Delhi: Ministry of Women and Child Development, Government of India

<sup>4</sup> See West, A. 2005. *International Policy Lessons and Best Practice for the Protection of Vulnerable Children in China*. Paper presented at the first International Forum on Children's Development in China, Beijing, 29-31 October 2005. Available at: [http://www.unicef.org/china/P3\\_WEST\\_paper.pdf](http://www.unicef.org/china/P3_WEST_paper.pdf)

But the swing in emphasis has raised the issue of accountability. Given the widespread ratification of the CRC, which is an important commitment towards the development of comprehensive protection capacities within a national context, there is a need to articulate the roles, responsibilities and accountability of government and the roles and responsibilities of civil society. Apart from the explicit legislation and regulations and their enforcement, accountability requires ensuring that a range of services exist to prevent, intervene and respond appropriately to create and enable real protection.

## Change and difference

The approach to child protection must recognize that societies and cultures change over time, with different elements transforming at different rates, responding to internal and external stimuli. For example, social changes include the spread of HIV and increased trade and migration, all of which have had significant impact on societies and on children – and further implications for child protection.

Flexibility is needed to effectively respond to changes. As the UN Study on Violence Against Children has affirmed, abuse, exploitation, neglect and violence are problems in all countries. But the economic and social circumstances vary by location and country, as do structures of government. Each place will have its own range and different concentrations of particular problems. However, the underlying basis of child protection – to prevent and respond to the problems – provides an essential common ground.

Thus, although no one system of child protection can be exactly replicated and implemented in every country, a set of essential elements and functions in a system should be constructed and applied. The use of the elements may vary over time and differ depending on which local entry points are selected. The aim is not to replicate a singular system across the region. Rather, it is to put in place or strengthen what is already there in each country to ensure equal and explicit safeguards for protecting children in all countries from all harm.

The objective is to have functioning and effective systems that make sure children are cared for, protected and safe – the systems will all look different country to country but fundamentally they will have very similar purpose, functions and components. What the Toolkit presents is the minimum common denominator of positive, functioning protection systems.

## Diversity

Another aspect that must be taken into account in the services, activities and interventions of a protection system is the enormous diversity of children. The CRC recognizes children as anyone younger than 18; but within that 'definition' lies such immense diversity, from age, to gender, ethnicity, disability, education level, personal experience and demographic (rural or urban, income, wealth and family status).

A protection system must respond to the protection needs of babies and young children as well as to children in puberty and adolescence. Children of different ages have different expectations placed upon them. For example, older children may have greater legal entitlements, and thus be expected to work or marry.

Childhood diversity and changing social issues (especially with globalization and urbanization) along with the variety of problems experienced by children and the tremendous, long-term, devastating effects of abuse, exploitation, neglect and violence make child protection a particularly complex phenomenon to address. This complexity underlines the importance of children's participation in the identification of problems and appropriate solutions and the need for children to have a role in the development and implementation of systems.

# 1.3 UNICEF'S CURRENT RESPONSE

The shift away from 'categories of children' and 'individual issues' is manifested in both the global and regional strategies for child protection:

## The UNICEF Global Child Protection Strategy (2008)

The UNICEF Executive Board approved a Global Child Protection Strategy in June 2008. This global strategy includes the concept of the Protective Environment Framework and the need for building a national protection system. It also specifically refers to strengthening child protection in armed conflict and natural disasters.

Taking a human rights-based approach and stressing government accountability, the global strategy emphasizes that "child protection is an issue in every country and a high priority for UNICEF". It also states that "preventing and responding to violence, exploitation and abuse is essential in ensuring children's rights to survival, development and well-being".

The global strategy outlines "the contribution of UNICEF to national and international efforts to fulfil children's rights to protection and to achieve the Millennium Development Goals, within the context of the UNICEF medium-term strategic plan for 2006-2009".

According to the strategy, the protective environment is achieved by:

- building a national child protection system that promotes justice for children, coordinates the interventions of all the child protection actors and strengthens the social welfare sector;
- supporting social change, including increasing everyone's awareness of children's rights, strengthening the protective roles of families and communities, and promoting meaningful child participation and empowerment;
- strengthening child protection in armed conflict and natural disasters, which in turn requires the development of national and subnational child protection systems.
- strengthening data collection, evidence building and knowledge management are necessary components of a national child protection system.

The strategy also emphasizes children's roles and their resilience as agents of change in strengthening the protective environment.

## The EAPRO Child Protection Programme Strategy (2007)

In 2007, EAPRO produced its Child Protection Programme Strategy, which further articulates the recognition that strengthening broad-based prevention and response systems rather than trying to address individual problems in isolation will be more effective and more sustainable.


The EAPRO strategy, which this Toolkit elaborates, presents the concept of a comprehensive protective environment for children that covers all forms of abuse, exploitation, neglect and violence and the key elements for programming direction. The strategy as translated into this Toolkit reflects the global strategy, specifically the defining of government accountability and civil society responsibility for protecting children.

As a kind of abbreviation, the regional strategy is referred to as a 'systems-building approach' because all the actions that UNICEF regional programming embarks upon should be about strengthening or building up what is needed to prevent child protection problems from occurring and what is needed to respond to them when they do. Those actions will thus be putting into place the protective environment needed for reaching all children.

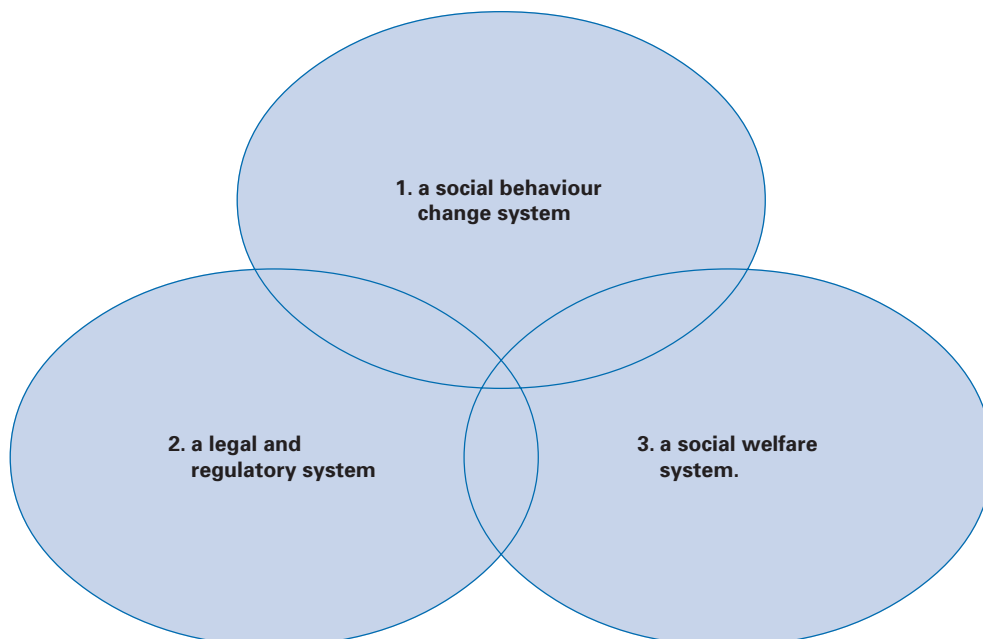
This building up of systems is the core concept of the strategy, which will be further elaborated here in Part One and in much greater detail in Part Two and in the technical guides.

The regional strategy recognizes that the child protection environment entails three elements:

- the socio-economic, political and cultural contexts;
- a child's immediate environment;
- the prevention and response systems.

 Keep in mind that these 'systems' do not refer to a physical structure that governments are to create. They are used here as ways of conceptually organizing what is needed.

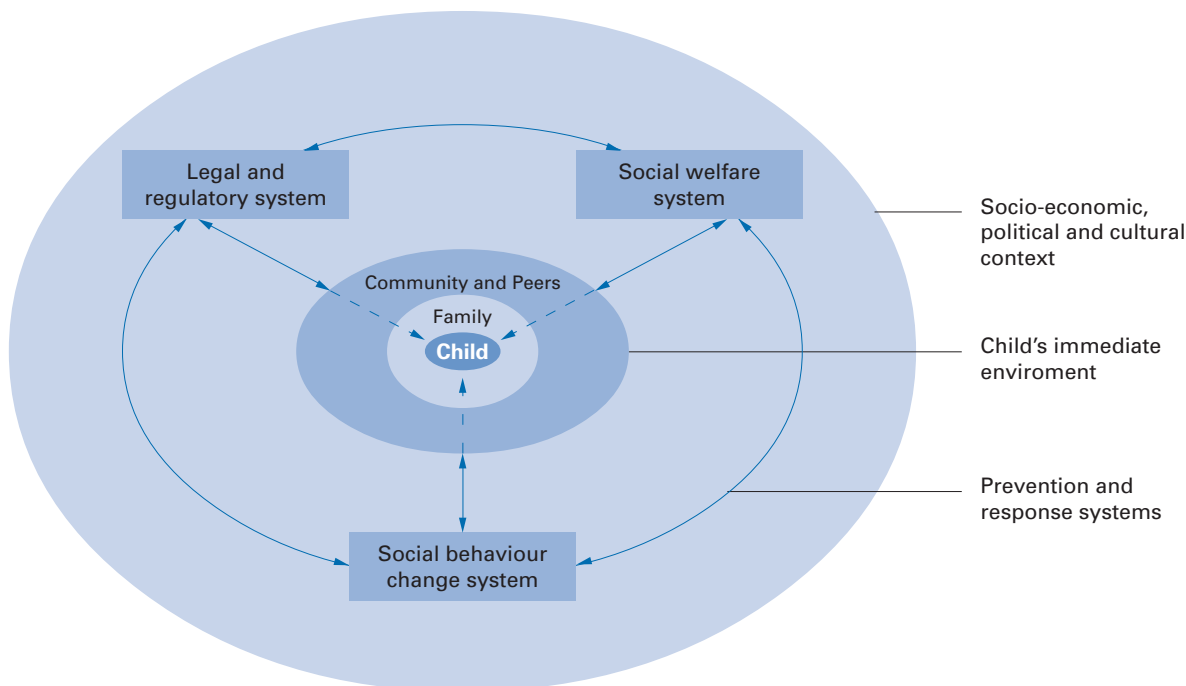
The strategy then identifies three core inter-related prevention and response systems for programmatic interventions targeting children and families:



## The systems-building approach

The objective of the programmatic interventions is to build up the core prevention and response systems that will ultimately create all-encompassing child protection. There are overlapping elements in some of these core systems, such as laws and policies. These are not presented here as 'systems' that governments are to create as a physical structure. They are used here as ways of conceptually organizing what is needed for comprehensively protecting children from harm (within these three categories of systems are other systems and elements). Thus, it is a construction designed to help programme staff more easily assess what is in place and what is in need of strengthening or building up.

### Child protection conceptual framework



This Toolkit for now speaks of three core systems, but a government may ultimately decide on more than three systems.

The conceptual differences between these three core prevention and response systems are elaborated in the following discussion.

# 1.4 CORE PREVENTION AND RESPONSE SYSTEMS AND THEIR COMPONENTS

Given the importance of 'systems' in the EAPRO approach to child protection, it is essential to have a common understanding of the main elements that make up a system before actually moving through the stages of programme development.

The common elements of a system are the basis for the programming process – from analysing capacity to developing interventions that respond to identified gaps and deficiencies in the protective environment.

## What is a system?

In practice, the various uses of the term 'system' ranges from the narrow and specific, such as the operating system of a computer or a car, to the broad and more loosely defined, such as a country's 'social system'. A specific type of system for a machine might have clearly visible parts and connections, whereas a broader social system includes both the formal structures of government (from the national level down to the community) and informal relationships between individuals and between organizations – along with cultural values, norms, beliefs and practices.

Defining a system partly depends on the context because it is used to refer to different structures; for example, a transport system, a social system or a management system.

## General definition


Even with the variety of types, a system can be generally defined as a group of independent but interrelated elements that create a unified whole. In this sense, a system denotes an instrument that combines the interrelated, interacting elements that are designed to work as a coherent entity towards a common goal.

A system is characterized by having:

- **a common goal** – all the elements contained in the system are part of it because they all share a common goal or purpose;
- **predictability** and inter-connectivity of its parts – each element within the system knows what is going to happen in the other elements: each can predict the behaviour of others and are purposefully connected together;
- **balance** – the sum of the elements and their functions are organized in an equilibrium that guarantees the achievement of the system's goal.

In a child protection system, the *common goal* is the prevention of abuse, exploitation, neglect and violence and response when it does occur. That goal entails a commitment to this work. The *predictability* depends upon the existence of all the parts or elements necessary to do this prevention and protection work, their commitment to work and the ways in which they interact. Together with the predictability, the *balance* depends upon the capacity of the different parts and their accountability for the common goal, so that the processes of interaction are effective.

Where the system is unbalanced – elements are missing or not working effectively – then predicted behaviour may not occur and the common goal may not be achievable. This may be seen in child protection systems that have elements (such as certain services) missing. Because of these gaps, some children are not protected from (or are at risk of) abuse, exploitation, neglect and violence.

 As will be explained in more detail further on, 'system' refers not to a single structure but to a variety of systems and elements that come together with a common goal.

Also, a child protection system may not be in balance where there are minimal services and activities for prevention, or where the laws and regulations have no implementing bodies, or where the legal provisions are insufficient.

The social behaviour change system, the legal and regulatory system and the social welfare system (as they apply to children and families) each have distinctive aims but they need to share a common goal, be predictable and operate in balance – separately and together.

The system of social behaviour change involves creating a context in which the other two systems can be implemented effectively, such as individuals taking action to prevent harm against children, are active in reporting problems (and know to whom or where to report) and recognize and respect children's human rights.

## The components of an institutional system

This Toolkit defines the generic components of an institutional system. These definitions are intended to provide a guide for analysis and a common measuring method. The aim is to identify the common ingredients of effective systems without going into specific details of how they are mixed and organized in each country. Given the diversities in this region and the different government structures and organizations that operate within each country, it will be necessary to adapt this guidance to the local context.

In general, there are three broad categories of components that make up any system:

<b>normative components</b> (norms)	that set out the ideal for what and how;
<b>structural components</b> (structures)	that comprise the 'who' and the 'what' of the system; these are the parts that can be seen;
<b>process components</b> (processes)	the operation blueprint within a system that determines how it works and what and how happens when and where.

*Normative components* outline the goals, commitments and national standards for the system. These are manifest in the laws, policies and national plans at the macro level. Simply stated, the normative components articulate and make explicit what the system should ideally achieve and do and the associated authority and responsibility to do it. The normative components are the system's mission, mandate and legal and policy frameworks.

*Structural components* refer to the organization or structure of institutions (often reflected in an organogram, for example). They include the different departments and agencies and their capacities (human, financial and physical).

*Process components* refer to how the system functions and the overall management of it. The process refers to the day-to-day factors associated with actual practice or the operational dynamics. Specific elements of a process might include the organizational culture, guidelines and protocols, workflow and communication and feedback systems: the ways in which the different parts of the structure interact together. Although the context for this process is drawn from both the normative and structural frameworks, in reality the functional agenda of the system is frequently determined by what the process enables.



In brief, a well-functioning system ideally should have:

1. A comprehensive and precise regulatory and enabling legal and policy framework that fulfils the normative aspect;
2. A corresponding structure with appropriate and adequate capacity to realize the legal commitments, mission and mandate; and
3. An operational process that facilitates the work of all components and ensures good practice.

## The systems in the regional strategy

Given the variety of systems that exist, it is important to understand the ways in which the term 'system' is used in this strategy.

The difference between specific and broad types of systems is important because the EAPRO Child Protection Programme Strategy refers to two forms of nationwide systems. The first is the more specific and large, institutional system: the social welfare system and the legal and regulatory system. The second is the social behaviour change system, which is unique in comparison.

The social behaviour change system is an anomaly in that it does not conform to the same formalized, institutional structure as the other two prevention and response systems. However, key elements of social behaviour change – what people say and what they do, such as their knowledge, values, attitudes, perceptions, practices and behaviours – actually permeate and influence the other two formal systems (social welfare and legal/regulatory) as well as all other social institutions and the community at large. That is why it is included as one of the three core systems of the regional strategy.



Social change doesn't mean changing all norms and behaviour – the good ones need preserving and strengthening and can be used as role models.

Achieving social behaviour change is a basic function of child protection because of the need to shift attitudes and practices regarding children. Social change affects the behaviour of institutions and individuals, including those who form part of and work in the other two systems (again, social welfare and legal/regulatory). This change also includes the development of children's participation and partnerships for child protection.

## Systems building

The general characteristics of a system and the components of institutional systems, such as the legal and regulatory and the social welfare systems, can be described as ideals. Yet in practice, systems for child protection in the East Asia and Pacific region still need to be built up. There appear to be gaps in provision and in methods of work, along with individual and institutional attitudes in places that ignore, tacitly condone, perpetuate or exacerbate children's experiences of abuse, exploitation, neglect and violence.



Part Three provides more details on a systematic approach to social behaviour change.

The technical guide in Part Four provides more details on a systematic approach to strengthening the legal and regulatory system for child protection.

The technical guide in Part Five provides more details on a systematic approach to building up a social welfare system for children and families.

Building a protective environment for children requires social change in attitudes, roles and responsibilities; ensuring that appropriate laws and regulations are in place, along with an active and equitable justice system for children; and developing active and responsive prevention and intervention services as part of a social welfare system for children and families.

The protective environment needs to be clearly accountable for covering all children.

An outline of the general stages for UNICEF's work in supporting systems building is provided in Part Two on the UNICEF Child Protection Programming Process as guidance on conducting a comprehensive baseline situation analysis of a country's existing systems. The point is to identify areas where UNICEF interventions can best be directed in order to promote sustainable, systemic change.

# 1.5 PARTNERSHIPS AND THE ROLE OF UNICEF IN EAST ASIA AND THE PACIFIC

The role of UNICEF staff is not to build protection systems on their own but to work in conjunction and consultation with partners and stakeholders. These partnerships will involve governments, national and international NGOs, other parts of civil society, the private sector and, of course, children's organizations and children themselves. Given the importance of these partnerships, it is essential that the context of changing responses to child protection, the background to the shift towards building a comprehensive child protective environment for all children and the nature of the core systems is explained to all stakeholders.

## Children's participation and empowerment

Children's participation is an essential part of successful child protection systems. Meaningful participation means children being consulted, having their views taken into account, being involved in decision-making and taking action. These processes benefit children, families, communities and institutions. Children's participation improves the accountability of systems and empowers children to raise protection issues and problems. In direct connection with protection, children's participation promotes resilience and provides psychosocial support as well as identifies problems requiring a response.

Given the diversity of childhood and its many developmental changes, children's participation is essential if their circumstances and nature of problems are to be properly understood. Ongoing change means that childhood now is very different to what it was a decade or more ago. Adults cannot base service responses on their own experiences of childhood, given the changes in technology, expectations and opportunities. Diversity of childhood complicates this further, given that the experiences, expectations, opportunities and vulnerabilities of boys and girls at different ages can be markedly different. It is necessary to learn from children about their lives.

Children can participate in all stages of programme development and different parts of systems. They can be consulted and take part in research for problem analysis (including doing research themselves). Children can identify and highlight less visible problems and suggest possible solutions. Children can be involved in groups and organizations that respond to problems and issues. Children also can be involved in evaluations and inspections of services. They can participate in the development of policy and the identification of gaps in service provision.

Many children have significant responsibilities in their lives, such as in caring for sick parents, running households and in daily regular domestic and other work, such as animal husbandry. Despite these demonstrations of their competence, children are generally not included in local hierarchies of discussion and decision-making. Efforts have to be made to include children, and mechanisms for their participation need to be designed and implemented. A starting point for children's participation is through consultations and work with children in protection and other programmes. This inclusion enables children's capacities to evolve and their competence can be demonstrated, which can become a part of the process of institutionalizing their participation in local communities.

The lack of children's participation, along with the diversity of children, changing social conditions and the complexity of problems and risks of abuse, exploitation, neglect and violence is perhaps why a concerted comprehensive strategy and national system have not been fully developed and implemented before in this region. Even in Western countries regarded as having developed systems, with more than 100 years of child protection legislation and services, their systems continue to require refinement and change in order to meet new problems and to improve standards and quality of practice.

## **Introduction**

# **Part Two THE PROGRAMMING PROCESS**

**2.1 UNICEF Approaches for Use in Systems Building**

**2.2 Stage 1: Problem Analysis**

**2.3 Stage 2: Strategy Development**

**2.4 Stage 3: Intervention Selection**

**2.5 Stage 4: UNICEF Programme Development**

**2.6 Monitoring, Evaluation and Results**

## Purpose

This part provides general guidance for the four stages of systems building used in the UNICEF child protection programming process. All UNICEF child protection programming involves a human rights-based approach and this is the guiding principal for the work conducted in each of the four stages of systems-building process.

The technical guides in Parts Three, Four and Five offer more detailed direction on the assessment and strategies for social behaviour change, legal and regulatory and social welfare systems, which together can create a protective environment for children.

## Introduction

# Part Two: THE PROGRAMMING PROCESS

Based on the regional Child Protection Programme Strategy, EAPRO child protection programming is directed at building capacities and strengthening the national environment to ensure that children are safeguarded from all forms of abuse, exploitation, neglect and violence.


The EAPRO Child Protection Programme Strategy uses a systems-building approach, grounded on the rationale that the immediate and underlying causes of most child protection problems relate to key gaps in what should be the protective environment, reflecting inadequacies in:

- i) **social behaviour**, which is the individual, group and institutional attitudes and behaviours in both formal and informal knowledge and belief systems;
- ii) **the legal and regulatory system** refers to the laws, policies and enforcement mechanisms (including justice); and
- iii) **the social welfare system**, which encompasses a wide range of services surrounding children's well-being, development and protection (includes services directed at families).

In working with partners on child protection and given the importance UNICEF attaches to national ownership of programmes, it is essential that staff officers can explain and promote the rationale for the systems-building approach.<sup>1</sup> The concepts introduced and explained in the Introduction and Part One should provide a basic understanding of the new strategy and why the approach is being promoted.

The information laid out in this section is designed to take you through the four stages of the systems-building process:

<b>Stage 1:</b>	Problem analysis
<b>Stage 2:</b>	Strategy development
<b>Stage 3:</b>	Intervention selection
<b>Stage 4:</b>	UNICEF programme development

 Types of systems, the characteristics of a general system and the components of formal institutional systems as they relate to the UNICEF regional strategy are described in Part One (section 1.4) of this Toolkit.

<sup>1</sup> See the brief explanation in Part Two and especially the EAPRO Child Protection Programme Strategy in Hong, S. and Bridle, R. 2007. *Child Protection Programme Strategy and Programming Process*. Bangkok: UNICEF EAPRO.

But before addressing these four stages, Part Two presents the UNICEF approach for conducting a situation analysis as these guidelines<sup>2</sup> are applicable to the first stage of the child protection programming process – problem analysis. There is also a discussion on human rights-based programming.<sup>3</sup>

The last section of Part Two touches on monitoring and evaluation, which should be accounted for at the beginning of Stage 4 and implemented throughout UNICEF's programming.

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<sup>2</sup> UNICEF. 2008. *Guidance for Conducting Situation Assessment and Analysis of Children's and Women's Rights*. New York: UNICEF.

<sup>3</sup> Jonsson, U. 2003. Human Rights Approach to Development Programming. UNICEF ESARO HRBDP\_Urban\_Jonsson\_April2003 UNICEF.pdf



## 2.1 UNICEF APPROACHES FOR USE IN SYSTEMS BUILDING

### Situation analysis

The material gathered for the five-year situation analysis can be incorporated into this new child protection programming process. However, to assess the gaps and shortcomings of the existing systems, to identify partners and to select appropriate strategies, it is necessary to follow an *adapted* programming process that is devoted to achieving an environment for child protection.

The key elements of a situation analysis cover:

- promotion of national ownership;
- use of existing evidence, data and research on child protection;
- capacity development and technical support;
- human rights-based approach (casual analysis, role and pattern analysis, capacity-gap analysis);
- essential commodity assessment;
- communication assessment;
- legal and regulatory framework analysis;
- policy analysis;
- mapping partners and activities;
- coordination and work planning.

Many of these elements correspond with parts of the child protection programming process. For example, the use of evidence, the human rights-based approach, legal and regulatory analysis, and policy analysis all fit within the problem analysis (stage 1). The mapping of partners and activities, coordination and work planning are part of the process of selecting interventions (stage 3) and programme development (stage 4).

## Human rights-based approach

All stages of the UNICEF programme development must be shaped by a human rights-based approach, which is directed at building the capacities of rights holders to claim and exercise their rights and of duty bearers to meet their obligations to respect, protect and fulfil those rights.

The UNICEF *Guidance for Conducting Situation Assessments* suggests three steps of analysis will ground the process in a human rights-based approach: a causal analysis, a role and pattern analysis, and a capacity-gap analysis.<sup>4</sup> These steps are outlined here and explained further in the following section 2.2 on problem analysis.

Steps for analysis for in a human rights-based approach:

- i) **Causality analysis** within a conceptual framework probes beyond the immediate causes of non-realization of children's rights<sup>5</sup> to determine the underlying and structural causes of the problem. It considers questions such as:
  - What is the extent to which an environment exists that protects children from abuse, exploitation, neglect and violence?
  - What are both the causes of abuse, exploitation, neglect and violence and the systemic, societal and institutional characteristics that fail to prevent them?
- ii) **Role and pattern analysis** examines the duty bearers and rights holders. This considers questions such as:
  - What is the relationship between rights holders and duty bearers?
  - What is the pattern that links individuals and institutions (such as the family) and communities to each other and to higher levels of society?
  - What are the specific, priority problems that focus the role and pattern analysis to the most relevant set of rights-duty relationships?
- iii) **Capacity-gap analysis** examines the capability of all those individuals and institutions responsible for respecting, protecting and fulfilling children's rights<sup>6</sup>. This considers questions such as:
  - Who is responsible for ensuring that children are protected and that their rights respected and enforced? Who addresses rights violations?
  - What are the underlying and contributing causes of child protection violations?
  - Why is it so or what causes this to happen or not to happen?
  - Who is supposed to do what to help solve the problem at various levels?
  - What capacities are weak or lacking for these institutions or individuals to carry out their duties?
  - Do officials accept their duty? If not, why not?
  - Do officials have the authority to carry out the role? If not, who does?
  - Do officials have the knowledge, skills, organizational and human/material resources necessary to carry out the role?

These steps are used within stage 1 for problem analysis, within a conceptual framework of a systems-building approach.

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<sup>4</sup> UNICEF. 2008. *Guidance for Conducting Situation Assessment and Analysis of Children's and Women's Rights*. New York: UNICEF.

<sup>5</sup> Analysis should also cover the situation of women's rights, in terms of identifying issues that also affect the well-being of children.

<sup>6</sup> Again, analysis should cover the situation of women's rights.

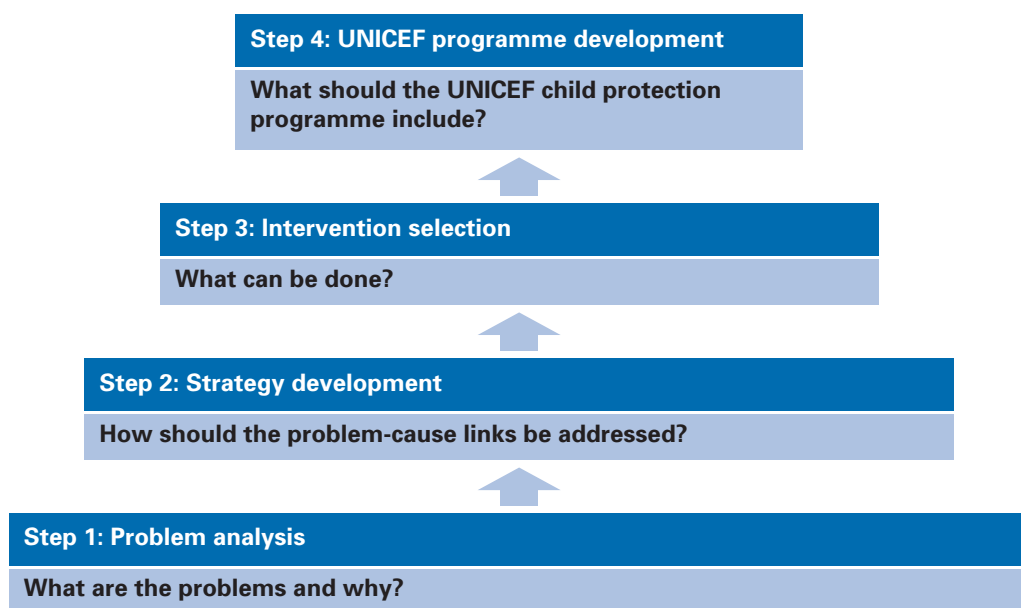
## Children's participation

Children's participation is an essential aspect of a human rights-based approach and a crucial part of child protection programming. Participation in decision-making processes that affect their lives and capacity to claim their rights is one of the most fundamental aspects of the human rights-based approach.<sup>7</sup> Children can and should participate in all aspects of a situation analysis and programme design as well as in intervention implementation and project delivery, and in monitoring and evaluation of services. It is important to ensure that, as the main rights holders, children (and their families) participate in programming processes in a meaningful way.

## The child protection programming process

The diagram below provides an overview of the four steps to be followed for selecting child protection strategies and programme interventions. As the shape of the diagram indicates, programming is a bottom-up process, starting with an analysis of the country situation and ending with the completed UNICEF child protection programme. In practice, this reflects a programme cycle in which the analysis includes also the evaluation and impact assessments of previous programmes to inform the development of new programmes.

### Steps for selecting child protection strategies



<sup>7</sup> Adapted from Jonsson, U. 2003. *Human Rights Approach to Development Programming*. UNICEF ESARO, p. 77. At: HRBDP\_Urban\_Jonsson\_April2003UNICEF.pdf

## 2.2 STAGE 1: PROBLEM ANALYSIS

As the first step in the programming process, problem analysis is geared towards identifying the causes of protection problems as well as the systemic weaknesses and gaps that undermine protection.

Problem analysis in the context of child protection should use three overlapping steps:

<b>1. Causality analysis:</b>	the analysis of child protection problems and their causes; <sup>8</sup>
<b>2. Role and pattern analysis:</b>	the patterns of relationships between duty-bearers and children;
<b>3. Capacity-gap analysis:</b>	an analysis of the protective environment; in particular, capacity gaps, including roles and responsibilities, in the three key prevention and response systems.

The conceptual framework for the problem analysis is the environment for child protection, in particular the social behaviour change system, the legal and regulatory system, and the social welfare system. The different analyses provide information on the three systems that make up the child protection environment, although the capacity-gap analysis has particular relevance for the two formal systems (legal/regulatory and social welfare).

### 1. Causality analysis

Using a human rights-based approach, problem analysis generally begins with an exploration of the immediate, underlying and root causes of child protection problems. Particular child protection problems can be taken up for analysis, such as commercial sexual exploitation or child labour – but as an entry point only. Tools such as a ‘problem tree’ are used to provide a visual, participatory means of gaining insight into the multiple causes of child protection problems and the relationships between causal factors. In a systems-building approach, a broad causality analysis inquires into, for example, what attitudes contribute to child protection problems. It is crucial to think broadly about child protection, to identify and cluster multiple causes and issues into patterns of relationships. Regardless of which particular child protection issue is used as the starting point, a comprehensive causality analysis will generally identify common causal factors stemming from the three core protection and response systems.

A comprehensive causality analysis is an important starting point for identifying critical gaps in the prevention and response systems and flagging potential entry points for UNICEF programming. Despite the challenges in carrying out a causality analysis in situations where information is limited, it is still possible and necessary for understanding and recognizing the multiple contributing factors to abuse, exploitation, neglect and violence. Taking account of contributing factors should avoid oversimplification of situations and the origins of complex human problems (such as attributing the origin of child protection issues to poverty). Using the causality analysis to examine both the causes of abuse, exploitation, neglect and violence as well as the systemic characteristics that fail to prevent them will provide a sound basis for child protection programming.

<sup>8</sup> The causality analysis at the beginning of the problem analysis will be mainly based on evidence coming from the literature because the very limited information and data available does not allow a thorough study.

## 2. Role and pattern analysis

The essence of the role and pattern analysis is to understand the complex web of relationships between duty bearers and rights holders, including children. This entails comprehending what the State is doing to prevent violations of children’s protection rights and how it responds to situations where children require protection or care. Relationships between duty bearers and rights holders form a pattern that links children/individuals and institutions (including family) and communities to each other and to all levels of society. It is important to remember that rights holders can also be duty bearers: parents have obligations to their children; teachers have obligations to their students. Violation of their rights, however, can adversely impact their ability to meet their obligations. For each specific right, it is possible to enumerate all rights/duty relationships. Focusing on specific, priority child protection concerns will help sharpen the role and pattern analysis to a limited set of relationships most relevant to the situation.

## 3. Capacity-gap analysis

An effective systems-building approach requires a rigorous and in-depth analysis of the strengths and weakness in the social behaviour change, legal and regulatory, and social welfare systems. The approach to problem analysis here is mainly from the perspective of analysing these systems to identify strengths as well as gaps and areas of potential intervention, as well as forming the baseline against which progress and impact can be measured.

## Assessing the components of a system

In assessing the components of a system, the normative (laws and policies), structure and process, there are three basic sets of questions:

1. What are the laws and policies?	Are they implemented?
2. What is the structure?	Is it effective and responsive?
3. What are the processes and organizational cultures?	Are they accountable?

The following table provides examples for each component of a system and identifies some of the factors determining the strengths and weaknesses of each component.

NORMATIVE COMPONENTS	
Modalities	Determining capacities
<p><b>Laws, policies, plans</b></p> <p><b>Regulatory and protective frameworks</b></p>	<ul style="list-style-type: none"> <li>■ Are there contradictions in or gaps between the national legal framework and the Convention on the Rights of the Child and other international standards?</li> <li>■ Is the legal and policy framework comprehensive? What are its strengths and gaps?</li> <li>■ Is there consistency between laws, policies and plans? What are the gaps and inconsistencies between the laws, policies and plans?</li> <li>■ Is there a clear and adequate approach to child protection? Is that accompanied by an explicit policy?</li> <li>■ Are there defined minimum standards for child protection?</li> <li>■ Are laws, policies and plans credible, realistically linked to corresponding structures and supported by an enabling process?</li> <li>■ Are child protection priorities integrated into the broader national planning process?</li> <li>■ Are formal or informal structures in place for children to participate in the development and implementation of laws, policies and plans?</li> </ul>

STRUCTURE COMPONENTS	
Modalities	Determining capacities
<p><b>Is the structural logic congruent with mission and mandate?</b> (Are the mechanisms logically organized to realize the goals, commitments and strategy of laws, policies and plans?)</p>	<ul style="list-style-type: none"> <li>■ How are the departments and agencies organized?</li> <li>■ Are they linked and coordinated?</li> <li>■ Is there adequate outreach from and access to services?</li> <li>■ Are planning, implementing and monitoring bodies/mechanisms logically organized?</li> <li>■ Is this structure adequate?</li> <li>■ Is there a part of the structure that is overburdened or underused?</li> <li>■ Is there something missing?</li> </ul>
<p><b>Are there adequate and appropriate capacities?</b></p>	<ul style="list-style-type: none"> <li>■ Where are the strengths, weaknesses and gaps in the different capacities?</li> <li>■ Are some capacities under-used or unused?</li> <li>■ How do these capacities compare with the demand or required response of the system?</li> <li>■ Are the referral and communication capacities between organizations adequately structured and resourced?</li> </ul>
<p><b>Human capacity and resources</b></p>	<ul style="list-style-type: none"> <li>■ Are there adequate and appropriate numbers and distribution of staff?</li> <li>■ Are there appropriate roles and responsibilities?</li> <li>■ Are the authority and reward structures adequate and do they correspond to accountabilities?</li> <li>■ Are there appropriate technical and management capacities?</li> <li>■ Is there adequate capacity for working directly with children, where appropriate?</li> <li>■ Is there adequate capacity for facilitating and responding to meaningful children's participation?</li> </ul>
<p><b>Financial resources</b></p>	<ul style="list-style-type: none"> <li>■ What is the standard of professional accreditation?</li> <li>■ Are adequate financial resources allocated?</li> <li>■ Are they appropriately allocated? Consider: <ul style="list-style-type: none"> <li>■ centre/periphery</li> <li>■ according to demand and need</li> <li>■ across programmes and departments</li> <li>■ in planning, implementation, monitoring and evaluation</li> <li>■ children's participation.</li> </ul> </li> </ul>
<p><b>Physical capacity</b></p>	<ul style="list-style-type: none"> <li>■ Is there adequate and appropriate infrastructure and equipment?</li> <li>■ What is the organization of space? Is it conducive to efficiency and effectiveness?</li> <li>■ Is it conducive to child-friendliness, children's participation and acceptable use?</li> <li>■ Does the physical space and infrastructure enable or detract from the performance of staff?</li> </ul>

PROCESS COMPONENTS	
Modalities	Determining capacities
<b>Organizational culture</b>	<ul style="list-style-type: none"> <li>■ Have minimum performance standards been set for all staff and are they enforced?</li> <li>■ Is there adequate learning, evolution and corrective action flowing from standards and evaluation?</li> <li>■ Is there ongoing or recurrent staff training?</li> <li>■ How flexible and responsive is it to change and new stimulus within the system or outside of it?</li> <li>■ Is there inclusion and equity representation among staffing?</li> <li>■ To what extent do staff and stakeholders, including children, meaningfully participate in decision making?</li> <li>■ Does the reward structure encourage participation?</li> <li>■ Does the reward structure encourage good management?</li> <li>■ Is transparency encouraged?</li> </ul>
<b>Protocols</b>	<ul style="list-style-type: none"> <li>■ What is the efficiency and effectiveness of the bureaucracy and implementation process?</li> <li>■ Is the workflow smooth?</li> </ul>
<b>Organizational rules and regulations</b>	<ul style="list-style-type: none"> <li>■ Are the supply systems adequate?</li> <li>■ How responsive and flexible is the day-to-day work to new and emerging demands?</li> <li>■ Are operational rules and regulations in place? Are they clear and consistent with the normative and structural elements of the system?</li> </ul>
<b>Communication and feedback systems<sup>9</sup></b>	<ul style="list-style-type: none"> <li>■ Are communication and feedback systems in place?</li> <li>■ Are they well integrated into other facets of work?</li> <li>■ Do they function well?</li> <li>■ Do they actually make a difference in how work is done and what gets done?</li> <li>■ Are they child-friendly?</li> </ul>

<sup>9</sup> Whereas the infrastructure for communication systems might be considered as physical infrastructure (a structural component of a system), the use and application of communication and feedback in work practice relates closely to processes.

## Assessing strengths and weaknesses

An analysis of the elements of a system presents only part of the picture. A full situation analysis of a system requires conclusions about the overall strengths and weakness of that entire system. This means also assessing: effectiveness, efficiency, adequacy, relevance and the context of service supply and demand barriers.

### Effectiveness and efficiency of the system

Effectiveness and efficiency are determined by how well the three core prevention and response systems function together. The previous table contains many of the elements associated with the overall smooth functioning of a system. However, to determine the degree of consistency and complementarity between the elements of each system, the following must be considered:

	Are there strong or weak links between the various components of the system? Should there be stronger links between selected parts of the system?
	Does each part of the system reinforce each other and work towards the same vision and priorities or do certain parts of the system work at cross purposes?
	Is there duplication among different parts of the system?
	How coordinated are the actions of the different parts of the system?
	Is there adequate communication exchange and information management in the entire system?
	Are the relationships between different systems adequate?

### Adequacy of service delivery

Service delivery is a main end result and is commonly used to gauge the overall functioning of the system. Common criteria used to assess the adequacy of services include:

<b>Availability</b>	A range of factors can determine availability, including whether or not the services are actually functioning and with adequate coverage.
<b>Accessibility</b>	Are services inclusive? Are clients geographically, socially or logistically marginalized from reaching or accessing them?
<b>Relevance</b>	Does the service delivery reflect the needs, expectations and social norms of users? If it doesn't, potential users are unlikely to use them.
<b>Quality</b>	The defining features of the quality of the service vary depending on the sector and type of service offered. Quality of service can refer to the grade of efficiency and effectiveness, but it must also include the nature of relationships with users, the degree of participation, etc.
<b>Participation</b>	The accountability of the service to users includes the participation of children and their families by being consulted and involved in decisions and various processes to ensure accessibility, relevance and quality.



## Context: Supply- and demand-side barriers

Systems are part of the socio-economic, political and cultural context of the society. This context influences the systems' capacity to function and to supply services as well as the demand for or use of them.

*Supply-side* barriers particularly focus on service delivery, such as:

- inequitable availability of services;
- multiple providers, public and private, competing for resources and/or not well linked together;
- negative attitudes and behaviours of provider to clients;
- poor adherence to case management;
- physical infrastructure and equipment inadequate;
- weak human resources availability and management, technical skills, quality of care and supervision;
- limited supplies and inadequate supply systems;
- limited or inadequate service management capacity;
- non-existent or weak mechanisms for feedback by beneficiaries, including children, to inform improvements in service design and delivery;
- referral and other communication failures.

*Demand-side* barriers address the access and use of services related to both the cultural and socio-economic contexts.

For example, age, caste, ethnicity, class and gender all affect a person's access and use of services in different ways. Other barriers include stigma and the social consequences of accessing some services, and the lack of social pressure to demand improved quality and access to service delivery. Children face barriers in terms of access to information on services and the lack of child-friendly services.

Other socio-economic and political factors directly and indirectly influence systems. For example, macro-economic policies, such as poverty-reduction strategies, and the rules, regulations and standards for civil servants.

A disjointed and often competitive relationship between public, private and civil society actors often results in a competition for public and donor resources. Similarly, the burgeoning of parallel private systems reduces the social pressure for an improved public system. The use and sharing of information for monitoring is often non-existent between private, public and civil society sectors. A lack of both political will and donor interest represents another major barrier on the supply side of service delivery.

## 2.3 STAGE 2: STRATEGY DEVELOPMENT

Once the child protection problem analysis is complete and you have a clearer picture of each system's strengths and weaknesses, the next step is to decide which strategies UNICEF should adopt. Using the systems-building approach, you should identify which gaps can be filled in the three core prevention and response systems – rather than looking at each problem and solution in isolation.

Key programmatic considerations in strategy development include:

achieving maximum impact in terms of scale and effectiveness;
using UNICEF's country-specific comparative advantage;
achieving maximum meaningful participation of children towards their empowerment.

### Identify, compare and choose strategies

An assessment of the role and contributions of international and national actors will help identify where UNICEF's limited resources can be strategically applied. UNICEF will need to develop a vision and model of a child protection environment to inform strategies and ensure sustainability.

Using a systems-building approach, UNICEF should seek to maximize impact by ideally addressing each of the normative, structural and process components and reaching a balance among them. Capacity building within the social behaviour change, the legal and regulatory, and the social welfare systems should be planned to ensure synergy between them. For example, legal reform to guarantee better protection for orphans should be accompanied by building the capacity of social welfare systems to provide appropriate alternative care services and by changes in social attitudes to support this provision.

### Long-term goals and the role of civil society

Another factor in choosing strategies is the balance between meeting immediate needs for children and the longer-term goal of building sustainable systems. In most countries, civil society plays an essential role in child protection, particularly in social welfare service delivery. In the absence of government capacity to provide essential protection services, it may be necessary in the short term for UNICEF to support direct service provision through these partners. Building systems and supporting direct service delivery are not mutually exclusive approaches. Support to NGOs to provide services should be done in a manner that contributes to the long-term aim of building the core capacity of the legal or social welfare systems. Civil society has an important role in supporting systems building, but this is possible only when there is a shared long-term vision of the model system. Creating consensus around a long-term model is essential in making sure that every intervention supported by UNICEF eventually converges into sustainable systems.

However, be careful: Supporting civil society service providers to the exclusion of strengthening government systems can inadvertently encourage the government to abdicate its responsibility for social welfare service delivery. UNICEF's national child protection approach should use the potential for partnerships with civil society in a way that does not undermine the capacity – or duplicate the role and responsibility – of government. Ideally, the role of civil society in social service delivery will be built into the government's social service delivery paradigm, with government playing the key normative role (standards setting, ensuring equal access and coverage, monitoring the quality of services), providing some services (statutory services<sup>10</sup>) and engaging civil society and other providers for other services.

### **Balancing prevention and other responses**

System and service flexibility is needed in order to respond to all forms of abuse, exploitation, neglect and violence. UNICEF should prioritize the development of core building blocks of a system rather than jumping to the promotion of specialized services related to a particular manifestation of problems, such as trafficking.

A programming balance is necessary to ensure that even where a particular child protection issue is being addressed, the core elements in each system are being strengthened and services are not perceived narrowly as applicable only to a specific category of children. For example, child-sensitive police investigation procedures need to be designed for all child victims and witnesses – not just for the handling of trafficking and commercial sexual exploitation cases.

### **Pilots**

Maximizing impact also requires designing programme interventions that can be taken to scale. International experience and good practices are clear that 'scale' has to be designed into and part of every programme from the outset. It is rare, if even possible, to begin with yet another 'pilot' while assuming that it can be scaled up and then, only if it is successful, to try to take it to scale.

Objectives of a pilot modelling of systems need to be realistic and shared from the beginning. Pilots can be used to verify if the proposed model is effective for advocacy purposes, for creating awareness or for promoting consensus. Pilots on building systems are labour intensive, process intensive and require a regular effort of monitoring, evaluation and documentation. A systems-building pilot project should aim at replicating the model of the entire system in a reduced scale, thus including innovations at the normative, structural and process levels.

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<sup>10</sup> Statutory services are services that should not be delegated to civil society or other service providers without an official government mandate. Most statutory services in child protection are those dealing with the verification of reports of abuse, exploitation and neglect, assessment, care and protection plan development, decision making on individual cases (family removal or intensive support to families) involving mandated officials or courts, referral to other services, case review and case closure.

## Understand and work within UNICEF’s comparative advantages

UNICEF’s evolving role in child protection is linked closely to its global comparative advantages.<sup>11</sup> These make UNICEF ideally situated to promote a national systems-building approach to child protection through the following capacities:

Compared to civil society organizations working in the field of child protection, UNICEF generally has greater access to the highest levels of government. This translates into the ability to influence policy makers, especially on sensitive issues.
While many donors and civil society organizations tend to focus on specific child protection issues, UNICEF has a broader mandate to promote children’s rights in general and to address all forms of abuse, exploitation, neglect and violence.
UNICEF’s core mandate as a UN agency is to develop national capacities. Close relations with all relevant government agencies make it uniquely situated to support a comprehensive approach to strengthening the government’s core prevention and response systems.
UNICEF has a demonstrated history of bringing partners together at the country and global levels, facilitating the relationship between government counterparts and civil society service providers.
UNICEF has a strong field presence and the capacity to support community-based modelling of new or innovative approaches that could later be taken to scale. This enables UNICEF to support programmes for child protection systems building at all levels.

The comparative advantage of each UNICEF office differs according to the strategic orientation and capacity of that office in relation to the country context.

UNICEF has a normative role in child protection: The normative role supports policy and overview work, such as setting minimum standards, providing vision and direction for child protection, developing policy and regulatory frameworks and stimulating the formation of an enabling environment. Strategic partnerships, alliances and coalitions are crucial towards fulfilment of this role.

## Make the programme strategy context specific

Each country programme setting is unique and the programme strategy needs to be context specific. The context largely determines the possible strategies; for example, how much advocacy is needed to convince the counterparts of the need for systems building? How much is the training of service providers likely to impact the professional ideologies and culture? What is the room for modelling fully functioning systems with the support and full involvement of local authorities? How will children participate at various stages and in a meaningful manner?

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<sup>11</sup> UNICEF’s general comparative advantages:

- i) Clarity of mission, priorities and strategic orientation towards child protection. UNICEF is mandated by the United Nations General Assembly as the lead agency “to advocate for the protection of children’s rights, to help meet their basic needs and to expand their opportunities to reach their full potential.” (UNICEF, 1996).
- ii) As an operational agency within the UN system, UNICEF shares its unique “legitimacy at the country level as a neutral, objective and trusted partner for both recipient countries and donor countries”.
- iii) Technical and operational expertise in child protection and strong multisector support in related and complementary areas, such as health, education, HIV/AIDS, early childhood development, adolescent participation and development, and social policy.
- iv) A lifecycle approach with corresponding skill sets to effectively address the continuity and intergenerational issues related to the rights and well-being of children.
- v) Demonstrated capacity to deliver child protection programming within the humanitarian and development programming continuum.
- vi) Demonstrated capacity in human rights-based approaches.

The diverse contexts give rise to a range of options, such as:

	In countries with weak government and weak civil society or in a post-conflict or post-emergency context, UNICEF’s child protection programming may focus on primary service delivery to ensure that child victims of abuse, exploitation, neglect and violence receive the necessary recovery and reintegration services. However, this should be done within an agreed strategic framework that allows for the development of emergency services to become the stepping stone for the development of child protection systems.
	In countries with weak government and strong civil society, strategies may focus on long-term interventions to strengthen government capacity while in the short term supporting primary service delivery through local government agencies and/or civil society.
	In emerging or middle-income countries, strategies might focus on modelling innovative approaches and advocating for the necessary buy-in from government to take the initiative to scale.
	In a country where legal systems are rigid, it may not be feasible to promote new approaches (such as diversion and restorative justice programmes) without first making necessary changes to laws and regulations. In the short term, strategies that focus on strengthening implementation of existing laws and policies may be more effective than promoting approaches perceived to be outside the existing legal framework. However, in countries with more discretionary legal systems, community modelling can demonstrate the effectiveness of a proposed approach, thus supporting calls for future legislative change.

Strategies for promoting open dialogue on child protection vary depending on the nature of the local media and strength of civil society. Strategies also depend on the meaning and values attributed to childhood as well as the space for meaningful child participation.

Although the country’s socio-economic, political and cultural context determines the feasibility and validity of any strategy or set of interventions, this should not translate into a passive acceptance of the status quo.

## Maximize children’s participation and empowerment

The strategy should maximize children’s participation in all aspects of the social behaviour change, the legal and regulatory, and the social welfare systems. Children’s participation is essential for understanding and identifying the changing protection problems, issues and experiences they encounter. Mechanisms for children’s participation need to be included in the strategy as a means of consulting and learning from children, involving children in decisions, and identifying issues and solutions – and also as a means of empowering children. Participatory processes promote resilience and psychosocial support and thus are useful strategies for prevention and for rehabilitation work. But children also need to be empowered to report or disclose protection problems, such as abuse, exploitation, neglect and violence. Many children experiencing such abuse are not able to speak up for themselves: Although other children might identify the problem, some participatory mechanisms can provide a meeting point that helps facilitate disclosure. Children also need to know what is not acceptable behaviour by adults.

## Part Two: THE PROGRAMMING PROCESS

# 2.4 STAGE 3: INTERVENTION SELECTION

Interventions are selected on the basis of the solid problem analysis that indicates strengths, gaps, opportunities and challenges in a given country, along with the vision: The foundation for child protection systems can be seeded in any setting, including emergency situations.

Building systems is a long-term endeavour requiring an incremental approach. Situations in which UNICEF can support and promote interventions addressing all gaps and levels of a system at the same time are unlikely to occur. Therefore, interventions need to be chosen and the following criteria can be used as the basis for selection:

<b>High impact:</b>	Activities that could be a precondition for other aspects of the system to develop. For example, activities that enable a better understanding of child protection issues, including the incidence of abuse, exploitation, neglect and violence: such as joint research on prevalence of physical, sexual and emotional abuse; on domestic and school violence; analysis of the population in conflict with the law; or surveillance and monitoring systems at the community level; and so on. These activities have the potential for highly visible results that provide leverage for developing the system further. A positive reaction to the impact of the initial intervention activities can provoke changes further along a system. This effect requires careful planning and implementation to avoid a backlash and negative reactions.
<b>Convergence:</b>	Even if interventions are initiated in different sectors and involving different actors at various levels, they should always converge into the long-term systems model. Single elements of a system can be the object of interventions but designed in a way that enables connections to be made now or in the future with all other elements.
<b>Logical sequence:</b>	Because interventions will be necessarily incremental to achieve greater results, the selection of a particular intervention should be part of a logical flow from the least complex to the most specialized. For example, trying to promote the development of highly specialized foster family services for children severely disturbed by abuse in a country where there is no functioning national foster care programme is neither effective nor sustainable.

Each intervention, in any phase of the programming cycle, should answer the question: How much does it contribute to the realization of effective and sustainable child protection systems?

# 2.5 STAGE 4: UNICEF PROGRAMME DEVELOPMENT

## Synergies with other UNICEF and partner programmes

There is a great degree of overlap between child protection and other sectors. In designing programme strategies and interventions, related sector programmes that could provide crucial synergies should be reviewed. Having a clear strategy with a communicable vision enhances the possibilities of collaboration with other sectors and other UN agencies, as the following examples indicate:

### Social behaviour change system

Positive parenting practices and non-violent discipline techniques can be incorporated into UNICEF's early childhood development and maternal-child health programmes. The provision of practical information on prevention of child abuse, exploitation, neglect and violence also can be a part of such programmes. This may include information on the harmful impact on children of violence, explanations of relevant laws, details on how to access help lines, and legal and other social services that are available. Similarly, the Child-Friendly School model also provides opportunities for behaviour-change initiatives to be directed at school-aged children as well as teachers and school administrators. For children, this may include the development of a curriculum that focuses on social and emotional skills, emphasizes gender equality, addresses discrimination and challenges harmful traditional practices, such as early marriage. For teachers and administrators, this may include information and skills training on non-violent classroom management, sensitization on child rights and training on identifying signs of child abuse, exploitation and neglect.

### Legal and regulatory system

It is critical that UNICEF's efforts to strengthen justice systems for child protection are integrated into broader agendas around the rule of law, governance, security and justice-sector reform promoted by other UN agencies, particularly the United Nations Development Programme (UNDP). It is also important that they are coordinated with various UNICEF sections, including Education, Social Policy and Planning, and Monitoring and Evaluation. This integration ensures that children – whether coming into contact with the justice system as victims, witnesses, alleged offenders or requiring care, custody and protection – have access to fair, transparent and child-sensitive justice systems that not only protect them from harm but also enforce their civil, political, social, economic and cultural rights.

Hence, while UNICEF may be designated as the lead agency for juvenile justice, child trafficking or sexual exploitation of children, different agencies have roles to play within the overall strengthening of the national justice system in both crisis/post-crisis and development contexts. This can be advanced in numerous ways, including encouraging the active participation of children in rule-of-law initiatives or promoting child justice standards and guidelines as part of broader justice-reform initiatives.

## Social welfare system

In conjunction with UNICEF's health and education programmes, all professionals working directly with children (health care workers and teachers) can be provided with skills for early identification of children at risk of or who have experienced abuse, exploitation, neglect and violence; this should include appropriate local reporting measures. Collaboration with other sectors and UN actors has been evident in maximizing the prominence of HIV/AIDS within government and donor agendas. In a similar fashion, the importance of child protection systems needs to be promoted.

## Identify partners and stakeholders

The role of all stakeholders must be taken into account in the identification of partners. UNICEF programmes are implemented with partner agencies, including government departments and non-government groups. These institutions can be stakeholders in the delivery and advocacy of the systems-building approach. Because of the nature of their work, they have a stake in the development of a child protection system but may have different perspectives on the path to be taken for that development. Other major stakeholders who must be considered are children, families and communities: Their perceptions are crucial to the effective provision of services and also for social behaviour change.

Partnership analysis will identify partners for programming, networking and advocacy. UNICEF's programming is based on three different types of partnership arrangements: 1) partnerships with government, 2) partnerships with civil society or other service providers and 3) alliances and coalitions.

UNICEF's cooperation should be situated within a broad strategy that recognizes and draws on the contribution of a range of ministries, local government, private sector agencies, civil society organizations and community actors. A systems-building effort requires the participation of a wide spectrum of alliances and a common vision: This is essential for advocacy activities. The set of partners in the practical development of a functioning system tends to be smaller in scale, involving specialized agencies (government, civil society and academic institutions).

<b>Governments</b>	<p>In most countries, there is no single ministry that serves as the partner for all child protection programming. National ministries of social welfare and justice are key partners, but comprehensive child protection programming usually involves other agencies and ministries as well. Hence, government partnerships generally encompass intersector and inter-ministerial cooperation.</p> <p>Partnerships with government run the full gamut of programming, from policy to practice.</p>
<b>Civil society and private service providers</b>	<p>In many civil society organizations, task specificity is high because of concern for efficiency and effectiveness in achieving results. Depending on the organization, there may be long-term gains that can be achieved through capacity building of this type of partner. Capacity building of the organization must be careful not to undermine the capability of or duplicate initiatives with government counterparts.</p>
<b>Alliances and coalitions</b>	<p>These partnership arrangements are generally made with the main child protection actors in the country and may include international and local civil society, including child-led organizations, donors, other UN agencies and influential members of civil society. Generally, these have the greatest likelihood of being intersector alliances or coalitions involving government, donors, civil society and sometimes the private sector.</p> <p>Such partnerships often focus on advocacy, networking, joint studies, publications and evaluations. These are important because one of the priorities for UNICEF is to build a consensus around a systems model.</p>



## Process and criteria for partnership analysis

Identifying partners is one of the last steps in the planning process. Partnership analysis builds on problem analysis combined with identifying UNICEF’s comparative advantage in that country.

Strategic partnerships are arrangements that leverage the comparative strengths of each partner. Partnerships are most successful when each partner can compensate for weaknesses, lack of resources, gaps or complement the strength of the other.

UNICEF does not have an organizational criterion to identify the ‘best’ possible partner for a specified task or programme. The formula below suggests the balance of some key factors for partnership analysis. The weight ascribed to each of these factors varies according to context and purpose.

Strategic partnership =		
(capacity analysis + comparative advantage + ethical criterion)	balanced with	(purpose + output versus impact)
<ol style="list-style-type: none"> <li><b>Capacity analysis</b> (<i>ability, efficiency</i>): Level of capability – for example, consider leadership, technical resources, organizational resources and infrastructure.</li> <li><b>Comparative advantage</b> (<i>specialization and relative credibility</i>): What is the specialization of that organization? How does it compare among other actors in terms of credibility and capacity? How does the specialization compare with UNICEF’s comparative advantage?</li> <li><b>Ethical criterion</b> (<i>desirability based on values</i>): Does the organization have a clear, well-stated child protection policy? Does it have the skills, capacity and managerial support for implementing the policy? Does it have representative staffing? Is it democratic, flexible and responsive? Is it well institutionalized, transparent and trustworthy? Does it consult with children and take their views into account?</li> </ol>		<ol style="list-style-type: none"> <li><b>Purpose and output versus impact</b> (<i>what you want to do, intermediate results and overall achievements</i>): How well do the aggregated qualities correspond to the purpose or what you want to do? To what extent are you concerned with efficiency of outputs versus efficiency of impact?</li> </ol>

In which terms is the partner able to support and contribute to the programme? The analysis needs to set the capacity, advantages and ethical stance of the potential partner against the purpose, output and impact required; it also needs to consider how much this partner understands and shares the vision.

In some settings, UNICEF does not have many options; for example, where there are few agencies working in child protection, few civil society organizations and very weak or no academic institutions. Here the challenge is not the selection but bringing potential partners to a capacity with which they could contribute to the systems building. Embracing child participation in a meaningful manner is challenging in many respects. Few child-led organizations exist in the region, particularly those that are representative of vulnerable groups; but these could be facilitated and developed as part of a strategy.

The systems-building approach constitutes a shift for UNICEF and may not necessarily be understood or shared by partners (governments and NGOs alike). UNICEF faces the challenge of shifting the way partners have been working so far and changing the nature and the objectives of that collaboration. This may entail some changes in partnerships and the creation of new alliances that can share the challenge of building child protection systems.

## 2.6 MONITORING, EVALUATION AND RESULTS

### Monitoring and evaluation<sup>12</sup>

When pursued methodically, child protection programming can be monitored and evaluated at most levels with a rigour comparable to other types of sector programming, which will help determine the progress, strengths and weaknesses. Effective monitoring and evaluation is a function of good planning, programme design and development of a results/indicators framework.

**Monitoring** is the systematic and continuous assessment of the progress of a piece of work over time.

**Evaluation** is the systematic and objective assessment at one point in time of the impact of a piece of work against planned results.

**Monitoring and evaluation** are undertaken for multiple reasons:

- test and assess programme effectiveness;
- make a case to change programme inputs;
- justify continued financial and political support;
- answer stakeholders' questions;
- provide feedback at all levels.

**Implementation monitoring** is continuous and provides management and other stakeholders in an ongoing programme with early indications of progress or lack thereof in the achievement of outputs. Put simply, implementation monitoring should answer the following questions:

- Is the programme reaching the main beneficiaries?
- How are stakeholders participating in implementation?
- Are all stakeholders satisfied with the programme?
- Are all inputs, activities, materials and outputs of good quality?

UNICEF's *Programme, Policy and Procedures* manual refers to implementation monitoring as 'performance monitoring'.

**Performance monitoring** measures progress in achieving specific results in relation to an implementation plan, whether for programmes, strategies or activities. It is a core accountability component for effective work planning and review.

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<sup>12</sup> Substantial portions of this section are based on UNICEF's *Programme, Policy and Procedure Manual* (2007), UNDP's *Handbook on Monitoring and Evaluating for Results* (2002), and PowerPoint presentations prepared by Will Parks, Chief of Policy Analysis, Planning & Evaluation, UNICEF Pacific.

The table below illustrates how goals, outcomes, outputs and activities are linked to planning, monitoring and evaluation:

Planning level	Monitoring or evaluation
<b>Programme goal</b>	<b>Impact evaluation</b> Baseline, with target (end line) compared at the end of the programme. Change in the prevalence of abuse, exploitation, neglect and violence, for instance.
<b>Programme outcomes</b>	<b>Outcome evaluation</b> Baseline vs. target (end line) Consistency of law with the CRC at the beginning and end of the programme period, for instance.
<b>Programme/project outputs</b>	<b>Output monitoring and outcome evaluation</b> Baseline, during and end line. Degree of coordination among different actors providing social welfare services, for instance.
<b>Project activities</b>	<b>Implementation monitoring during activities.</b> (Are things proceeding as planned? What are the quality, satisfaction and level of participation? Are there requirements for re-adjusting?) Has the training of caregivers proceeded according to plan, for instance?

**Outputs:** The necessary information for output indicators is generally collected through the project.

**Outcome:** Baseline/situational information is needed at the programme formulation stage. A baseline can be established using either primary/new information or secondary data from previous studies, surveys or evaluations. Consider instruments and/or approaches, such as:

- awareness/attitude surveys in questionnaires
- expert panels
- key informant interviews
- focus groups
- mapping techniques.

Attitude surveys represent one method that allows for some quantification of qualitative change. For example, that the proportion of community members who think that referral systems among local institutions had been strengthened increased from 40 per cent to 65 per cent over a certain period of time shows some measure of the degree of qualitative change.

Developing an outcome monitoring plan is one way of ensuring the ongoing collection and periodic analysis of appropriate data. An outcome monitoring plan should include the following information:

- information sources for monitoring outcome indicators
- method of information collection/analysis
- frequency of information collection/analysis
- responsible parties for monitoring activities
- who will use the information.

**Impact evaluations** measure the results of programmes or policies on children, their families and their communities. Therefore, impact evaluation is concerned with monitoring and evaluation of both performance and situation.

**Performance evaluations** measure the quality and efficiency of the programme: if it is well organized, meeting its activity and output targets.

## Quality in evaluation design and implementation

These steps are organized in terms of increasing specificity, from the beginning to the end of the monitoring and evaluation process:

1	Reduce the focus to a manageable range of activities.
2	Build efforts around the standards and norms of the monitoring and evaluation (M&E) profession.
3	Engage stakeholders.
4	Make the terms of reference the key step in which quality is systematically inserted.
5	Take steps to ensure good implementation of the terms of reference; convert the implementation effort into an evidence-based report.

## The UNICEF programming cycle



Child protection officers should consider following the philosophy of integrated monitoring and evaluation planning. This checklist was developed to help think about monitoring and evaluation in the context of programming:

1. Build on a logical framework of results. All the planned results must be monitorable. In addition to the actual development of results statements and the identifying of indicators, child protection officers should be thinking of and developing a research, monitoring and evaluation plan.
2. Identify the key points in the programming process where research and evaluations might be appropriate or necessary. Think about *utility*: What are the opportunities for programming adjustments (annual work planning, mid-term review, country programme formulation)?

Generally, not more than three major studies or evaluations would be planned for a particular programme in a country cycle.

How do your research, monitoring and evaluation results feed into, complement or benefit from preparation of the Common Country Assessment Approach, the UN Development Assistance Framework or the UNICEF situation analysis?

3. Don't leave your M&E plan as something just on paper. Implement it, analyse and report on results and experiences of the project, and adjust as you go along.

## Participatory monitoring and evaluation

Participatory methods are ideal for capturing different perspectives and enabling those who are marginalized or vulnerable to participate equally with other populations. When selected and adapted, these methods have particular relevance for child protection. Within the framework of appropriate facilitation of child participation, choose participatory tools that rely on visual mapping, storytelling and interview techniques. Enable girls and boys of divergent capacities and attributes to engage in programming processes.

Participatory methods in programme planning and implementation shift the focus from the priorities of donor agencies to the 'people' or the stakeholders' reality. Yet equally important to the question of whose reality counts is the question of who counts reality? Participatory monitoring and evaluation are based on three assumptions:

1	Stakeholders' voices and knowledge should be the basis of defining success.
2	Stakeholders should benefit and learn from the process of evaluating and tracking change.
3	Monitoring and evaluation should enable stakeholders to be, and hold other authorities, accountable for results.

## Defining results and indicators<sup>13</sup>

Defining a result is a way of making explicit what it is you want to achieve in child protection. Indicators help track progress towards meeting these results. These along with the process of monitoring and evaluation help determine if:

- We are doing the right things.
- We are doing them the right way.
- We are doing them on a scale large enough to make a difference.

Building prevention and response systems for child protection produces trackable and measurable results. A systems approach to child protection seeks to strengthen the country environment and build capacity of the prevention and response systems; all of which can be broken down and measured by a well-crafted results framework:

	Developing a results framework enables the clear identifying of desired achievements by breaking down results into a 'chain' of manageable, achievable and trackable results.
	The totality of a results framework facilitates clarity of long-term planning and provides clear benchmarks for success.
	The methodical process of developing a results framework ensures a logical crafting and selection of programme interventions.


<sup>13</sup> Substantial portions of this section are based on UNICEF's *Programme, Policy and Procedure Manual* (2007), UNDP's *Handbook on Monitoring and Evaluating for Results* (2002), and PowerPoint presentations prepared by Will Parks, Chief of Policy Analysis, Planning & Evaluation, UNICEF Pacific.

## Defining results

A result is a statement of what difference a project or intervention should try to make – what UNICEF wants to achieve. This would be a measurable change in a state or condition as a result of a programmatic intervention.

Results can be achieved at three levels:

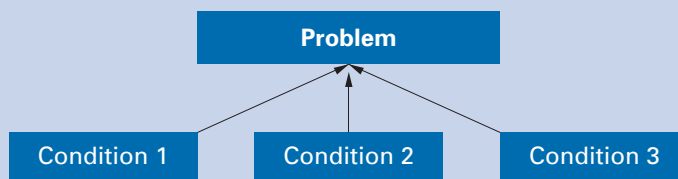
<b>Impact:</b>	Long-term results expected to be achieved between five and ten years (one to two country programmes). Impact results refer to changes in the condition of the lives of people. These are also referred to as the ‘strategic results’ for which there is diffuse collective accountability between the UN system, the national government and the range of development actors.
<b>Outcome:</b>	Results are expected to be achieved in five years (one country programme cycle). Outcomes are referred to as programme-level results because they are attributable to cooperation within the country programme. Outcome results reflect institutional or behavioural changes. They might refer to values or standards or be associated with change in institutional performance or new institutional arrangements. They generally reflect a changed national environment or capacity.
<b>Output:</b>	Results are achieved in less than five years or within a country programme cycle. These are also referred to as ‘project results’ because they are directly attributable to individual projects. Outputs reflect operational change in products and services through change in knowledge, skills, etc. They are the most immediate level of results achieved through the annual work plan during the calendar year.

Type of result	Type of change	Time frame	Results chain	Social welfare example
<b>Impact</b>	Human change	5-10 years	Strategic results	Child abuse, exploitation, neglect and violence are reduced.
<b>Outcome</b>	Institutional and behavioural change	5 years	Country programme results	Children are better served by well-informed and coordinated social welfare services.
<b>Output</b>  <b>Activity</b>	Operational change: products and services	1 year	Annual work plan results	Social welfare offices in the four priority districts effectively manage cases of child abuse, exploitation, neglect and violence.

Source: Adapted from PowerPoint presentations prepared by Will Parks, Chief of Policy Analysis, Planning & Evaluation, UNICEF Pacific

**Significance to child protection:** Why is UNICEF concerned with the three levels of results? Because it helps to break down the problem (reduce abuse, exploitation, neglect and violence) and measure progress towards addressing it (building systems). While it may often be difficult to do that measurement in terms of ‘impact’ (due to the lack of readily accessible data), progress can be demonstrated through achievements at the outcome and output levels while making progress towards measuring achievements in terms of impact.

If a problem is caused by three conditions, then all three conditions must be addressed. Addressing only one or two conditions will not ensure that the problem will be solved.



If the UNICEF-assisted programme can only address one of three necessary conditions, other government departments, UN agencies or other partners need to commit themselves to deal with the remaining conditions. UNICEF assumes that the others will do what is necessary and record this as a critical planning assumption.

**The principle for achieving results:** The sum of interventions is not only necessary but also sufficient to achieve the expected results.

Source: Adapted from PowerPoint presentations prepared by Will Parks, Chief of Policy Analysis, Planning & Evaluation, UNICEF Pacific

Results have two major elements to them:

1. **Change:** They represent a measurable transformation in something; for example, a group, an organization, a society or a community.
2. **Causality:** They are the product of a cause and effect relationship between action and achievement. This is an *'if, then'* logic. For example, if the multiple activities yield their multiple outputs effectively, then the outcome will be achieved.

Results are expressed in 'change' language – not 'action' language. Change language describes a change in the situation of children or in the performance of a service, allocation of national resources, existence of needed policies or any other observable change. Results are expressed from the perspective of the people the programme intends to serve. Change that focuses on results leaves options for how to achieve them – but it sets up quite precise criteria for success in the result.

If your result statement reflects a provider's perspective or focuses on completing an activity, chances are you are used to action language – not change language. A good checkpoint is to verify if the statement begins with 'to strengthen, to build, to train'; these are all action phrases. Whereas 'strengthened', 'built', 'trained' reflect results phrasing.



#### Checklist for validating outputs:

1. A new product, service, skill, ability that can be developed or delivered by you and your partners.
2. Linked to only one outcome.
3. Stated using change language.
4. Output does not repeat outcomes statement.
5. The scale or scope is within the control of you and your partners.
6. *If, then* causality between output and outcome.
7. A completed activity.
8. The sum of outputs is sufficient to achieve a higher level of outcome.
9. The output is specific; it does not combine two or more different types of results and is not so general that it can cover anything.

Source: Will Parks, Chief of Policy Analysis, Planning & Evaluation, UNICEF Pacific



Results statements should also be SMART:

<b>S</b>	<b>Specific</b>	The result is clearly stated and described in change language.
<b>M</b>	<b>Measurable and monitorable</b>	An assessment is possible to decide whether the result has been achieved or not.
<b>A</b>	<b>Achievable</b>	The result correlates to a target that feasibly can be attained by the programme partners with UNICEF support. All necessary resources are identified and budgeted for.
<b>R</b>	<b>Relevant</b>	The planned result represents a milestone in the results chain, leading to the achievement of commitments related to the Millennium Development Goals and national priorities.
<b>T</b>	<b>Time-bound</b>	The achievement of the results is likely to happen within the planned period. There is an expected date of accomplishment, usually by or before the end of the programme cycle.

In terms of being *specific*:

- Try and be as precise as possible in stating the planned results, including those related to behaviour change, expansion of a service or other improvements in development conditions.
- For specificity, it is necessary to know what ‘adequate’, ‘improved’, ‘support’, ‘safe’, ‘comprehensive’, ‘effective’, ‘extreme’ or ‘minimum’ means. This will be measured through indicators.
- Try and avoid the lumping together of possibly different results (education and communication) or of different groups (pregnant women and their children). The statement should specify who is meant to belong to ‘marginalized children’ or ‘families in poverty’.

In terms of being *measurable*:

- There is an indicator and a way of measuring the indicator. For instance, it might be quite impossible to measure the ‘number of children used in armed conflict’.
- Some results (such as changes in processes) may not be directly measurable, so a consultation or an assessment may be used as an indirect but still valid method.

In terms of being *monitorable*:

- The indicator can be periodically reviewed to identify any changes.
- Many indicators (such as the percentage of children starting schooling at the right age or the proportion of vulnerable children receiving free basic services) can only be measured through household surveys. Household surveys, because of their costs, may only be conducted every five years or so; if no baseline exists, the first available household survey may establish such a baseline, while the next household survey will happen years after the programme may have come to a close. Therefore, such indicators are only of use for monitoring outcome or impact.
- In some cases, even if an indicator can be measured periodically, the margins of error might be too large to allow a definite statement of trend. This might be true especially when the sample size available for analysis is small.

In terms of *relevance*:

- As much as possible, internationally agreed results and their indicators should be used. Even subtle differences in the description of indicators may give rise to problems during monitoring and assessments. This is particularly true for results for specific age groups. For instance, a child is generally defined as someone aged 0-17 years or aged *younger than* 18 years (and *not* 0-18 years).

## Indicators

Indicators provide a signal that reveals progress (or lack thereof) towards achieving a result. They are a means of measuring what actually happens against what is being planned. An indicator can be quantitative or a qualitative milestone that provides a simple and reliable basis for assessing achievement or change of performance.<sup>14</sup>

Quantitative indicators are numerical measurements of change; for example, the number of children in juvenile detention can be easily and objectively counted.

Qualitative indicators can refer to things such as perceptions, attitudes, commitment and beliefs. They can be quantified, such as the number of parents believing that corporal punishment does not violate children's rights or the proportion of children in grade 3 who fear being beaten by their teacher. But qualitative indicators have an element of subjectivity to them.

The debates surrounding the measurement of child protection have little to do with the practical task of measuring progress towards achieving planned results according to measurable signs or indicators. (The debates centre on the contention that measuring child protection is too complex because it deals with prevention and risk mitigation, it is difficult to measure due to secrecy or stigma, etc.)

In the context of systems building, the planned results relate to reforming institutions, enhancing various capacities, promoting behavioural change and establishing new modes of working through partnerships and synergies. The components of systems building are as measurable in the context of child protection as they are in any other context.

## Selecting indicators

Crafting revealing, simple and manageable indicators does take some effort and thought. The following steps are useful to bear in mind when selecting indicators:

1. **Set baselines and targets:** An outcome indicator has two components – a baseline and a target. The baseline is the situation before a programme or activity begins; it is the starting point for results monitoring. The target is what the situation is expected to be at the end of the programme or activity. For example, if you are trying to increase access of working children to quality education, then school enrolment among working children will be a good indicator. The monitoring of results may start with 25 per cent enrolment of working children in 2005, with the target of 80 per cent for 2010.


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<sup>14</sup> UNDP. 2002. *Handbook on Monitoring and Evaluating for Results*. p. 101.

## Setting baselines and targets

Type of result	What is measured	Indicators measure	Remarks
<b>Output</b>	Efforts (such as skills development) or goods and services generated by projects and programmes	Implementation of all activities	Do not confuse with means of verification. It is not simply a completed activity.
<b>Outcome</b>	Effectiveness or changes in terms of behaviours and institutional change generated by projects, programmes and partners	Use of outputs and sustained production of benefits	
<b>Impact</b>	Effectiveness or results in terms of the combined effect of outcome activities that changes people's lives and improve the conditions at the national level	Use of outcomes and sustained positive development change	Try and use globally defined indicators.

2. **Baseline information** can be used when designing and implementing interventions. It also provides an important set of data, against which you can gauge progress towards a result. The verification of a result depends upon having an idea of change over time. Thus, between the baseline and the target there may be several milestones that correspond to expected achievements at periodic intervals.
3. **Proxy indicators** can be used where the absence of data or data collection constraints may prevent a result from being measured directly. This is particularly relevant to results that are difficult to measure, such as policy dialogue, governance, etc. For example, the outcome of 'fair and efficient administration of justice' is often measured by surveying public confidence in the justice system. Although high public confidence does not prove that the system is actually fair, there is a very likely correlation.<sup>15</sup>
4. **Disaggregated data:** Good indicators are based on disaggregated data specifying, for instance, location, sex, age and social group. Regular quality assessments using qualitative and participatory approaches may be used to corroborate, clarify and improve the quality of data from other sources, such as government and non-government reports and surveys. For example, for the outcome 'effective legal and policy framework for decentralized community prevention systems', the indicator 'proportion of total public revenues allocated and managed at subnational level' may demonstrate an increased overall distribution of resources to the subnational community level but still hide large disparities in distribution to some regions.
5. **Involve stakeholders:** Indicators should ideally be developed in consultation with stakeholders and partners. These constituents are very likely to advise on the sensibility, measurability and manageability of indicators. A preliminary list of output indicators should be selected at the project formulation stage with the direct involvement of the institution designated to manage the project and with other stakeholders. Partners are already involved in the selection of outcome indicators through the country programme formulation process. It is important to establish clear roles and responsibilities for which indicators will be met, monitored by whom, for data collection and analysis.

 **Indicators in perspective:** Indicators are benchmarks to assist in measuring progress and not an end in themselves.

<sup>15</sup> UNDP. 2002. *Handbook on Monitoring and Evaluating for Results*.

6. **Distinguish between quantitative and qualitative indicators:** Both quantitative and qualitative indicators should be selected based on the nature of the particular aspects of the intended results. Efficiency lends itself easily to quantitative indicators. Measuring dynamic sustainability, in contrast, necessitates qualitative assessment of attitudes and behaviours because it involves people's adaptability to changing environments. Methodologies such as rapid rural appraisal (RRA, but also often called participatory learning and appraisal, or PLA) and structured interviews may be used to convert qualitative indicators into quantitative indicators.
7. **Limit the number of indicators:** Too many indicators usually prove to be counterproductive. From the available information, develop a few credible and well-analysed indicators that substantively capture positive changes in the development situation. Use the SMART criteria.
8. **Conformity with international standards and definitions:** Wherever possible, try to apply and conform to the definitions of international standards to avoid confusion.

Obtaining 'valid' and 'representative' data can become a large, complex and costly undertaking. Large-scale surveys are rarely possible, and it is far more practical and feasible to obtain a smaller but representative sample of respondents. Indicators, therefore, should be as simple and few as possible while demonstrating some measure of progress or magnitude of change.

## Guiding advice

The following considerations are useful in the identification of indicators:

1. A knowledge, attitudes and practices (KAP) survey is an important means of verification for multiple indicators. However, KAP surveys can be expensive and resource intensive. But a single baseline and end line KAP survey can be used to verify multiple indicators, provided that the indicators results are well thought out.
2. The interpretation of indicators is extremely important. For example, the increased use of services referrals or reported cases does not equate with increased prevalence – it may (though not necessarily) be an indicator of enhanced accessibility or quality of a service or behavioural change surrounding use of a service.
3. It is important to note that many indicators are referential – they have a numerator and a denominator. The numerator refers to the number of cases while the denominator represents the context – for example, the total number of children in X-age group. Both are necessary to give meaning to an indicator.
4. Both indicators and results should be crafted to reflect change among the desired population/ stakeholders. Gender- and age-differentiated results, for example, can only be measured by indicators that are specially designed to reflect them. Identifying a baseline and target for the change adds to the relevance and manageability of the indicator.
5. Ask children. Consistent with a child rights approach, it is desirable to develop indicators that rely on children for information and opinions. Of course, an ethical approach that secures the confidentiality and safety of children must be applied when collecting such information.
6. Under-reporting is a common problem in child protection. Low numbers of reports do not mean low prevalence of a problem or occurrence. Under-reporting can be addressed through the triangulation of the following:
  - The selection of multiple indicators from different sources and perspectives.
  - The selection of key indicators that measure a system's capacity and effectiveness in the identifying, reporting and referral of the problem. (This will shed some light on the portion of a problem being addressed.)



A critical test of an indicator rests in the practicality of monitoring it. Ask yourself: how easy is it to obtain and analyse data for this indicator?

# TECHNICAL GUIDES

**Part Three: SOCIAL BEHAVIOUR CHANGE**

**Part Four: LEGAL AND REGULATORY SYSTEM**

**Part Five: SOCIAL WELFARE SYSTEM**

## Purpose

These Technical Guides provide a much greater degree of detail than the previous parts. Each Technical Guide reflects the three core prevention and response systems identified in the EAPRO Child Protection Programme Strategy.

In each Technical Guide, there are a number of tools proposed as programmatic guidance for country offices. The tools included here are not the only tools that child protection officers should use in implementing programmes. The tools provided are those considered to be the most useful and important in setting out on the process of developing child protection systems. The toolkit is designed in a binder folder so that other tools can be added and further technical guidance will be developed and shared.

It is important that the general framework for the child protection programming process (as explained in Part Two) is understood before approaching these Technical Guides.

Each tool included in the Technical Guides can be used independently; the aim is for flexibility, depending on how child protection systems are approached in different countries.

Although the separation into three systems is practical, it also reflects the general division of functions in most countries. But these systems do not function separately and have areas of contact, exchange and overlap with each other. The connections and cross references between systems have been captured as far as possible in the different tools. However, the necessity of keeping the tools as simple as possible has limited the recognition of the many interactions among different systems, limiting it to the most important.

Finally, the complex task of building and promoting prevention and response systems for child protection suggests a combined use of the three parts. The prioritizing, the choice and the selection of the tools will be largely determined by the situation of a country context and the phase of a country programme.

A reminder: Keep in mind that the Technical Guide on the social behaviour change system is still in its formative stage and will be further developed. Within the technical guides on the legal and regulatory system, there are six subsections, or mini manuals, that also are in varying stages of development. The technical guides on the social welfare system are the most advanced overall but remain flexible to adapt to suggestions.

## Technical Guide

# Part Three SOCIAL BEHAVIOUR CHANGE SYSTEM

### 3.1 Introduction

### 3.2 Society, Behaviour and Change

### 3.3 Strategies for Change

## **Purpose**

This technical guide provides a very brief outline of some of the issues to be considered in social behaviour change and its relationship to the legal and regulatory system and the social welfare system. This section is currently in a developing phase and will be elaborated on over time.



## 3.1 INTRODUCTION

Change is a central concern for child protection programming and building systems. Social and cultural change is an inherent part of life around the world: societies are not static; cultural ideas and practices are continuously shifting, which has an effect on individuals, groups, organizations and social institutions. The goal of UNICEF in contributing to national and international efforts is to fulfil children's right to protection. This involves changing situations in which all children are not protected.

The changes necessary to protect all children involve the behaviour (actions and attitudes) of individuals, organizations, businesses and government institutions, such as ministries, police, schools and so on. Given this widespread arena for change, it is crucial to engage with both stakeholders and communities. This means that children's participation is a key strategy, along with partnerships with community groups and civil society and with the private sector. Change in government is also important; two of the main areas for child protection are discussed in the technical guides on the legal and regulatory system and the social welfare system.

This technical guide looks at the background to social behaviour change and the principles and some interventions for implementing strategies in this area. The section is divided into two parts: The first provides an introduction and background to the underlying ideas of social behaviour change. It begins by looking at the use of the term 'system' in this context and particularly the links to society, behaviour, social systems and to a systematic approach to behaviour change.

This first section goes on to consider behaviour and its connections with culture and values. It then looks at ongoing change, both positive and negative. The section concludes with the idea of a systematic approach to social behaviour change, particularly the components of knowledge, skills and attitudes or values that might be addressed and promoted – along with the notion of effective change.

The second section is concerned with more practical action around systematic social behaviour change. This looks at the process of developing strategies for change, including analysis, and the importance of children's participation and partnerships with civil society community groups and other organizations – private, religious and government.



Technical Guide

Part Three: SOCIAL BEHAVIOUR CHANGE SYSTEM

## 3.2 SOCIETY, BEHAVIOUR AND CHANGE

Positive and negative change

The social behaviour change system

Knowledge, skills, values and attitudes

Principles for effective social behaviour change



## 3.2 SOCIETY, BEHAVIOUR AND CHANGE

The EAPRO Child Protection Programme Strategy identifies three areas of work for prevention and response to create a protective environment for children – the social behaviour change system, the legal and regulatory system (including the justice system) and the social welfare system. The latter two can be analysed as bounded, institutional systems operating within a society. They also constitute institutions that form part of the first, more complex social behaviour change system.

Regarding social behaviour change, the term ‘system’ is used in two ways: It refers to both the social system and to a systematic approach to behaviour change. The three important areas to consider and unravel are the social system, behaviour and change. Following this, the groundwork for a systematic approach can be laid out.

To develop appropriate legal and regulatory (justice) and social welfare systems, it is essential to pay attention to social behaviour. The implementation of legal and social welfare systems depends on individuals as well as organizations, government and civil society agencies and their policies and resources. The environment in which systems operate involves communities and private businesses as well as government and civil society sectors. For legal, justice and social welfare services to be delivered effectively and accountably, appropriate behaviour of individuals within a social system is necessary. The aim of developing a systematic approach to social behaviour change is to develop positive attitudes towards children that ensure they are free from abuse, exploitation, neglect and violence in line with the Convention on the Rights of the Child.

### Society

A society can be defined as “the system of social relations characteristic of any social group, that is, a group whose members share a common culture”.<sup>1</sup> A social system is the structure and institutions of a society, including the forms of relationships, distribution of power and accountability. A social system consists of the sets of relationships between the various groups that comprise national and local societies, including mechanisms of government and their agencies (at the macro level) as well as formally and informally constituted groups, families and individuals (at the meso and micro levels). The system is governed by law (with formal law enforcement agencies) but also by culture. Cultural practice includes informal rules governing behaviour and sanctions to be invoked for wrongdoing, based on collectively held values and beliefs.

A systematic approach to social behaviour change means identifying what changes are desired and developing a strategy that works on that change in all the key and relevant areas of society – not just influencing individuals but organizations and groups. At the level of society, a national culture informs social systems; at local levels there may be variations in the culture that need to be taken into account in any approach to social behaviour change.

### Behaviour

Behaviour includes proactive and responsive actions of individuals, groups and institutions. These may be verbal, non-verbal or physical actions in the company of children that directly affect them. Or they can be decisions, policies and practices of groups and institutions that control, initiate and implement actions and activities that affect children. These actions may have a positive or negative effect on children. Positive actions will lead to children’s personal development; for example, children learning or gaining self-esteem. Positive actions will lead to the fulfilment of children’s rights. Negative actions will impede or have a detrimental effect on children’s development or damage their lives. For example, negative actions may range from individual bullying, emotional abuse and exploitation to social exclusion, discrimination and physical violence. Negative actions violate or lead to violations of children’s rights.

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<sup>1</sup> Spiro, 1992 p. 4

From the point of view of protecting children, positive behaviour should be maintained and reinforced, and negative behaviour should be changed.

The behaviour of individuals, groups and institutions is largely based on culture: the views, attitudes and practices that promote and permit, sanction and constrain what is acceptable and unacceptable behaviour. Culture includes a particular understanding of the relationship of human behaviour to the natural world and any beliefs in religion. Cultural understandings, practices and beliefs are shown and reinforced in many ways, including material signs, language, festivals, performances, ways of meeting and interacting, and forms of polite and impolite behaviour. Culture can be defined as “a historically evolving, socially transmitted and socially shared cognitive system – a system of interrelated propositions, both descriptive and normative, regarding human society, nature and the supernatural – that is encoded in public signs”.<sup>2</sup>

One of the problems with social behaviour and child protection is that some actions that people believe (or say they believe) will benefit children, actually has the reverse effect and is damaging to both children and to society. One dramatic example is corporal punishment, which in some places is defended on the grounds that it is educational. However, such violence can have devastating effects, including “lifelong social, emotional and cognitive impairments”, “health-risk behaviours”, “related mental health and social problems” and “associated later on in life with lung, heart and liver disease” and so on.<sup>3</sup> Clearly social and cultural ideas that promote and support violence towards children, including corporal punishment, are very damaging and have social consequences and costs in, for example, the need for health care and services.

The issue of behaviour change will usually need to go beyond communication of new ideas because behaviour is embedded in the complexities of cultural practice and processes that affect each other. Language is important; for example, the ways in which the meanings of words have different connotations. In some languages, the notion of discipline has connotations of education, which makes for additional complications in the issue of corporal punishment. Individual human behaviour is influenced by culture and by the laws and regulations of social systems, including the rules and regulations of groups and institutions to which an individual belongs, such as the place of employment. However, making new laws and regulations is not necessarily going to change behaviour: The cultural context of everyday practice and organizational life must be considered. To make changes in human behaviour means looking at the different aspects of individual and institutional social and cultural life and engaging with people.

## Change

An essential point is that cultures and societies are continuously evolving. Within societies there are variations in culture, and within cultures there are spectrums of acceptable and unacceptable behaviour, attitudes and beliefs – which also change over time. There are various competing influences that seek to change behaviour. These processes of continual, ongoing change offer opportunities for the protection of children.

The directions in which cultures and societies change depend largely on internal factors as much as some outside influences. Change cannot be rigidly or suddenly imposed from the outside but must be connected with internal cultural ideas and processes of change if it is to be sustained and integrated. This reality of ongoing social and cultural change offers legitimate opportunities for UNICEF to link and support changes that are in the best interests of children: changes founded on ethical outcomes and rights-based approaches.

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<sup>2</sup> *ibid.*

<sup>3</sup> See pp 13-17 of UN. 2006. *World Report on Violence Against Children*. Geneva.

## Positive and negative change

While change is ongoing, it is not always welcomed; a particular change can be positive or negative. Different groups of people may see the same change in different ways: Some may view it positively and some negatively. For example, the privatization of public utilities (water, electricity, gas) in some Western countries was viewed as a negative change by many people and seen positively by some others. An increase in social and economic inequality at the end of the twentieth century was seen as a negative change by many people but looked at positively and encouraged by some others.

Competing perspectives on actions and behaviours underpin the continuous process and evolution of changes. Even where an apparently similar outcome is envisaged, there can be different perspectives on how to achieve this end. Some changes are not in the best interests of children, although that may have been the intention. For example, attempts to prohibit children working in some factories through inspection, with the ultimate sanction of goods not being bought by Western consumers, have been tried. The response of factories has been to hide children and thus make their employment circumstances worse or to limit their employment. But where children are working out of need for cash to survive, this action has then forced them into more exploitative or dangerous employment.

Because change is happening all the time, there may be a need to resist some changes that are not in the best interests of children. For example, there have been proposals in places to ensure gender equality by making girls as well as boys liable to corporal punishment in schools (rather than the preferable change of abolishing it for boys as well as girls).

The positive and negative outcomes mean that change must be considered in a certain context, with several possibilities: aiming for a change of behaviour, maintaining behaviour, promoting existing behaviour or resisting changes.

## The social behaviour change system

It is not possible to completely incite social behaviour change with one activity. For example, reforming the laws will not immediately change the behaviour of all individuals. A legal ban on smoking in public places in the United Kingdom in 2007 did change aspects of individuals' behaviour (they go outside to smoke) and institutional policies and practice (offices, restaurants, cafes and pubs provided smoking areas and facilities outside) but has not yet achieved a change desired by public health and other bodies of eradicating smoking completely.

But even for the ban to be achieved, there had to be some majority consensus that smoking should be reduced and eradicated. That consensus revolved around a number of issues, including the damage to the health of the smoker, the costs of smoking to the smoker (money that could be spent on other pleasures), the damage to the health of nearby non-smokers (including children), the social costs of health care in a country with a national health service free at the point of delivery. This consensus needed to outweigh the benefits to the government in taxes raised on tobacco, the arguments of 'freedom' groups (free to smoke where you please, non-intervention in personal lives) and the income accruing to tobacco businesses. The change in consensus took some time to achieve, even when awareness of health issues and smoking was widespread.

In terms of child protection work in which changes in attitudes towards children are often fundamental, and abusive, exploitative and violent actions are less visible, the shifts required in cultural behaviour are even more complex because they concern power relationships within families and between generations. However, significant changes have occurred in some countries; for example, the legal prohibition of corporal punishment, with subsequent changes in behaviour and attitude of individuals.

To be effective, change needs to act upon individuals (who will alter their behaviour), institutions (that will adopt a different working approach) and be taken on as a cultural value in order to sustain. This may require work at several levels; for example, to protect children at school, particularly from violence by teachers, can require changes in the behaviour of individual teachers and other adults and in school policy and practice. It also requires changes within the local and national government education authority policy and practice (to encourage inspection and reporting and to take action against individuals). This change needs some cultural shifts in the way children are treated and the perception of violence. Some of this shift will need to apply to parents and others in local communities who would otherwise encourage the use of corporal punishment at school as a means of controlling and 'educating' children.

To develop a culture of prevention and response to abuse needs both services to take action and someone to report to. It also needs the individual action of reporting to be validated through a consensus that such abuse is wrong. This means individual and institutional recognition of the problem of abuse, its existence and the damage it causes to individuals and society. But individual change is not enough: There needs to be shifts in the surrounding collectives and community and in institutions. For example, a single teacher might decide not to use corporal punishment in a school where it is otherwise used; children will still be damaged by violence from other teachers. Where parents do not use violence on children, this benefits the children. But in some places, parents also may need to prohibit teachers' use of violence where it is common in schools. Change needs to be consistent and systematic, although it may strategically shift incrementally.

## Knowledge, skills, values and attitudes

The necessary components of change reflect those of individual competence because societies and cultures need to be competent in protecting children. These components are knowledge, skills, values and attitudes.

Attitudes and values are fundamental in systematic social behaviour change because they link into cultural norms and expressions. While cultures generally value children, they may not prioritize interventions for child protection over the autonomy of the family or of other institutions. However, shifts in similar priorities have occurred in countries. For example, the change from allowing husbands to beat their wives in the nineteenth century in England and the United States to police and legal action and the provision of refuge for victims of domestic violence. But while there has been a shift in attitude towards women there, there is still need for more work on change, along with the provision of appropriate services: Domestic violence remains a problem requiring ongoing change because of the way it is embedded not only in attitudes but in broader cultural gender perspectives and practices.

Knowledge is linked to changes in attitude; for example, in understanding the personal, familial and social damage caused by violence towards, and abuse and exploitation of, children. Practitioners need to know how children should be protected, how to respond appropriately and have commitment to respond and to be proactive in looking for the abuses. All people in a society need basic knowledge on children's rights and the importance of respecting those rights and thus knowing where to report incidence of abuse, exploitation, neglect or violence. Ultimately, different parts of the social system need different levels of knowledge.

Aspects of behaviour that are important for child protection include skills to go alongside values and attitudes. These include basic skills of interaction; for example, shifts in behaviour so that children are not inadvertently hurt emotionally by the way they are treated. Such skills of respect will fit with valued attributes of cultures: Enabling children to speak out against abuse, exploitation, neglect and violence shows respect for them and encourages children to show respect for adults and institutions that value humanity and contribute towards a harmonious society. An important set of skills include assertion and the ability to make changes in personal behaviour that are in the best interests of children while resisting social pressures not to do this; for example, parents or teachers deciding not to use violence against children and resisting any pressure from the community (or grandparents) or from colleagues not to make this change.



## Principles for effective social behaviour change

For change to be effective, it needs to be rooted in the local context, culture and community. If systematic change is to be achieved, then change is necessary at different levels; for example, change in individuals, in groups, in organizations, in institutions, in family and community life. This has to involve participation of children and adults in local communities in processes of change, but it also must engage civil society organizations, including community groups, private businesses, government agencies and religious groups.

The participation of individuals will help facilitate personal change. But because civil society organizations, government agencies and private businesses are made up of individuals, that personal change will also be part of the changes in organizational life. Personal changes in knowledge, skills, values and attitudes also will be part of shifts in family and community life.

Public dialogue through media and local performances, festivals and other community events and gatherings can disseminate ideas and stimulate discussion. The involvement of individuals in discussions and in communicating ideas is a means of personal change in themselves. The involvement of local groups in such collective action and in media stories enhances local ownership of change.

In addition to participation in debate and the presentation of ideas for change, local communities can be involved in documenting change through traditional forms, such as storytelling, song and drama that describe past and present circumstances. Participation in monitoring processes of change and in formal evaluation of projects are also approaches for local control and ownership. The importance of participation and the need to involve a range of different segments of society indicate some of the important strategies for social behaviour change.

## Notes

## Notes

## Notes



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Technical Guide

Part Three: SOCIAL BEHAVIOUR CHANGE SYSTEM

## 3.3 STRATEGIES FOR CHANGE

Stages

Supporting social behaviour change





## 3.3 STRATEGIES FOR CHANGE

The participation of children and partnerships with adults are major components of strategies for change. Before engaging with children and adults, however, the main elements in developing and implementing a strategy for social behaviour change should be laid out. These include identifying the desired nature of change and who is involved at different points. These two are interconnected at local and national levels because identifying a change in behaviour often also suggests whose behaviour needs to change to achieve the goal.

### Stages

The starting point and early stages for a strategy will be interlinked and include:

<b>1. Vision</b>
a vision of a society respecting and protecting children;
<b>2. Analysis</b>
an idea of what overall changes are needed to achieve the vision (this will come in part from the UNICEF situation analysis and the problem analysis done as part of the child protection programming process);
an understanding of the social and cultural context (particularly local ideas of childhood);
<b>3. Participation and partnerships</b>
engagement with children and children's groups;
engagement with adults and adults' groups;
<b>4. Selecting interventions</b>
identifying specific areas of change in conjunction with children's and adults' groups;
identifying:
the parts of the social system that need to be involved in making this change;
who to act upon (which individuals, institutions and processes);
what the entry points can be for working with individuals, groups and institutions;
<b>5. Action</b>
designing a plan with children and with adults' groups;
identifying partners;
implementing with children and adults, groups and organizations.

The changes will work towards building the context for a legal and regulatory system and social welfare system for children and families as well as influencing the processes of those systems.

## 1. Vision

A clear vision is set out in the UNICEF Global Child Protection Strategy:

“Preventing and responding to violence, exploitation and abuse is essential to ensuring children’s rights to survival, development and well-being. The vision and approach of UNICEF is to create a protective environment where girls and boys are free from violence, exploitation and unnecessary separation from family; and where laws, services, behaviours and practices minimize children’s vulnerability, address known risk factors and strengthen children’s own resilience. ... It reflects children’s own roles and resilience as agents of change and actors in strengthening the protective environment.”

One of UNICEF’s aims is to achieve social consensus for child protection, making shifts in societal attitudes and behaviours to achieve this (UNICEF Global Child Protection Strategy, II.B.27, 28).

In making a society that will not tolerate all forms of abuse, exploitation, neglect and violence of children, a vision of change will include:

- upholding attitudes, traditions, customs, values and behaviours that fully respect the rights of children, especially girls, minorities, non-citizens and children with disabilities;
- encouraging open discussion and engagement on child protection issues;
- facilitating and encouraging children’s participation at all levels;
- perceiving children not as passive victims but as active agents of their own life.

## 2. Analysis of childhood and context

The causality analysis and the capacity-gap analysis will provide ideas for what are the major protection issues and what overall changes are needed and where in the systems. Some additional analysis will be needed to understand the local context for behaviour so that change can be taken up in partnerships. The elements for a situation analysis for social behaviour change include an understanding of the roles and attitudes of national and local governments, community groups, institutions and agencies that work with children. But it also includes some broader social analysis. It is crucially important to understand the cultural context of ideas of childhood and diversity.<sup>1</sup>



Questions for childhood analysis might include:

- What are the ideals of family life?
- What are the roles of children?
- What is the expected behaviour of girls and boys at different ages?
- What are the attitudes to disability and education?
- At what age is it thought that girls and boys should marry and have children?
- What is the role of religion in children’s lives?
- What and where are the main interactions between children and adults?
- What is the extent of knowledge about child abuse, exploitation, neglect and violence? What are individual and group attitudes to those situations and to protection?
- What social norms exist that promote the protection of children?

<sup>1</sup> See West, A., O’Kane, C. and Hyder, T. ‘Diverse Childhoods: Implications for Childcare, Protection, Participation and Research Practice’ pp 266-296 in *Childhoods: Changing Contexts*. Comparative Social Research vol. 25.

Some questions on local perceptions of social welfare and justice services will derive from work on the legal and the social welfare systems. But in addition, situation and problem analyses need to look for barriers to change and to identify entry points for action in society generally.



Some additional generic questions for situation analysis of problems include:

- Is there widespread support for traditional practices and child-rearing techniques that are harmful to and/or protective of children?
- Are harmful practices underpinned by religious beliefs?
- Are women and girls discriminated against?
- Are there widespread social norms that promote or reinforce the safety and well-being of children (such as communal support for children affected by HIV or AIDS, support for kinship care over institutional care arrangements, promotion of child participation in family decisions)?
- Are the various forms of harm against children tolerated or encouraged (such as child marriage, severe physical punishment, sending children away to work)?
- Are the various forms of harm against children condemned or reviled by society (such as child prostitution, viewing of child abuse imagery, foeticide)?
- Are there groups of children marginalized or stigmatized in the community (such as orphans, children affected by HIV or AIDS, disabled children, migrant children, children from minority groups, children of different ethnicity or nationality)?
- Does the media report practices harmful to children? In what way?
- Are children able to speak openly about protection issues at home or at school?
- Is there a system for reporting abuse, exploitation and violence of children? What responses are made?

### 3. Participation and partnerships

For change to be effective, programmes and interventions have to move beyond communication and awareness-raising and engage with children and with adults. Too often, communication activities have been planned and implemented with the mass media in mind - at the expense of community participation that could have transformed the messages addressed to individuals and families into new social norms. In addition, many communication or even participation activities are not linked and are difficult or impossible to monitor in terms of behaviour or social change. Certainly there have been many communication initiatives that have succeeded in enhancing public awareness and may even have increased people's knowledge of a certain issue, but there is little evidence that they have stimulated positive social changes. Although behaviour change can't be guaranteed, communication strategies need to promote an awareness of why a practice or investment makes sense from the point of view of the audience.<sup>2</sup>

Strategies need to involve both children and adults. Many adults are involved in UNICEF's work, as individuals and in their roles as employees, officials and members of government agencies, civil society organizations (including different community groups), religious bodies and private businesses. Some of these organizations and agencies can be engaged in partnerships for change; for example, in taking a lead on protection policies and practice internally, in providing time and resources to engage with their employees or in reinforcing some behaviours and promoting new behaviours internally and in the local community. Partnerships with academic institutions can lead to research and analysis that improves and develops knowledge and understanding of abuse, exploitation, neglect and violence and methods of protection.

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<sup>2</sup> UNICEF. 2008. *Cambodia Regional Mid-Term Report*.

Children's participation is crucial. Children will necessarily be involved in situation and problem analyses but should then move on to the next stages of identifying strategies and taking action. Children's participation is important in developing effective interventions now as well as for the future. Children will grow and become adults and most will become parents; they will work in the private sector, in civil society organizations, in government and in religious groups. They will have influence over children's protection and participation in the future. Ideas and changes in their lives now can affect how they will behave in the future towards the next generation of children.

### Children's participation<sup>3</sup>

Children can be and must be involved at all stages of strategy development and implementation as well as with the strategy and problem analyses. Children's participation means children having opportunities for expressing their views, being consulted and having their views taken into account in planning, decision making and action, being involved directly in decision making, making decisions on their own and with adults, and taking action.

In planning and facilitating children's participation, attention must be paid to the diversity of childhood. Children are of different ages, and the experiences and ideas of girls and boys, teenagers and younger children will be different. A range of children can be and should be involved, paying attention not only to girls and boys and different ages but disabled children, minority groups, children out of school, those who work, migrants and other groups. Different groups and ages of children may be involved to different extents and will have different and evolving capacities.

In the problem analysis stage, children can identify protection issues, problems and manifestations they and their friends experience. Children can run consultations and undertake research or do this in conjunction with adults. Children's views will be an important part of understanding local perceptions and experiences of childhood. Just as society and cultures change, so too does the detail of childhood experiences: Childhood is not the same now as when adults were children. There are different problems and opportunities and to understand protection issues and how local services impact on children's lives, children must be consulted.

Children already are taking action on child protection and other issues in Asia and elsewhere. These have ranged from participating in research to children's groups that take action to protect and advocate for children's services (such as street-based children's groups like the Child Brigade in Bangladesh). Children have been involved in emergency preparedness and in taking action during and after emergencies. Children have been involved in taking action to support other children as well as identifying community problems and possible solutions.

Children can be involved in protection work and social behaviour change in a variety of ways. Although the development of children's organizations is often highlighted as a strategy to support children in many circumstances, there are other ways in which children can participate. For example, they can be involved in the selection of staff in services, in the design and development of advocacy campaigns, providing information and training others.

Apart from developing their own ideas, children can comment on and evaluate the ideas of adults. In particular, children can assess and evaluate services provided. When children are users or potential users of services, their participation in evaluation is particularly important.

## 4. Selecting interventions

Given the importance of children's participation, one of the main entry points will be engagement with them. Another will be developing partnerships with civil society organizations that are involved with children and facilitate and promote children's participation. Once engaged, the decisions on what actions to take, who will take them, the advisory groups and other monitoring should also involve children.

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<sup>3</sup> There are increasing resources on children's participation. A useful start is the *Child and Youth Participation Resource Guide and the Children's Participation in Emergencies*, both published by UNICEF EAPRO and which contain links and suggestions of other participation resource material.

In addition to engagement with children, partnerships with adult groups, especially those civil society organizations with strong links in communities, will be important in understanding local ideas of childhood and protection issues, and identifying possible solutions and areas for change.

The process of engagement with children's groups and partnering with them and with adult civil society organizations will need to link up with entry points identified through the problem analysis and key problems and sites of change. Because of the involvement of children and communities in problem analysis, the identified protection problems and subsequent (or continuing) engagement with children's groups and with adult groups should be similar.

One of the starting points for developing work on social behaviour change largely depends on what the causality analysis indicates as key problems for children and where the capacity-gap analysis identifies strengths and weaknesses (see Part Two). These analyses will show which areas of the social system need to be changed as a priority because they somehow support serious and/or extensive problems of abuse, exploitation, neglect or violence. The analyses also will indicate good entry points – agencies, institutions, groups and individuals that are interested in supporting and promoting change or particular events, anniversaries, reforms, aspects of social and economic change that provide an influential opportunity for promoting and supporting change.

The interested agencies, institutions, groups or individuals that offer starting points will usually have some influence and may be government or non-government organizations, media (newspapers, television, radio and even the Internet), banks or other private businesses and well-known individuals from film, sport or other arenas. Although publicity surrounding major conferences or congresses is typically regarded as a good vehicle for promoting change, other opportunities might include linking with publicity campaigns run by businesses (just as animal rights campaigns have been linked with fashion and cosmetics brands, although they may not seem the most obvious partners at first) or sporting events. To develop strategies that are consistent with change, other entry points may be more direct, such as where public concern focuses on aspects of children's lives.

## 5. Action and interventions

In developing a strategy, the end goal may be broad (such as the acceptance and use of an effective social welfare system for children and families) or specific (such as an end to corporal punishment). These two goals are linked in that abolition of corporal punishment may be seen as a step to an effective social behaviour change system: But local circumstances and the situation analysis may suggest that a broader notion of child protection might be accepted earlier and the necessary abolition of corporal punishment follows afterward.

The initial selection of a key issue for intervention or strategy will be based on analyses, including the identifying of possible entry points, together with the views of children and partner organizations. The selection should be approached comprehensively and thus linked to work on developing the legal/regulatory system and the social welfare system. In particular, the rights-based part of analysis will identify who is accountable – who are the main duty bearers for this area of protection. The analyses will indicate where the weaknesses are in knowledge, skills, values and attitudes of the duty bearer and associated organizations and in the public generally. The analyses also should reveal strengths, such as cultural practices and ideas, that provide a foundation that can be built upon to attain the change.

Once these areas have been identified, the sequencing of a strategy can be developed. Engagement with groups of children and civil society community groups will be one place to start. Following on from this does not necessarily mean beginning with a public campaign. Rather, it could mean forming partnerships with key government departments or officials or partnerships with interested groups, such as NGOs or private businesses. Much depends on the goal and the sequencing of the strategy. In some countries where the use of media campaigns would be anathema until some other work had begun with government and other organizations, a public campaign might come further along in the strategy. However, important moves towards tackling social change do include promoting open discussion in various forums, including the media.

Actions will be based on what is needed in terms of knowledge, skills, values and attitudes. For example, an understanding of the reality and extent of child abuse, exploitation, neglect and violence may be needed. This may require research and dissemination of the main findings – to produce knowledge about the problem and support a shift in attitudes to prioritizing it and taking action against it.

## Supporting social behaviour change

Some strategic actions for supporting social behaviour change are described in the UNICEF Global Child Protection Strategy, II.B. These actions point to the need for developing a consensus around protection, which often involves a shift in attitudes, values and social norms.

Five areas of strategic action on social behaviour change are suggested: i) increasing knowledge and data collection; ii) strengthening the protective role of families (for example promoting parenting education on alternatives to violence); iii) strengthening the protective role of communities (opening dialogue on children's rights and combating stigma and discrimination); iv) promoting meaningful child participation and empowerment; and v) supporting public education and social dialogue.

## Notes

## Notes





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## **Technical Guide**

# **Part Four LEGAL AND REGULATORY SYSTEM**

- 4.1 Introduction**
- 4.2 The Role of the Legal System in Child Protection**
- 4.3 Checklist for Reviewing Legal and Policy Frameworks**
- 4.4 Justice for Children Programming**
- 4.5 Drafting Juvenile Justice Legislation**
- 4.6 Strengthening Diversion, Restorative Justice and Alternatives to Detention**
- 4.7 Training Justice Sector Officials**

## **Purpose and intended user**

This technical guide focuses on the legal basis and processes for protecting all children from harm as they come into contact with the legal and regulatory system (‘legal system’). This includes how the structures are set up to prevent children from being harmed in the first place, or again. The emphasis in this first version of the Toolkit is on introducing the legal system, with more to come over time on how to actually work with the system to keep children safe.

To help UNICEF child protection staff better understand their country’s legal systems, this technical guide first provides a detailed explanation of the different concepts and elements of a legal system, which includes the justice system. Included are guiding questions for use when conducting a preliminary analysis of a country’s legal system. In addition, there is a list of legal and policy frameworks relevant to child protection to be used as a tool for analysis.

The technical guide also explains the UN Approach to Justice for Children, which is a United Nations strategy recommended for all agencies to incorporate into their programming work. The UN Approach complements the global and EAPRO child protection strategies and serves as a useful starting point.

The final three guides are each tools in themselves for promoting, first, model legislation for children in conflict with the law; second, diversion, restorative justice and alternatives to detention; and then the training of justice sector professionals, including the police.

Although this material is primarily intended for UNICEF staff, the legal and policy frameworks tool can be shared with government partners and legal experts as part of a national review of laws and policies for child protection. The training guidelines offer a set of principles, strategies and steps that can be applied to almost any area of training.

## 4.1 INTRODUCTION

In tandem with the social welfare system and social behaviour change, the legal system is an integral part of protecting children against *all forms* of harm as well as promoting children's rights generally.<sup>1</sup> Although this technical guide focuses on the legal system, it is important to consider at all times its relation to the other two systems that make up the environment for protecting children.<sup>2</sup> While child protection practitioners can engage in specific interventions within a single system at any given time, the overall EAPRO Child Protection Programme Strategy involves working on all three systems in various combinations and at different stages.

Because the legal system for child protection varies depending on the individual country, the tools presented in this technical guide are not intended to be prescriptive. They are offered as guidance to help support government and other partners in strengthening a country's legal system to *prevent and respond* to the broad range of child protection issues at all levels. When approaching legal system-building, UNICEF staff should be aware of a country's legal tradition and frameworks as well as the structures and processes in place to protect children. This includes identifying different sectors and corresponding institutions within the justice structure and understanding the laws, policies and procedures that govern how justice officials work with and for children.

In the preparation of this technical guide, lively debates took place on what constitutes a legal system versus a justice system – particularly as the UNICEF Regional Child Protection Programme Strategy highlights the former while the UNICEF Global Child Protection Strategy emphasizes the latter. For purposes of this Toolkit, these two systems are not disconnected; the legal system encompasses the justice system.

This technical guide starts off drawing attention to the broader legal system for several reasons:

i)	to clarify, contextualize and reconcile the legal system with the justice system, as referenced in the UNICEF global and regional child protection strategy papers;
ii)	to highlight that child protection within the legal arena resonates beyond the justice system;
iii)	to recognize that child protection practitioners often support legislative reform <sup>3</sup> with cross-cutting, farther-reaching implications than the justice system or even child protection. For example, supporting ratification of core treaties, drafting reports to human rights treaty bodies, national law reviews, constitutional reform, universal birth registration and implementation of a comprehensive children's code are aimed at promoting all children's rights outlined in the CRC.

<sup>1</sup> Children's rights are enshrined in the Convention on the Rights of the Child (CRC) and numerous other international instruments (see the checklist for the legal and policy framework review).

<sup>2</sup> It is also important to keep in mind other systems - such as education, health and economic – and their role in promoting child protection as well as their intersections with the three core prevention and response systems.

<sup>3</sup> Legislative reform involves reviewing and reforming laws and anything else necessary to effectively implement them – legal and other government institutions, social and economic policies, budget allocations and the process of reform in the country; see *Supporting the Realization of Children's Rights Through a Rights-Based Approach to Legislative Reform*, UNICEF DPP, January 2007, p. 11.

The first half of this technical guide is designed to advance the legal literacy of child protection practitioners. It begins with a brief examination of the legal system's role in child protection (section 4.2). Then it explains the three parts of a legal system: legal and policy frameworks, structures and processes. This is important because UNICEF primarily supports the development or reform of (i) laws and policies; (ii) structures (including institutions, capacities and services); and (iii) processes. The frameworks tool (section 4.3) provides guidance on reviewing a wide range of laws and policies that can make a difference in protecting children.

The second half of this technical guide moves into the justice system. As noted, the justice system is the part of a legal system responsible for enforcing laws and policies to promote justice for children. Section 4.4 introduces child protection practitioners to the UN Approach to Justice for Children, and Sections 4.5, 4.6 and 4.7 offer practical programming guidance for strengthening the justice system.

## 4.2 THE ROLE OF THE LEGAL SYSTEM IN CHILD PROTECTION

- A. The legal system
  - i) Legal and policy frameworks
  - ii) Law-making and law-enforcing structures
  - iii) Processes in the legal system
- B. The justice system
- C. Legal traditions
- D. Analysing the legal system

## **Purpose and intended users**

Guide 4.2 provides an overview of the legal system and its various parts, including the justice system. It describes how laws and policies, structures and processes come together to form the whole system. Further, it explains key concepts, including how laws vary from policies; how a structure is made up of different institutions; and how processes affect the overall functioning of a system.

This guide is a primer on the legal system. It is intended to be an evolving document with supplementary tools added in the future. Whether included in induction or refresher trainings, this guide is useful for all child protection practitioners, particularly for those who are not legal experts or for those who have worked on specific issues in isolation from the broader child protection context.



## 4.2 THE ROLE OF THE LEGAL SYSTEM IN CHILD PROTECTION

Child protection practitioners should strategize on ways to develop, strengthen and capitalize on the legal system to remedy denials or violations of children's rights to protection. The legal system is also instrumental in preventing abuse, exploitation, neglect and violence by addressing the underlying or basic causes of those violations.

Interventions for building the legal system may involve supporting a government to draft laws, create policies, reform justice institutions (including improved quality of services and capacities) and develop operational standards and procedures - or some combination thereof. The goal is the protection all children from abuse, exploitation, neglect and violence, which is also the basis for measuring progress and monitoring accountability.

### A. The legal system

The legal system should not be viewed narrowly in terms of its role in promoting overall child protection. Regarding the legal system as simply laws and policies, 'things on paper', fails to take into account the broader living system through which laws and policies are made and enforced to protect children from harm.

In practice, laws and regulations govern – and are implemented through – the justice system, the social welfare system and other systems within a country. This means that the work and operation of the legal system must be considered in conjunction with other core prevention and response systems (social welfare and social behaviour change) that sustain the protective environment for children.



#### The difference between a 'legal system' and a 'legal framework'

A country's *legal system* is a constantly evolving entity that develops and enforces rules with the purpose of regulating behaviour. It is generally composed of three parts: a) legal and policy frameworks; b) law-making and law-enforcing structures; and c) processes.

A country's *legal framework* is a core part of the legal system and refers to 'things on paper': the broad range of laws, regulations, resolutions, rules, proclamations, orders and other instruments carrying the force of law.

## The use of the legal system for children’s protection

Child protection practitioners can strategically analyse the legal system to develop harder-hitting strategies to protect children, including:

ratification of international instruments (conventions, protocols) for child protection;
harmonization of domestic legislation with international instruments and standards;
regional or bilateral instruments to strengthen protection for children;
budget allocation for child protection incorporated into laws or policy;
streamlined child protection policies and implementation strategies;
justice sector reform:
<ul style="list-style-type: none"> <li>children’s right to participation, legal representation, legal aid, access to justice, services and protection within all sectors of the justice system;</li> <li>child victim- and witness-sensitive measures at all stages of the criminal justice process (the investigative, pre-trial, trial, post-trial stages);</li> <li>children’s access to legal remedies under the civil justice sector;</li> <li>deprivation of children’s liberty as a last resort under both the criminal justice and administrative justice (such as immigration) sectors;</li> <li>creation of non-criminal justice institutions and mechanisms to encourage systematic reporting, monitoring and response to denial and/or violation of children’s fundamental rights, which entails: <ul style="list-style-type: none"> <li>strengthening civil and administrative justice institutions and mechanisms to promote universal birth registration;</li> <li>empowerment of civil and administrative justice institutions to enforce children’s access to justice, care and protection, regardless of their (or parents’/legal guardians’) race, colour, sex, language, religion, political or other national, ethnic or social origin, property, disability, birth or other status;</li> <li>linking and synchronizing between formal and informal justice sectors aimed at ensuring children’s access to justice, care and protection, in full conformity with international standards.</li> </ul> </li> </ul>

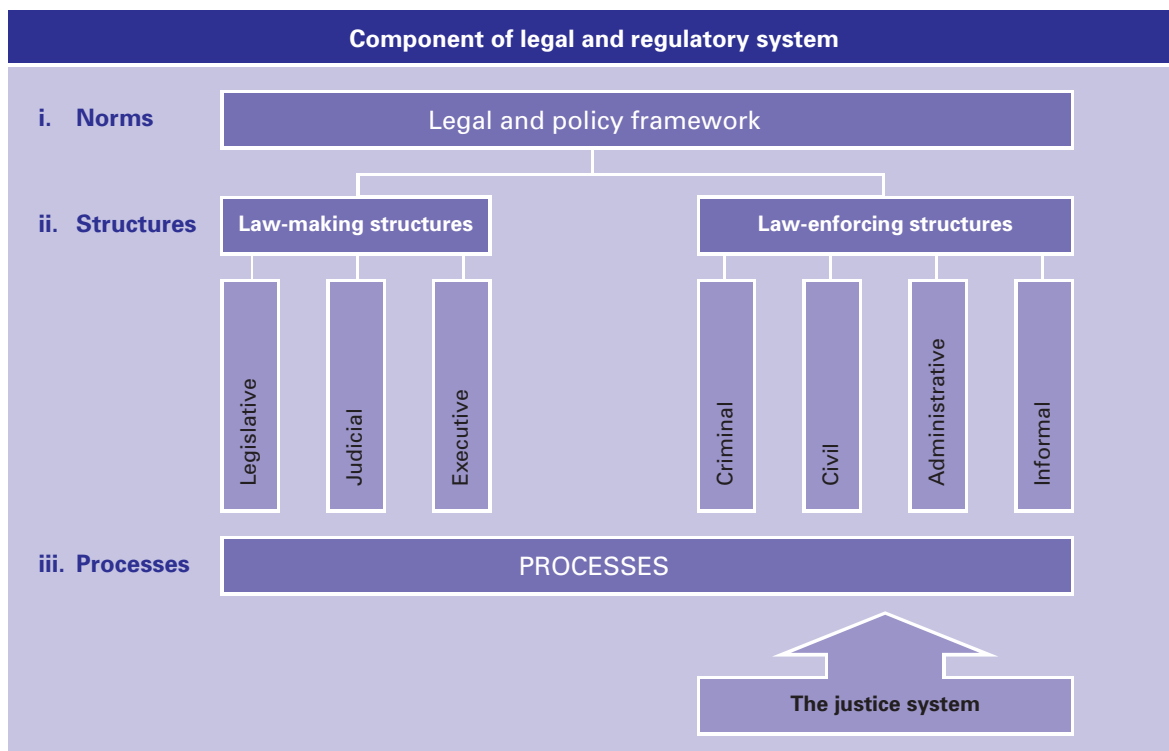
While these interventions are crucial for effective child protection, they also have broader implications regarding implementation of the CRC and protecting children’s rights to education, health, social protection and nationality.

## Components of a legal system

There are specific components common to every legal system, although there are variations in detail from country to country.

The legal system is composed of:

<b>i. norms</b>	(laws, subsidiary legislation and policies) that regulate behaviour;
<b>ii. structures</b>	(set of institutions and bodies) that make, interpret and enforce norms;
<b>iii. processes</b>	by which these norms are created, interpreted and enforced.



The ‘pillars’ under the law-making and law-enforcing headings in the diagram above represent the various branches and sectors under each structure. As illustrated, law-enforcing structures are one key component of the justice system.

## i. Legal and policy frameworks

A government’s recognition of and commitments to child protection are formally manifested in the legal and policy frameworks governing a country, which refer to the body of enabling laws, subsidiary legislation and policies in their totality. Legal and policy frameworks set out the ideal for what is to be done, who should do it and how it should be done. These frameworks include but are not limited to:

- international instruments
- laws
- rules
- decrees
- constitutions
- regulations
- ordinances
- national plans of action.

### The difference between law and policy

**Laws** set out the ideal for *what* and *how* – the standards and rules governing different spheres of public and private life. Laws are binding.

**Policies** outline the principles, strategies, methods and other factors necessary to advance the goals of a government on a particular matter.

For example:

Laws	Policies
Child protection acts	Bilateral memoranda of understanding
Immigration regulations	National plans of action
Criminal procedures	Inter-ministerial working group plan

Although distinct from each other, laws and policies are often interlinked. Anti-trafficking or child labour laws, for instance, generally provide the foundation and momentum for social policies, such as national plans of action on trafficking or child labour.

Fulfilment of children’s rights enshrined in various laws also relies on economic policies. Resources are necessary to implement both laws and policies. Thus, economic policies omitting budgetary allocations for social welfare services for children and families, or reducing allocations for children’s access to and safeguards during justice processes, will adversely impact the protection and well-being of children.

Integrating child protection policies into laws leads to a more sustainable means of advancing child protection for the long term.

### Legal frameworks

A broad range of laws addresses children’s safety and well-being. Generally, practitioners are familiar with child protection laws governing specific responses to children who have already been harmed. Laws also can address prevention by targeting the underlying and structural causes of abuse, exploitation, neglect and violence.

Laws affecting children’s protection rights are extensive, with distinct provisions or sections found in existing criminal laws, family laws, immigration laws, labour laws, inheritance and property laws. Sometimes there is comprehensive legislation covering all child rights (such as a children’s code) or legislation specific to child protection issues, such as juvenile justice, child pornography, child labour, anti-trafficking, etc. The overall goal is to create an environment that promotes children’s full enjoyment of basic civil, political, economic, social and cultural rights in line with the CRC.

## Subsidiary legislation

Subsidiary legislation is law made by an executive authority under powers guaranteed by primary legislation (passed through the legislative branch). Subsidiary legislation takes a variety of forms with different purposes. It includes rules, regulations, proclamations, orders, resolutions, by-laws or other instruments necessary to an enabling act and with legislative effect.

### Advantages

more expedient process than primary legislation (via legislative government branch);

child protection issues requiring technical proficiency can be handled by relevant experts;

flexibility to meet changing circumstances (emergency situations, internal conflicts, natural disasters) requiring rapid child protective measures.

### Disadvantages

subject to less scrutiny than primary legislation;

less accountability because law-making on controversial child protection issues can be handled by unelected civil servants or experts under a government minister;

a large volume of subsidiary legislation challenges public awareness of the individual items.

## International human rights law

Although this section focuses on national legal frameworks, it is important to keep in mind the role of international law in shaping children's rights, including protection from harm. International treaties and customary law form the backbone of international human rights law, which sets the obligations and duties that State parties are bound to respect. Through ratification, governments agree to put into place legislation and domestic measures consistent with those obligations and duties. Respect for human rights requires the establishment of the rule of law at the national and international levels.

## The CRC: The cornerstone of children's rights

The Convention on the Rights of the Child is a legally binding international instrument that empowers anyone younger than 18 years. Nearly every country around the world has ratified this United Nations Convention.

Children's rights are listed in 54 Articles in the CRC and two Optional Protocols (on the Sale of Children, Child Prostitution and Child Pornography, and on the Involvement of Children in Armed Conflict). The CRC addresses the full range of civil, political, economic, social and cultural rights. The core principles of the CRC are non-discrimination, best interests of the child, participation, right to life, survival and development (Articles 2, 3, 12, 6). Children also have rights under numerous other international instruments.

Children are entitled to be protected from harmful influences, abuse and exploitation. The best interests of the child shall be a primary consideration in all actions undertaken by countries that have ratified the CRC.

The legal system provides a crucial avenue for protecting children from harm. This entails reforming laws and policies, creating or strengthening institutions that enforce laws and policies, and developing processes at all levels for effective functioning.

While civil, political and social rights often have been at the centre of child protection law reform efforts, it is important to also enforce the full range of economic and cultural rights in the CRC to which children are entitled. Promoting these rights can have a significant impact on their well-being, development and protection.

## Core international human rights treaties and corresponding treaty bodies

There are numerous international human rights treaties and instruments (including declarations, rules and guidelines) relevant to child protection. There are currently eight human rights treaty bodies (commission or committee) that monitor the implementation of the core international treaties.<sup>1</sup> Treaty bodies are composed of independent experts who perform various functions, ranging from reviewing State parties' reports to responding to individual complaints or communication or publishing general comments on issues related to the treaties.

Nine core international human rights treaties	Treaty body
1. Convention on the Rights of the Child (CRC) i) Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography ii) Optional Protocol on the Involvement of Children in Armed Conflict	Committee on the Rights of the Child
2. International Covenant on Civil and Political Rights (ICCPR) i) Optional Protocol to the International Covenant on Civil and Political Rights ii) Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty	Human Rights Committee
3. International Covenant on Economic, Social and Cultural Rights (ICESCR)	Committee on Economic, Social and Cultural Rights
4. Convention on the Elimination of All Forms of Racial Discrimination (CRD)	Committee on the Elimination of Racial Discrimination
5. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	Committee on the Elimination of Discrimination Against Women
6. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) i) Optional Protocol to the Convention Against Torture (OPCAT)	Committee Against Torture  Subcommittee on Prevention of Torture
7. Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)	Committee on Migrant Workers
8. Convention on the Rights of Persons with Disabilities (CRPD)	Committee on the Rights of Persons with Disabilities
9. International Convention for the Protection of All Persons from Enforced Disappearance (not yet entered into force)	Body not yet established

<sup>1</sup> The ninth core international human rights treaty on enforced disappearance has not yet entered into force.

## Committee on the Rights of the Child

The Committee on the Rights of the Child is the body of independent experts who monitor State parties' implementation of the CRC. The Committee also monitors implementation of two Optional Protocols to the Convention.

All States parties are *obliged* to submit regular reports to the Committee on how the CRC is being implemented. States must report initially two years after acceding to the Convention and then every five years. The Committee examines each report (as well as reports by States that have acceded to the two Optional Protocols) and addresses its concerns and recommendations to the State party in the form of 'concluding observations'.

Civil society organizations can make submissions to the Committee also, although these often tend to be organizations based outside of a particular country to which a report refers.

The Committee on the Rights of the Child has issued 'general comments' on the following ten themes:

1.	the aims of education
2.	the role of independent human rights institutions
3.	HIV/AIDS and the rights of the child
4.	adolescent health
5.	general measures of implementation for the CRC
6.	treatment of unaccompanied and separated children outside their country of origin
7.	implementing child rights in early childhood
8.	the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment
9.	the rights of children with disabilities
10.	children's rights in juvenile justice

For a full list of international human rights treaties and instruments, visit:

<http://www2.ohchr.org/english/law>

<http://www1.umn.edu/huamrts/treaties/htm>

For definitions of key terms, such as ratification, accession, declaration, entry into force, treaty, convention and optional protocol, associated with human rights law, visit:

<http://www.unicef.org/crc/files/Definitions.pdf>

To search for general comments, concluding observations, jurisprudence and other documents by treaty bodies, visit:

<http://tb.ohchr.org/default.aspx>

## International humanitarian law and international human rights law

These two bodies of laws are not the same.

**International humanitarian law** refers to the laws and customs of war or the law of armed conflict as set forth in the Geneva Conventions and its protocols as well as The Hague Conventions. It defines the conduct and responsibilities of conflicting and neutral nations as well as individuals engaged in warfare, with respect to each other and to protected persons (civilians including children) in both international and internal armed conflicts. It also provides the legal basis for humanitarian assistance carried out by the International Committee of the Red Cross, which is internationally recognized as an impartial and neutral organization.

**International human rights law** entails international human rights instruments, which enumerate the obligations that States are bound to respect. State parties assume obligations to respect, to protect and to fulfil the human rights of both individuals and groups.

While international treaties and customary law are the foundation of international human rights law, other international instruments, such as declarations, guidelines and principles, support the development of human rights law.

## Laws affecting child protection

Child protection is interlinked with all aspects of children's survival, development and well-being. This includes laws relevant to the underlying or structural factors<sup>2</sup> that may impact on children's vulnerability to harm. Promoting civil and political rights of children, such as their right to a name and nationality, can reduce children's vulnerability to harm. Universal birth registration is essential for protecting children's right to identity, including the right of every child to know his or her parents. It also offers evidence of family relations in situations of trafficking or family separation. Proof of age can facilitate children's entitlement to special protections in areas such as early marriage, work, juvenile justice and recruitment into armed forces. Birth registration and certification also can preclude denials of citizenship based on lack of documentation. Realization of a child's right to nationality *without discrimination on any grounds* can preclude statelessness, which renders children highly vulnerable to denials or violations of their fundamental human rights.

Child protection laws are found in various legal codes<sup>3</sup> or different types of legislation, generally covered under:

special provisions or a separate chapter on a particular child protection issue in a country's codes and acts;

a separate section on child protection within a broader child rights law or code;

separate comprehensive codes or acts dealing solely with a particular child protection issue.

Legal frameworks should be viewed in their entirety. Rather than review laws one issue at a time, an analysis should focus on the interrelatedness and interdependence of children's rights to protection. This applies to child protection in both the public and private spheres. Moreover, laws directly targeting children are not the only ones affecting their lives. For this reason, it is important to have an understanding of the child's relation to his or her family, community and wider society. Laws granting inheritance and property rights to women, for instance, impact the care, development and protection of children.

<sup>2</sup> Some factors that may increase children's vulnerability to being at risk include: poverty, lack of access to education, gender discrimination, disability, ethnicity, religion, statelessness, refugee/internally displaced person status, environment with high HIV or AIDS prevalence, unequal inheritance rights, structural deficiencies.

<sup>3</sup> Legal code refers to a single piece of legislation generally covering an entire subject or area of the law.



The following chart presents some examples of the range of (overlapping) laws that can affect child protection and also points out their relationship to the broad spectrum of children’s civil, political, social, economic and cultural rights set forth in the CRC.<sup>4</sup>

Laws affecting child protection: GENERAL LAWS		
Law	Relevance to child protection	CRC reference
<b>International</b>	International human rights treaties and customary law as well as humanitarian law and international instruments have profound implications for child protection.	Articles 1-40
<b>Constitution</b>	<p>Constitutions are the frameworks for governments. Among other key functions, the constitution governs the relationships, hierarchies and balance of powers between the judiciary, the legislature and the executive branches and the bodies under their authority.</p> <p>Constitutional recognition of child rights provides a solid foundation for the protection of children. Provisions on the rights of children to be protected against abuse, exploitation, neglect and violence can be incorporated into the constitution.</p>	Articles 1- 40
<b>Criminal</b>	<p>Criminal law (also known as penal law) regulates behaviour by defining and penalizing specific offences that violate ethical rules defined by society. The process of investigating, charging and trying alleged offenders is regulated by criminal procedures. In many countries, criminal laws prohibit various forms of abuse, exploitation, neglect and violence directed against children, including, <i>inter alia</i>: sexual abuse, child pornography, child prostitution, sale of children, trafficking, assault, child labour, recruitment of children into armed forces, corporal punishment, etc.</p> <p>Among other areas, criminal procedures generally govern child-sensitive investigative and adjudication procedures for child victims and witnesses as well as the administration of juvenile justice concerning alleged offenders.</p>	<p>Art. 1: definition of a child            Art. 2, 3, 6, 12: core principles            Art. 16: privacy            Art. 19: violence, abuse and neglect            Art. 21: adoption            Art. 32: child labour            Art. 33: drug prevention and drug trafficking            Art. 34: sexual exploitation            Art. 35: trafficking            Art. 36: exploitation            Art. 37: children in conflict with the law            Art 38: armed conflict            Art. 39: social welfare            Art. 40: children in conflict with the law</p>

<sup>4</sup> Children’s rights to protection are enshrined in numerous other international instruments, including but not limited to the CRC Optional Protocols, CEDAW, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Geneva Conventions, the Refugee Convention, Palermo Protocol, ILO Conventions, and UN guidelines relevant to juvenile justice.

Laws affecting child protection: GENERAL LAWS (continued)		
Law	Relevance to child protection	CRC reference
<b>Civil registration</b>	<p>Birth registration is generally covered under civil registration laws or civil codes. Birth registration legally acknowledges a child's existence and also provides proof of age. Universal, compulsory, free, non-discriminatory, permanent, continuous, accessible and practically expedient birth registration and certification are important for a number of reasons:</p> <ul style="list-style-type: none"> <li>■ enforces laws relating to minimum age for employment, thereby reducing child labour;</li> <li>■ counters early marriage of girls;</li> <li>■ ensures children in conflict with the law are given special protections, including minimum age of criminal responsibility;</li> <li>■ protects children from under-age military service or conscription;</li> <li>■ secures children's right to a nationality, at the time of birth or at a later stage;</li> <li>■ protects children who are trafficked and who are eventually repatriated and reunited with family members.</li> </ul> <p><i>Note: Basic social services should be accessible to all, irrespective of whether a child has been registered or has a birth certificate.</i></p>	<p>Art. 1: definition of a child  Art. 2, 3, 6, 12: core principles  Art. 7: right to name and nationality  Art 8: right to identity  Art. 32: child labour  Art. 34: sexual exploitation and sexual abuse  Art. 35: trafficking  Art. 36: exploitation  Art 38: armed conflict  Art. 40: children in conflict with the law</p>
<b>Labour</b>	<p>Labour law (also known as employment law) governs the legal rights of, and restrictions on, working individuals and their employers. Among other areas, labour laws cover: employment contracts, minimum wages, working time, health and safety, and employment termination.</p> <p>Child labour is the employment of children younger than a certain age or subject to certain conditions considered to be dangerous or exploitative in many countries pursuant to ILO Conventions and Standards.</p>	<p>Art. 1: definition of a child  Art. 2, 3, 6, 12: core principles  Art. 32: child labour  Art. 34: sexual exploitation and sexual abuse  Art. 35: trafficking  Art. 36: exploitation</p>
<b>Family</b>	<p>Family law deals with family-related issues and domestic relations, including <i>inter alia</i>: marriage, divorce, child abuse, child neglect, parental responsibilities, adoption, child custody, legal guardianship, foster care and other forms of alternative care.</p>	<p>Art. 1: definition of a child  Art. 2, 3, 6, 12: core principles  Art. 5: rights and responsibilities of families  Art. 7: right to know and be cared for by parents  Art 8: right to family ties  Art. 9: right not to be separated from parents  Art. 10: family reunification  Art. 18: services to parents  Art. 19: violence, abuse and neglect  Art. 20, 21: alternative care  Art. 25: monitoring  Art. 26: financial support to families  Art. 27: standard of living  Art. 39: social welfare</p>

Laws affecting child protection: GENERAL LAWS (continued)		
Law	Relevance to child protection	CRC reference
<b>Immigration and nationality</b>	<p>Immigration and nationality laws govern the legal status of individuals (such as citizenship or naturalization) and the right of foreigners to enter, live and work in a country.</p> <p>Immigration and nationality laws involve the right of asylum and address issues of statelessness. Immigration laws can have profound implications for trafficked children, child migrants, refugee children and child asylum seekers. Discriminatory nationality laws also adversely impact children, including those who are born out of wedlock or born to mothers married to foreigners where nationality cannot be transmitted from mothers to children.</p>	<p>Art. 1: definition of a child  Art. 2, 3, 6, 12: core principles  Art. 7: right to nationality  Art. 8: right to nationality and family ties  Art. 10: family reunification  Art. 11: illicit transfer and non-return of children  Art. 14: freedom of conscience, thought and religion  Art. 22: refugee children  Art. 35: trafficking</p>
<b>Property and inheritance</b>	<p>Property laws govern the various forms of ownership and rights to land and personal property (movable objects). Inheritance laws govern the practice of passing on property, titles and obligations upon the death of an individual.</p> <p>Especially in light of the HIV/AIDS epidemic and natural disasters, orphaned children can be exposed to various forms of abuse, manipulation or exploitation from adults, including relatives. Children's right to property and inheritance can provide the basis for their livelihoods and a more secure future after the death of parents.</p> <p>Further, discriminatory inheritance and property laws can have potentially devastating effects on widowed or single mothers and thus jeopardize their children's right to survival, development and protection.</p>	<p>Art. 1: definition of a child  Art. 2, 3, 6, 12: core principles  Art. 19: violence, abuse and neglect  Art. 27: standard of living  Art. 32: child labour  Art. 34: sexual exploitation and sexual abuse  Art. 35: trafficking  Art. 36: exploitation</p>

Laws affecting child protection: GENERAL LAWS (continued)		
Law	Relevance to child protection	CRC reference
<b>Administrative<sup>5</sup></b>	<p>Administrative laws regulate the activities of government administrative agencies. Governments regulate numerous aspects of daily living and make decisions affecting individuals. Administrative law is considered a part of public law and applies specifically to the executive branch.</p> <p>Administrative law deals with the decision-making of administrative units of government (such as tribunals, boards or commissions) in areas such as policing, immigration, human rights, children's rights, housing, land administration, labour and broadcasting as well as the mechanisms enabling persons to challenge these decisions.</p> <p>Depending on the country context, this body of laws can touch upon numerous aspects of children's everyday lives. Whether it is the child migrant, asylum seeker or trafficked victim before an immigration tribunal or a children's ombudsman responsible for investigating and addressing complaints of child rights violations, administrative justice is key to protecting children from harm.</p>	<p>Art. 1: definition of a child  Art. 2, 3, 6, 12: core principles  Art. 7: name and nationality  Art. 19: violence, abuse and neglect  Art. 20, 21, 25: alternative care  Art. 22: refugee children  Art. 32.34.36: exploitation  Art. 35: trafficking  Art 38: armed conflict  Art. 39: social welfare  Art. 40: juvenile justice</p>

<sup>5</sup> Administrative law has a very different meaning in many countries across the region, such as in Lao PDR, Mongolia and Viet Nam. The description provided in this section is intended to be illustrative. As with all categories of laws, it is crucial to understand the particularities of the country context.

Laws affecting child protection: SECTOR LAWS		
Law	Relevance to child protection	CRC reference
<b>Social welfare</b>	<p>Social welfare laws for children and families govern the prevention of and response to child abuse, exploitation, neglect and violence through a social welfare system for children and families. This includes coordinating the provision of primary prevention, early intervention and family support, child protective response and out-of-home care services to children.</p>	<p>Art. 1: definition of a child  Art. 2, 3, 6, 12: core principles  Art. 5: rights and responsibilities of families  Art. 7: right to know and be cared for by parents  Art 8: right to family ties  Art. 9: right not to be separated from parents  Art. 10: family reunification  Art. 18: services to parents  Art. 19: violence, abuse and neglect  Art. 20, 21: alternative care  Art. 23: disability  Art. 25: monitoring  Art. 26: financial support to families  Art. 27: standard of living  Art. 30: minority rights  Art. 32: child labour  Art. 34: sexual exploitation and sexual abuse  Art. 35: trafficking  Art. 36: exploitation  Art. 39: social welfare</p>
<b>Juvenile justice</b>	<p>Juvenile justice laws govern the prevention of juvenile delinquency and response to children in conflict with the law.</p> <p>Key provisions address: jurisdiction, minimum age of criminal responsibility, maximum age of special protections, special procedures at all stages of the legal proceedings, guarantee of due process rights, diversion and alternatives to detention, sentencing, institutional standards and reintegration and privacy rights.</p>	<p>Art. 1: definition of a child  Art. 2, 3, 6, 12: core principles  Art. 16: privacy  Art. 19: violence, abuse and neglect  Art. 34: sexual exploitation  Art. 35: trafficking  Art. 37: children in conflict with the law  Art 38: armed conflict  Art. 39: social welfare  Art. 40: children in conflict with the law</p>

Laws affecting child protection: SECTOR LAWS (continued)		
Law	Relevance to child protection	CRC reference
<b>Trafficking and exploitation</b>	<p>Laws addressing child trafficking and exploitation generally define and prohibit all forms of child exploitation, including the worst forms of child labour, servitude, sexual exploitation, child prostitution, child pornography and the sale of children – and exempts/protects children who have been exploited from criminalization, detention and other forms of involuntary custody.</p> <p>Key provisions cover issues of consent, extraterritorial jurisdiction, extradition, international cooperation, prevention, repatriation, reintegration, legal and support services to children, civil legal remedies and a victim’s support fund. They also include appropriate protections and child-sensitive procedures for children coming into contact with the law and investigative or judicial processes, whether criminal, civil, administrative or informal.</p>	<p>Art. 1: definition of a child  Art. 2, 3, 6, 12: core principles  Art. 7: right to nationality  Art. 8: right to identity  Art. 16: privacy  Art. 20, 21: alternative care  Art. 30: minority rights  Art. 32: child labour  Art. 33: drug prevention and drug trafficking  Art. 34: sexual exploitation  Art. 35: trafficking  Art. 36: exploitation</p>
<b>Violence</b>	<p>Laws addressing violence against children define and prohibit all forms of violence, including domestic violence, corporal punishment, physical maltreatment, gender-based violence and harmful traditional practices in the home, school, institutions and community.</p> <p>Key provisions include barring legal defences (violence against children is never justified), provision of legal and support services to children as well as access to justice and child-sensitive procedures and appropriate protections throughout the justice process, whether criminal, civil, administrative or informal.</p>	<p>Art. 1: definition of a child  Art. 2, 3, 6, 12: core principles  Art. 19: violence, abuse and neglect  Art. 28: corporal punishment in schools  Art. 32: child labour  Art. 34: sexual exploitation  Art. 35: trafficking  Art. 36: exploitation</p>
<b>Alternative care</b>	<p>Laws addressing alternative care generally stipulate different types of care for children who are orphaned, separated, unaccompanied or removed from families who pose a serious danger to their health or development.</p> <p>Key provisions include prevention of family separation/abandonment/removal, family reintegration, principles guiding substitute care, types of alternative care and standards. They also include the monitoring of institutional placements and regulation of inter-country and domestic adoption, legal guardianship, kinship care and community-based care options for orphans and vulnerable children, such as separated and unaccompanied children, child victims of trafficking and exploitation, demobilized child soldiers, refugee children and street-based children.</p>	<p>Art. 1: definition of a child  Art. 2, 3, 6, 12: core principles  Art. 5: rights and responsibilities of families  Art. 7: right to know and be cared for by parents  Art 8: right to family ties  Art. 9: right not to be separated from parents  Art. 10: family reunification  Art. 18: services to parents  Art. 20, 21: alternative care</p>

Laws affecting child protection: SECTOR LAWS (continued)		
Law	Relevance to child protection	CRC reference
<b>Children affected by armed conflict</b>	<p>Children disproportionately bear the brunt of armed conflicts. They are killed, maimed, orphaned, abducted, recruited, displaced, exploited, subject to sexual and gender-based violence, manipulated and deprived of basic rights to education and health care.</p> <p>Laws governing children and armed conflict address the prohibition of: the compulsory recruitment of children younger than 18 into the armed forces, children younger than 18 from taking direct part in hostilities and the recruitment and use of children for various purposes – direct combat, porter, cook, domestic work – by armed groups. They also include provision of support services for children who participated in armed conflict for reintegration and special care as well as protection for refugee, displaced, asylum-seeking, unaccompanied or separated children.</p>	<p>Art. 1: definition of a child  Art. 2, 3, 6, 12: core principles  Art. 20, 21: alternative care  Art. 22: refugees  Art. 32: child labour  Art. 34: sexual exploitation  Art. 35: trafficking  Art. 36: exploitation  Art. 37, 40: children in conflict with the law  Art. 39: recovery and reintegration  Art 38: armed conflict</p>

## ii. Law-making and law-enforcing structures

The structural component of the legal system refers to the organization of institutions and bodies charged or associated with law-making *and* law-enforcing functions. The different elements that form the institutions of these structures include ministries, departments, units or branches associated with both government and civil society as well as their capacities (human, financial and physical), provision of services, and monitoring and accountability mechanisms.

### Law-making structures

Depending on the country, laws (and policies) can be made by various structures under different branches of government. In every country across the East Asia and Pacific region, laws (called legislation or statutory laws) are made by the *legislature* under the **legislative branch** of government. The legislature refers to an assembly with the power to create, amend and ratify laws. In addition to enacting laws, legislatures are generally charged with adopting the national budget. The legislature is known by various names in different countries, such as: Parliament, Congress, National Assembly and the National People's Congress.

In *common law* countries, the **judicial branch** also makes laws, based on prior case law or precedents (recorded court decisions on similar cases) in addition to their primary responsibility of interpreting laws. Courts or tribunals are common examples of judicial structures.

Under the head of the **executive branch** (for example, president, prime minister or monarch), usually a number of ministers have responsibilities for particular sectors, including health, education, labour, social services, public security, justice, foreign relations and other areas relevant to child protection. In most countries, primary legislation empowers government structures (such as ministries) under the executive branch to issue regulations, rules or decrees or other types of subsidiary legislation that are necessary to implement primary legislation.

### Law-enforcing structures

The informal, administrative, civil and criminal sectors falling under the 'law enforcing' component of the legal system collectively refer to the structures of the justice system.

The justice system is often viewed interchangeably with the criminal law enforcement system. But this implies too narrow a concept of justice. Limiting child protection interventions to the formal criminal justice arena overlooks children's access to broader areas of justice. These broader justice areas include enforcing rights to legal remedies under the civil justice sector or promoting minority or indigenous rights under the administrative or informal justice sectors. Also in developing countries, the informal justice sector, whether traditional or customary, is primarily responsible for administering justice on a broad range of matters, including situations involving child abuse, neglect, exploitation and violence.

Thus, 'criminal law enforcement' is not synonymous with 'law enforcing' in this Toolkit. Promoting children's access to justice as well as their care and protection calls for strategic engagement with other sectors of the justice system (the civil, administrative and informal justice sectors) – in addition to the criminal justice sector. This is further explained in the justice system section below.



### iii. Processes in the legal system

Processes refer to how the system functions and its overall management and coordination. This includes management, coordination and cooperation at every level across the system, both within and between various institutions and larger structures that comprise the legal system.

Whereas the legal and policy frameworks outline broad commitments, processes refer to day-to-day factors associated with the functioning of the system. This means the actual practice and operational dynamics. The context for processes comes from both the legal and policy framework *and* the structural components. Processes determine how efficiently and effectively the legal system operates.

Many countries need concrete guidance on *how* to implement child protective laws and policies as well as how to apply child-friendly guidelines. Too often, child protection practitioners do not take this extra step to make the child-centred principles and standards operational. 'Best interests of the child', for instance, is a general principle that offers little, if any, meaningful guidance to most justice officials working directly with children. Creating processes requires specific know-how on child protection but also calls for technical expertise in particular areas and a good understanding of the inner workings of various institutions and structures. No one official, practitioner or expert will possess all of the requisite skills and knowledge. For this reason, it must be a participatory process. Where adequate laws or policies are already in place, strengthening operational practices – including coordination and cooperation between countries, ministries or governments and civil society – might be a good starting point for some countries.

Processes include but are by no means limited to: guidelines, protocols, codes of conduct, communication flows, information management including data collection and analysis, human resources recruitment, feedback process, inter/intra-agency procedures, referral mechanisms, diversion procedures and monitoring processes.

## B. The justice system

The justice system is essentially a subsystem of the legal system and is composed of the same three general parts that make up the legal system:

<b>i) legal and policy frameworks</b>	governing or influencing the justice system
<b>ii) law-enforcing structures</b>	across criminal, civil, administrative and informal justice sectors
<b>iii) processes</b>	governing every level of the system.

National justice systems vary from country to country. It is important to understand a country's particular justice system before developing targeted interventions or forging strategic partnerships to promote justice for children. This includes taking stock of legal and policy frameworks that govern or affect the administration of criminal, civil, administrative or informal justice relevant to child rights or child protection.

The stock-taking also involves the mapping of various justice institutions and processes – across sectors, ministries, departments and units relevant to child protection from the local level up to the national and regional levels. This includes examining the relationship between state (formal) and non-state (informal) justice sectors and mechanisms as well as the role of other legal institutions in civil society. A further analysis of institutional mandates, functions, actors, roles, services and links to other systems - as well as an assessment of human, physical and financial capacities – rounds off a baseline understanding of the overall justice system for children.

A justice system<sup>6</sup> encompasses:

State-run justice and law enforcement institutions, including:
judiciary (criminal and civil);
justice and interior ministries;
police, prisons, criminal investigation and prosecution services.
Non-state justice mechanisms dealing with disputes at community levels; these can be traditional, customary, religious or informal mechanisms.
Other legal institutions, such as professional associations, law reform commissions and law faculties, judicial and police training centres, NGOs and legal aid. In certain cases, armed forces are also included; for example, when they act as police or where they are to be integrated into new or reformed law enforcement bodies. <sup>7</sup>

The following is an overview on the major sectors of a justice system – criminal, civil, administrative and informal – and the structures commonly situated within each.

<sup>6</sup> DFID, *Brief on Non-state Justice and Security Systems*, Policy Division, May 2004. Although 'state' and 'non-state' are the terms used, the brief acknowledges that informal, 'non-state' resolution mechanisms are sometimes established by the State; UN. March 2008. *UN Common Approach to Justice for Children Concept Note Concept Note*.

<sup>7</sup> UN. March 2008. *UN Common Approach to Justice for Children Concept Note Concept Note*.

## Sectors of the justice system

Various sectors of the formal justice system are charged with enforcing different bodies of law: criminal, civil and administrative law. These distinctions can be blurred when the informal justice sector is responsible for the administration of justice and adjudicating both criminal and civil matters. Although the exact structures (including organization, hierarchies, relationships and capacities of a range of institutions) within each justice sector vary from country to country, there are some common characteristics and features.



This section is intended to be illustrative rather than precise and applicable in all contexts. It is important for child protection practitioners to map and analyse structures across formal and informal justice sectors in their particular country.

## The criminal justice sector

The criminal justice sector enforces criminal law, also known as penal law, which refers to laws dealing with crimes against the public or individuals (includes definition of crimes, corresponding penalties and procedures for investigating, charging, trying, sentencing and imprisoning those convicted of crimes). Criminal law is generally enforced by the government, as opposed to civil law, which is enforced by private citizens. Crimes against children – including violence, assault, rape, exploitation, child sex tourism, abuse, trafficking and abduction of children – fall within the purview of the criminal justice sector.



### Examples of institutions within the criminal justice structure

Police, courts or tribunals, prosecutors' office, public defender's office, legal aid centres, the corrections unit, including probation, parole, jail or prison, restorative justice

## The civil justice sector

The civil justice sector enforces civil law, or private law, which refers to a body of laws that governs relationships between individuals. This includes: family law (such as marriage, divorce, child custody, child abuse, neglect, and alternative care including adoption), property law, inheritance law, labour law, torts and contract law.

Generally, a civil case is a lawsuit brought by one or more people against one or more parties (including businesses or corporations) for monetary award, an order for specific action or an order to refrain from action.

When a country's trafficking or labour laws provide for civil remedies, this sector responds to child victims seeking civil redress, such as a monetary award or an injunction.



### Examples of institutions within the civil justice structure

Family courts, arbitration board, labour tribunals, alternative dispute resolution, small claims court, attorney general's office, bar associations, legal aid centres

## One country's civil justice system A look at Thailand

A civil case is a lawsuit brought by two or more people against one or more parties (including conflicts between businesses or corporations) for: monetary awards, orders to take action or orders to refrain from action.

Civil cases are generally handled by the courts of justice including: civil court, labour court, juvenile and family court, provincial court, municipal court and tax court.

Parties in a dispute may also elect to settle cases through mediation or arbitration. Mediation is generally handled by a neutral third person, the mediator, whereas arbitration is generally conducted by the Alternative Dispute Resolution Office and the Thai Commercial Arbitration Institute.

Source: Becker, B. and Thongkaew, R. 2008. Thai Law for Foreigners

## The administrative justice sector

The administrative justice sector enforces administrative law, which refers to a body of laws governing the activities of government administrative agencies.

Governments regulate numerous aspects of daily living and make decisions affecting individuals. Administrative law is considered a part of public law and applies specifically to the executive branch. Administrative law deals with the decision-making of administrative units of government (such as tribunals, boards or commissions) in areas such as policing, immigration, human rights, housing, labour and broadcasting – as well as the mechanisms enabling persons to challenge these decisions.

In most *civil law* countries, specialized courts or sections with specific jurisdiction on diverse areas of law handle administrative cases based on administrative procedural rules.



### Examples of institutions within the administrative justice structure

Labour relations board, immigration courts, special education and disability tribunal, children's rights commission, children's ombudsperson, government regulatory bodies

Administrative justice has gone largely untapped by child protection practitioners. Yet, this sector is critical for realizing tangible gains for the protection of children, especially in terms of prevention. It can be used to institute stronger child labour protections, ensure access to education for the most vulnerable and marginalized children, streamline reporting and response mechanisms under a children's rights commission or to monitor and sanction, for example, employment and marriage brokering agencies.

## The informal justice sector

The informal justice sector refers to dispute resolution outside the scope of the formal justice system. It encompasses non-state justice mechanisms as complementary to, or surrogates of the formal justice sector. This refers to the whole range of traditional, customary, religious and informal mechanisms that deal with disputes at community levels.<sup>8</sup> In many developing countries, the vast majority of disputes are dealt with outside the state-run system. Non-state justice mechanisms tend to address issues that are of direct relevance to the most disadvantaged children, including protection of land and property for children orphaned by AIDS, conflict or natural disasters, the resolution of family and community disputes and protection of entitlements, including access to social services.<sup>9</sup>

<sup>8</sup> UN. 2008. *Guidance Note of the Secretary-General: UN Approach to Justice for Children*. The document provides guiding principles and a framework for UN activities on justice for children at the national level within conflict and development contexts. It also aims to ensure that children are better served and protected by justice systems, including the security and social welfare sectors. For more information: [http://www.juvenilejusticepanel.org/resources/?act=res&cat=&nod=\\_root\\_&id=UNGuidanceNoteSGUNApproachJChildren08&start=1](http://www.juvenilejusticepanel.org/resources/?act=res&cat=&nod=_root_&id=UNGuidanceNoteSGUNApproachJChildren08&start=1).

<sup>9</sup> *ibid*, p. 11

The informal justice sector can be accorded authority, legitimacy and credibility not conferred to formal justice systems. And oftentimes, the informal justice sector offers the most accessible, culturally relevant and socially accepted mechanism for settling disputes outside of urban centres. In light of the informal justice sector's substantial and far-reaching role in ensuring children's right to protection, it is essential to bring these structures, mechanisms and actors in line with the principles and rights set forth in the CRC and CEDAW, including countering discriminatory biases and practices towards girls and women.



#### **Examples of entities within the informal justice structure**

Village courts, village elders, tribal councils, religious leaders, local arbitrators

### **Other legal structures and institutions**

The justice system also includes related entities and mechanisms such as lawyers' associations, law reform commissions, law faculties, law universities, judicial and police training centres, academic centres, legal aid societies, NGOs and pro bono groups.<sup>10</sup> In certain cases, the armed forces are also part of the justice system, such as when entrusted with policing powers under national laws or where integrated into new or reformed law enforcement bodies.<sup>11</sup> These structures and institutions can be valuable partners for UNICEF programming.

#### **A promising practice of informal justice: The village court system A look at Papua New Guinea**

There are around 1,082 courts throughout Papua New Guinea with some 11,000 officials providing coverage to over 85% of villages. Village courts offer a conflict resolution system that is both available and relevant to communities because it prioritizes the use of culturally based restorative justice principles.

The village court was initially designed to provide a formal conflict resolution service for minor disputes. But the limited reach of formal law and justice sector agencies led many village court magistrates to also respond to juvenile crime and serious cases of abuse and violence. Communities often prefer and subsequently demand that matters are addressed in this forum. The opportunity to develop a child protection programme within the village courts system in Papua New Guinea evolved from consultations with juvenile justice actors who noted that a majority of children who come into conflict with the law do not enter the formal justice system. Similarly, the child victims and witnesses are often stakeholders in village court processes.

Before a matter is formally brought before a village court, magistrates and their clerks can undertake informal investigations, interviewing relevant parties without strict adherence to formal evidence-gathering procedures. They can organize a mediation of all parties and resolve the matter, if consensus is reached, rather than proceed to a hearing.

In the event that parties cannot agree on a mutually appropriate resolution, the village court is formally presided over by three magistrates. Strict procedural rules do not apply in village courts, and magistrates are expected to hand down a decision within the limited options available under the Village Courts Act. Magistrates can make orders of detention of any party (with confirmation by a District Court Magistrate). Unfortunately, there are many documented cases of village court orders that exceed the jurisdiction of the village courts, resulting in rights violations – particularly affecting women and children. Currently, there are efforts to bring the village court system more in line with principles of the CRC.

Source: UNICEF Papua New Guinea

<sup>10</sup> UN. March 2008. *UN Common Approach to Justice for Children Concept Note*. p. 4.

<sup>11</sup> *ibid.*

## C. Legal traditions

Understanding the legal, socio-economic and political context of a country is essential. They influence implementation of the CRC and impact the systems-building interventions for child protection. The political, economic, social and cultural context and local customs also help determine the viability or practicality of law or institutional reform, including whether or not such reform can be sustained over time.

The extent to which government power is centralized or decentralized, for instance, will help determine the levels at which law reform efforts should be targeted for maximum effect. In highly decentralized countries, national law reform may have less impact or resonance for children and families than provincial law reform.

It is also important to know if customary law prevails over national law when inconsistencies exist. This understanding will help inform strategy to resolve conflicts and effect social behaviour change in line with international principles and standards.

The political organization and balance of powers between the three branches of government also have implications for child protection entry points, strategic partnerships and types of interventions. As well, the economic and development context of the country can inform priorities when building or strengthening the legal system. Low-income countries may concentrate on defining a minimum package of child protection services, whereas middle-income countries are more likely to reform or strengthen existing legal systems.<sup>12</sup> Post-conflict countries will likely focus on re-establishment of rule of law and integration of child protection rights in various justice sectors. Child protection systems-building interventions should be aligned with national priorities, broader development goals and sweeping reform strategies, such as national poverty reduction and justice sector reform.

### The difference between a legal system and a legal tradition

While a country's 'legal system' and 'legal tradition' are interlinked, they refer to different concepts. A legal system entails rules (legal and policy frameworks) and structures that regulate behaviour and processes by which these rules are created, interpreted and enforced.

The legal system is based on the legal tradition. The legal tradition is the cultural perspective under which the legal system is created. It provides the philosophy for how the legal system should be organized and how law is created and implemented. Legal traditions are based on historic perceptions about the role of law in society.<sup>13</sup>

### Understanding legal traditions<sup>14</sup>

Every country follows one of these legal traditions: common law, civil law, religious law, customary law, or some combination of them.

In very basic terms, legal traditions have the following features:

<b>common law</b>	decisions of courts and similar tribunals
<b>civil law</b>	legislation, codifications in constitutions or statutes
<b>religious law</b>	Sharia (Islamic), Halakha (Judaism), Canon (Christian)
<b>customary law</b>	unwritten local or tribal custom
<b>mixed/pluralist</b>	two or more legal traditions apply


<sup>12</sup> UNICEF Global Child Protection Strategy, p. 5.

<sup>13</sup> UNICEF. *Supporting the Realization of Children's Rights through a Rights-based Approach to Legislative Reform*. Division of Policy and Planning.

<sup>14</sup> Ibid.

Legal traditions are not static or rigid. Although court decisions are an important source of law in countries governed by common legal traditions, these countries also codify their laws within the constitution and statutes. There are points of overlap in practice between civil law and common law approaches, and either may be combined with Islamic or customary/traditional law in a given country. Within broad categories of civil law and common law, there are variations from country to country, and thus the historical background and particular situation of a country should be taken into account.

Legal traditions also shape the roles of different branches of government. In countries following the civil legal tradition, the judiciary applies laws created by the legislature. In countries following the common legal tradition, the judiciary also can create law. Thus, judges are critical partners in broadly defining children’s protection rights, either using the CRC as persuasive authority *or* interpreting national laws that incorporate provisions of the CRC or other relevant international instruments.

 Child protection practitioners should consult with legal experts (with knowledge on a country’s relevant legal traditions) for advice and guidance on how specific legal traditions may impact child protection programming, advocacy or law and policy development or reform.

Countries following civil legal traditions are generally (although not always) ‘monist’ systems. Monist is the legal term referring to the integration of international law and national law. Thus it is not necessary for separate legislation to enforce ratified international law. Once a country ratifies the CRC, for instance, it becomes part of a country’s domestic law and prevails over national legislation in cases of conflict. In principle, judges can apply the provisions of ratified international human rights conventions. Because legislators and law professors carry substantive weight in determining the content of laws, they are strategic partners in civil legal tradition countries.

Countries following mixed legal traditions are the most complex to navigate and analyse in terms of how best to support law or institutional reform for child protection. A mixed tradition system may involve different combinations of legal traditions, with customary or religious law, for example, operating in independent spheres. It is challenging to balance the different legal approaches of mixed legal traditions governing a country. It is also important to keep in mind that traditional or customary law function within mixed systems or even countries that mainly follow the civil or common law traditions.

A basic understanding of legal traditions will help you select the best entry points for programming and partnerships. The legal tradition of a country needs to be considered with any of the following interventions:

reviewing national laws;
harmonizing national legislation with the CRC;
invoking CRC provisions in national courts;
drafting legislation or policy on child protection issues;
reforming institutions in the justice system;
designing programmes to promote diversion;
conducting trainings of justice sector officials.

## D. Analysing the legal system

While it is easier to deal independently with parts of the legal system, it is not conducive to creating sustainable protections for children. Child protection managers should resist the urge to relegate all things legal to a lawyer or to divide a child protection programme into issues that are addressed *in isolation* by different practitioners. It can lead to interventions that are redundant, disjointed, contradictory or unnecessary.

It is important for you to conduct an in-depth analysis of the legal system as a whole to better inform strategic direction, priorities and programming. The three categories that should be analysed are:

- i) legal context;
- ii) legal and policy frameworks for child protection;
- iii) legal structures and processes.

General tips for analysing each category are set out below. This technical guide offers a series of preliminary questions when conducting a basic analysis. Advanced tools should be rolled out in the future to provide more detailed guidelines.

### Legal context



#### Questions for analysing the legal context<sup>1516</sup>

##### Legal Tradition

- What is the country's legal tradition – common, civil, religious, customary, mixed?
- If it is a common law system, how is common law developed?
- In common/religious law countries, is there interface between the common/religious law and the national and international laws?
- In (mixed) customary law countries, in what areas is customary law prevalent? What is the implementation system for customary law? Who are the main actors involved? How does customary law interface with national legislation and international law? What is the process for resolution of conflicts between customary law and national legislation? Are there dispute resolution mechanisms in customary forums?

##### Political organization

- How are government branches structured and how is power shared?
- To what extent is power centralized or decentralized?
- How does decentralization impact on law reform or the establishment, organization and administration of justice?
- Within the legislative, judicial and executive branches, what powers do they have? What role do they play with law and policy reform? What is the relationship between the branches? What role does the executive branch play in issuing decrees on social policy, national plans of action, or creating institutions?

##### National budget

- What is the process for adoption of the national budget? Local budget?
- Which structures and actors are involved?
- How is civil society involved, if at all? Are there organized means of participation?
- How are budgets monitored and analysed?

<sup>15</sup> UNICEF. *Supporting the Realization of Children's Rights Through a Rights-Based Approach to Legislative Reform*. Division of Policy and Planning, Appendix B.

<sup>16</sup> *ibid.* p. 38.



The implications of a country's legal context for child protection programming are complex. It is therefore strongly advised that child protection practitioners consult with legal experts and key stakeholders to analyse legal traditions *before* engaging in broad law or policy reform or designing child protection programmes.

### **Legal and policy frameworks for child protection**

The existence of laws and policies alone (on the books) is never enough to protect children. To make a real difference to children and their families, the broad range of children's rights spelled out in laws must be put into practice. However, if the realities of implementation are not considered and incorporated when drafting or amending laws or policies, it may not be possible to carry them out later. General considerations include:

- i. Can the desired child protection outcome – such as deprivation of liberty as a last resort, diversion, decriminalization of exploited children, provision of social welfare services to children, allocation of resources – be achieved through any means other than law or policy reform? Developing or changing laws in particular is an intensive and lengthy process. It should not be taken lightly nor pursued if unnecessary.
- ii. Are separate laws and policies necessary for each child protection issue? Remember that stakeholders must be aware of and understand laws and policies for effective implementation. Too many laws and policies can be confusing. This may result in some laws and policies being implemented at the expense of others.
- iii. Are the views of children, including the most vulnerable and marginalized, and gender perspectives taken into account? Without them, laws and policies may not be relevant for those it is trying to protect.
- iv. Have participatory consultations taken place with stakeholders? Their experiences on what has and has not worked, what can and cannot work, where the gaps, bottlenecks and opportunities are and practical recommendations can help inform realistic and viable laws and policies.
- v. Are resources allocated to make the necessary changes? This includes funds that enable justice and social welfare institutions and actors to effectively carry out their mandate and responsibilities. Implicit in this is strong professional capacity, quality services for children, monitoring and accountability.
- vi. Which positive behaviours should be reinforced and which individual and institutional practices should be changed to implement laws and policies. Unless children's rights and standards are fully respected in practice, children will continue to experience grave risks and actual violations, such as abuse, exploitation, neglect and violence.

Guide 4.3 offers a framework for reviewing a wide range of legal and policy frameworks relevant to child protection aimed at facilitating harmonisation of laws and policies relevant to child protection.



### **Additional guiding questions on legal and policy frameworks for child protection**

- Are there contradictions in or gaps between the national legal framework and the CRC and other international instruments?
- Are legal and policy frameworks comprehensive? What are their strengths and gaps?
- Is there consistency between laws, policies and plans? What are the gaps and inconsistencies between the laws, policies and plans?
- Is there a clear and adequate approach to child protection? Is this accompanied by an explicit policy? Are there adequate resources necessary for implementation?
- Are there defined minimum standards for child protection? Are there clear definitions of various forms of abuse, exploitation, neglect and violence?
- Are laws and policies and plans credible, realistically linked to corresponding structures and supported by an enabling process? Are there clear accountabilities and lines of responsibility?
- Are child protection priorities integrated into broader national planning and budget processes?
- Are formal or informal structures in place for children to meaningfully participate in the development and implementation of laws, policies and plans?
- What are the processes for law and policy reform? What are the processes for implementing and disseminating new laws and policies?
- What is the role of existing economic, social and cultural inequalities in perpetuating inequality and how is this addressed in the laws, policies and practice?
- What are the processes for drafting, passing and implementing laws and policies?

An analysis of a country's legal system should also include a review of the following notes on record:

- reservations to the CRC;
- concluding observations or recommendations of the Committee on the Rights of the Child;
- summary records of the Committee on the Rights of the Child;
- general comments by the Committee on the Rights of the Child;
- recommendations of the Committee on the Elimination of Discrimination Against Women.

## Legal structures and processes

Mapping and analysing legal structures and processes is useful for developing a baseline of the current legal system and its key actors. This analysis will help identify relevant structures and institutions for child protection, institutional strengths and gaps, services for children, strategic entry points and future plans for programming

It is important to remember that institutions within the law-making and law-enforcing structures have different mandates, roles and functions. Whether acting in isolation or coordination, generally more than one institution is responsible for covering various aspects of child protection. Thus, mapping and analysis of relationships within and between structures and institutions provide a more accurate picture of the legal system's structural component.



### Guiding questions for mapping and analysing legal structures

Identify and map relevant law-making and law-enforcing (justice system) institutions – across ministries, sectors, departments, units – that address and respond to child protection issues/violations, from the local level to the national and bilateral/regional levels, including:

- official entities;
- mandate, responsibilities, functions;
- reporting systems;
- monitoring and accountability bodies.

Analyse institutional mandates, roles, functions, actors and links across sectors and at different levels of operation regarding:

- provision of child protection services at different stages of intervention (prevention, identification, protection, assessment, reintegration);
- composition of institutions, including organogram if available;
- sources of funding;
- leading and/or coordinating institutions on child protection;
- centralized and decentralized levels of governance;
- geographic jurisdiction.

When examining institutional capacities, look at the human, physical and financial:

- Where are the strengths, weaknesses and gaps in the different capacities?
- Are some capacities under-used or unused?
- Is there adequate capacity to meet the needs of children?
- Is the referral and communication capacity between various institutions adequately arranged and resourced?
- Are there adequate and appropriate numbers of specialized staff?
- Are there appropriate roles and responsibilities?
- Does the authority and reward structure correspond to accountabilities?
- Are there appropriate technical and management capacities?
- Is there adequate capacity for working directly with children, where appropriate?
- Is there adequate capacity for facilitating and responding to meaningful children's participation?
- Have adequate financial resources been allocated?
- Are there adequate and appropriate infrastructure and equipment?



### **Guiding questions for mapping and analysing legal structures** (continued)

Assess processes within and across relevant institutions of the legal system (including links to the social welfare system for children and families):

- What are the processes for institutional reforms?
- What institutions have been created/modified due to law or policy reform? Did they effectively reflect the changes brought about by law or policy?
- What child victim identification and referral mechanisms are in place?
- What are the decision-making, reporting and complaints mechanisms, including lines of reporting, flows of decision-making and complaint procedures?
- What monitoring, quality assurance and accountability mechanisms are in place?
- What is the nature of information management mechanisms and guidelines, including data collection, analysis and dissemination?
- Are there child-sensitive procedures at all stages of the justice process?
- What are the budget allocation and financial flows?
- What is the professional accreditation and standards?
- What are the mechanisms to encourage and mediate children's access to services as well as encourage their capacity to influence policy processes?
- What institutional or procedural barriers are preventing children from meaningful participation, equal opportunities and access to services?
- What contingency child protection plans in emergency situations are available, such as armed conflict, political unrest or natural disasters?

## Notes

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## Notes





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Technical Guide

Part Four: LEGAL AND REGULATORY SYSTEM

## 4.3 TOOL FOR REVIEWING LEGAL AND POLICY FRAMEWORKS

- A. Legal frameworks
- B. Policy frameworks

## **Purpose and intended users**

This is a checklist of national and international laws and legal instruments relevant to child protection. This checklist should provide UNICEF child protection staff with an overview of the wide range of international and national legal and policy frameworks relevant to child protection that can be used to examine what is in place and to determine what gaps exist. This tool has been designed to support effective law and policy reform for child protection.

## 4.3 TOOL FOR REVIEWING LEGAL AND POLICY FRAMEWORKS

This checklist begins with international conventions and protocols, followed by regional instruments and bilateral agreements. The national legislation section includes specific blocks on different areas of child protection, such as sexual exploitation, juvenile justice and trafficking (in alphabetical order).

The checklist is not intended to suggest that you advocate for more laws and policies. On the contrary, child protection practitioners should support more streamlined and cohesive child protection legal and policy frameworks. Generally, what is important is the harmonizing of laws and policies with international instruments and standards. Whenever appropriate, policy frameworks should also be streamlined.

This approach is more cost efficient and effective, taking into account that:

	underlying and structural causes of child protection violations are similar, if not identical in many instances;
	the same institutions and actors are commonly charged with addressing different child protection issues;
	general measures of implementation are similar or identical regardless of issue;
	child protection rights are interdependent and issues are interconnected;
	a child can experience abuse, exploitation and violence either simultaneously or successively during childhood;
	children are guaranteed the right to protection against all harm, irrespective of how and when they manifest.

The checklist tool for reviewing offers a broad survey of the framework\* for:

	taking stock of a country's ratification of international instruments and enactment of national laws and policies;
	national law reviews;
	advocating a comprehensive child protection policy.

From the earliest stages, law and policy reform should invoke a process of consultations and consensus-building with all stakeholders, including children, to determine if reform is necessary and thus, which strategies would be effective in carrying it out

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\* For guidance on the content of laws for specific child protection issues, see UNICEF's *Supporting the Realization of Children's Rights Through a Rights-Based Approach to Legislative Reform*. Division of Policy and Planning, Appendix C.4.

## A. Legal frameworks Checklist

INTERNATIONAL TREATIES	RATIFIED
<b>Convention on the Rights of the Children</b>	
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	
Optional Protocol on the Involvement of Children in Armed Conflict	
Reservations to CRC and Protocols	<i>Specify</i>
<b>Convention on the Elimination of Discrimination Against Women (CEDAW)</b>	
Optional Protocol to CEDAW	
Reservations to CEDAW	<i>Specify</i>
<b>International Covenant on Civil and Political Rights (ICCPR)</b>	
Optional Protocol to the CCPR	
Second Optional Protocol to the CCPR, aiming at abolition of death penalty	
<b>International Convention on the Elimination of all Forms of Racial Discrimination</b>	
<b>International Covenant on Economic, Social and Cultural Rights (ICESR)</b>	
<b>Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)</b>	
Optional Protocol to the Torture Convention	
<b>Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</b>	
<b>Convention on the Rights of Persons with Disabilities (ICRPD)</b>	
Optional Protocol to the Convention on the Rights of Persons with Disabilities	
<b>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</b>	
<b>Transnational Convention Against Organized Crime</b>	
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	
Protocol Against the Smuggling of Migrants by Land, Sea and Air	
<b>Slavery Convention</b>	
Protocol amending the Slavery Convention	
<b>Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others</b>	
<b>Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages</b>	
<b>International Convention for the Protection of All Persons from Enforced Disappearance</b>	
<b>Convention Against Discrimination in Education</b>	

<b>INTERNATIONAL TREATIES (continued)</b>	<b>RATIFIED</b>
Hague Convention on Intercountry Adoption	
Convention relating to the Status of Refugees	
Protocol relating to the Status of Refugees	
Convention on the Reduction of Statelessness	
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)	
<b>ILO CONVENTIONS</b>	<b>RATIFIED</b>
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)	
<b>INTERNATIONAL STANDARDS: ADMINISTRATION OF JUSTICE STANDARDS, RULES AND GUIDELINES</b>	
UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)	
UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)	
UN Rules for the Protection of Juveniles Deprived of their Liberty	
UN Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules)	
UN Economic and Social Council resolution 2002-12: Basic Principles on the use of Restorative Justice Programmes in Criminal Matters	
UN Committee on the Rights of the Child, General Comment No. 10 on Child Rights in Juvenile Justice	
UN Guidelines for Action on Children in the Criminal Justice System	

<b>INTERNATIONAL STANDARDS: ADMINISTRATION OF JUSTICE STANDARDS, RULES AND GUIDELINES (continued)</b>	
UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime	
UN Common Approach to Justice for Children	
Code of Conduct for Law Enforcement Officials	
Basic Principles on the Role of Lawyers	
Guidelines on the Role of Prosecutors	
Basic Principles and Guidelines on the Right to a Remedy and Reparation	
<b>ILO RECOMMENDATIONS</b>	
ILO Worst Forms of Child Labour Convention Recommendation (R190)	
ILO Forced Labour Recommendation – Indirect Compulsion (R35)	
ILO Forced Labour Recommendation – Regulation (R36)	
ILO Migration for Employment Recommendation (R86)	
ILO Protection of Migrant Workers Recommendation (R100)	
ILO Migrant Workers Recommendation (R151)	
ILO Protection of Wages Recommendation (R 85)	
ILO Special Youth Schemes Recommendation (R136)	
ILO Minimum Age Recommendation (R146)	
<b>REGIONAL TREATIES AND MEMORANDA OF UNDERSTANDING</b>	<b>SIGNATORY</b>
ASEAN Mutual Legal Assistance Treaty – <i>ASEAN countries</i>	
Treaty of Amity and Cooperation in Southeast Asia – <i>ASEAN countries</i>	
Coordinated Mekong Ministerial Initiative against trafficking (COMMIT) Memorandum of Understanding – <i>GMS countries</i>	
<b>BILATERAL TREATIES AND MEMORANDA OF UNDERSTANDING</b>	<b>SIGNATORY</b>
<b>MOU on Cooperation to Combat Trafficking in Persons</b> <input type="checkbox"/> _____ (insert country) <input type="checkbox"/> _____ (insert country)	
<b>MOU on Cooperation in the Employment of Workers</b> <input type="checkbox"/> _____ (insert country) <input type="checkbox"/> _____ (insert country)	
<b>Bilateral Treaty on Extradition and Mutual Legal Assistance</b> <input type="checkbox"/> _____ (insert country) <input type="checkbox"/> _____ (insert country)	
<b>Mutual Legal Assistance Treaty</b> <input type="checkbox"/> _____ (insert country) <input type="checkbox"/> _____ (insert country)	



NATIONAL MINIMUM AGE	AGE
<b>Age of majority</b> If inconsistent across different national legislation, specify	
<b>Minimum age of criminal responsibility</b> If there are 2 different minimum ages to be considered as part of a "discernment test," specify	
<b>Maximum age for juvenile justice protections</b>	
<b>Minimum age for marriage</b>	Girls _____ Boys _____
<b>Minimum age of consent to sexual relations</b>	Girls _____ Boys _____
<b>Minimum age of legal employment</b>	Light work _____ Hazardous work _____
<b>Minimum age of voluntary recruitment for military service</b>	
<b>Minimum age of compulsory recruitment into armed groups/military</b>	
<b>Minimum age for direct participation in hostilities</b>	
NATIONAL GENERAL	
<b>Country's legal tradition</b>	<input type="checkbox"/> Common law <input type="checkbox"/> Civil law <input type="checkbox"/> Customary <input type="checkbox"/> Religious <input type="checkbox"/> Mixed _____
<b>Interface between formal and informal legal system – process for resolution of conflicts between customary law and national legislation?</b>	
<b>Written Constitution?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Supremacy clause?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Specific provisions on child protection?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Process for constitutional amendments related to CRC?	

**Specific Areas of Child Protection: ALTERNATIVE CARE**

<b>Stand-alone national legislation?</b>	Law _____
If <b>yes</b> , statement of guiding principles drawn from CRC and other international standards in legislation?	
If <b>no</b> , protections covered in existing legislation – such as family law, child welfare law, adoption law, etc?	Law (s) _____ Provisions _____
<b>Contradictions, conflicts, or gaps between legislation and the CRC, Hague Convention on Intercountry Adoption and other international instruments?</b>	
<b>Intersections, contradictions, conflicts, or gaps between alternative care legislation and other national laws relevant to child protection?</b>	
<b>Gender analysis: disparities between girls and boys?</b>	
<b>Structures (ministries/departments) charged with implementing national legislation?</b>	Justice system:
<b>Legal standards for decision-making at critical points of the process depending on the nature of the decision and seriousness of consequences?</b>	Social welfare system:
<b>Explicit provision of services?</b>	Justice system: Social welfare system:
<b>Complaints/reporting mechanism(s)?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , children have a right to report independently?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , child-friendly procedures?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , confidentiality assured?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Monitoring mechanism(s)?</b>	
<b>Budget allocation in law?</b>	<input type="checkbox"/> Alternative care <input type="checkbox"/> Other
<b>Subsidiary legislation, such as regulations?</b>	<input type="checkbox"/> Yes _____ <input type="checkbox"/> No
Contradictions, conflicts, or gaps between subsidiary legislation, the CRC, and other international standards?	
Intersections, contradictions, conflicts, or gaps between legislation (including other relevant laws/regulations) and subsidiary legislation?	
Structures (ministries/departments) charged with developing and implementing subsidiary legislation?	Justice system: Social welfare system:

<b>Specific Areas of Child Protection: CHILD LABOUR</b>	
<b>Stand-alone national legislation?</b>	Law _____
If <b>yes</b> , statement of guiding principles drawn from CRC and other international standards in legislation?	
If <b>no</b> , protections covered in existing legislation – such as labour law?	Law (s) _____ Provisions _____
<b>Contradictions, conflicts, or gaps between legislation and the CRC, ILO conventions/recommendations, Palermo Protocol and other international instruments?</b>	
<b>Intersections, contradictions, conflicts, or gaps between child labour legislation and other national laws relevant to child protection?</b>	
<b>Gender analysis: disparities between girls and boys?</b>	
<b>Structures (ministries/departments) charged with implementing national legislation?</b>	Justice system:
<b>Legal standards for decision-making at critical points of the process depending on the nature of the decision and seriousness of consequences?</b>	Social welfare system:
<b>Explicit provision of services?</b>	Justice system: Social welfare system:
<b>Complaints/reporting mechanism(s)?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , children have a right to report independently?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , child-friendly procedures?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , confidentiality assured?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Monitoring mechanism(s)?</b>	<input type="checkbox"/> Yes _____ <input type="checkbox"/> No
<b>Budget allocation in law?</b>	<input type="checkbox"/> Child labour <input type="checkbox"/> Other
<b>Subsidiary legislation, such as regulations?</b>	<input type="checkbox"/> Yes _____ <input type="checkbox"/> No
Contradictions, conflicts, or gaps between subsidiary legislation, the CRC, and other international standards?	
Intersections, contradictions, conflicts, or gaps between legislation (including other relevant laws/regulations) and subsidiary legislation?	
Structures (ministries/departments) charged with developing and implementing subsidiary legislation?	Justice system: Social welfare system:

**Specific Areas of Child Protection: CHILD TRAFFICKING**

<b>Stand-alone national legislation?</b>	Law _____
If <b>yes</b> , statement of guiding principles drawn from CRC and other international standards in legislation?	
If <b>no</b> , protections covered in existing legislation – such as criminal code, crime victims bill, labour laws, etc?	Law (s) _____ Provisions _____
<b>Contradictions, conflicts, or gaps between legislation and the CRC, Palermo Protocol, Optional Protocol on the Sale of Children, Child Pornography, and Child Prostitution, ILO Conventions/ Recommendations and other international instruments?</b>	
<b>Intersections, contradictions, conflicts, or gaps between child trafficking legislation and other national laws relevant to child protection?</b>	
<b>Gender analysis: disparities between girls and boys?</b>	
<b>Structures (ministries/departments) charged with implementing national legislation?</b>	Justice system:
<b>Legal standards for decision-making at critical points of the process depending on the nature of the decision and seriousness of consequences?</b>	Social welfare system:
<b>Explicit provision of services?</b>	Justice system: Social welfare system:
<b>Complaints/reporting mechanism(s)?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , children have a right to report independently?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , child-friendly procedures?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , confidentiality assured?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Monitoring mechanism(s)?</b>	
<b>Budget allocation in law?</b>	<input type="checkbox"/> Child trafficking <input type="checkbox"/> Other
<b>Subsidiary legislation, such as regulations?</b>	<input type="checkbox"/> Yes _____ <input type="checkbox"/> No
Contradictions, conflicts, or gaps between subsidiary legislation, the CRC, and other international standards?	
Intersections, contradictions, conflicts, or gaps between legislation (including other relevant laws/regulations) and subsidiary legislation?	
Structures (ministries/departments) charged with developing and implementing subsidiary legislation?	Justice system: Social welfare system:

<b>Specific Areas of Child Protection: CHILDREN AFFECTED BY ARMED CONFLICT</b>	
<b>Stand-alone national legislation?</b>	Law _____
If <b>yes</b> , is the statement of guiding principles drawn from CRC and other international standards in legislation?	
If <b>no</b> , are protections covered in existing legislation?	Law (s) _____ Provisions _____
<b>Contradictions, conflicts, or gaps between legislation and the CRC, CRC Optional Protocol and other international instruments?</b>	
<b>Intersections, contradictions, conflicts, or gaps between legislation and other national laws relevant to child protection?</b>	
<b>Gender analysis: disparities between girls and boys?</b>	
<b>Structures (ministries/departments) charged with implementing national legislation?</b>	Justice system:
<b>Legal standards for decision-making at critical points of the process depending on the nature of the decision and seriousness of consequences?</b>	Social welfare system:
<b>Explicit provision of services?</b>	Justice system: Social welfare system:
<b>Complaints/reporting mechanism(s)?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , children have a right to report independently?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , child-friendly procedures?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , confidentiality assured?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Monitoring mechanism(s)?</b>	
<b>Budget allocation in law?</b>	<input type="checkbox"/> Armed conflict <input type="checkbox"/> Other
<b>Subsidiary legislation, such as regulations?</b>	<input type="checkbox"/> Yes _____ <input type="checkbox"/> No
Contradictions, conflicts, or gaps between subsidiary legislation, the CRC, and other international standards?	
Intersections, contradictions, conflicts, or gaps between legislation (including other relevant laws/regulations) and subsidiary legislation?	
Structures (ministries/departments) charged with developing and implementing subsidiary legislation?	Justice system: Social welfare system:

<b>Specific Areas of Child Protection: COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN</b>	
<b>Stand-alone national legislation?</b>	Law _____
If <b>yes</b> , statement of guiding principles drawn from CRC and other international standards in legislation?	
If <b>no</b> , protections covered in existing legislation – such as criminal, evidence, labour, etc?	Law (s) _____ Provisions _____
<b>Contradictions, conflicts, or gaps between legislation and the CRC, Optional Protocol on the Sale of Children, Child Pornography and Child Prostitution, Palermo Protocol and other international instruments?</b>	
<b>Intersections, contradictions, conflicts, or gaps between CSEC legislation and other national laws relevant to child protection?</b>	
<b>Gender analysis: disparities between girls and boys?</b>	
<b>Structures (ministries/departments) charged with implementing national legislation?</b>	Justice system:
<b>Legal standards for decision-making at critical points of the process depending on the nature of the decision and seriousness of consequences?</b>	Social welfare system:
<b>Explicit provision of services?</b>	Justice system: Social welfare system:
<b>Complaints/reporting mechanism(s)?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , children have a right to report independently?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , child-friendly procedures?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , confidentiality assured?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Monitoring mechanism(s)?</b>	<input type="checkbox"/> Yes _____ <input type="checkbox"/> No
<b>Budget allocation in law?</b>	<input type="checkbox"/> CSEC <input type="checkbox"/> Other
<b>Subsidiary legislation, such as regulations?</b>	<input type="checkbox"/> Yes _____ <input type="checkbox"/> No
Contradictions, conflicts, or gaps between subsidiary legislation, the CRC, and other international standards?	
Intersections, contradictions, conflicts, or gaps between legislation (including other relevant laws/regulations) and subsidiary legislation?	
Structures (ministries/departments) charged with developing and implementing subsidiary legislation?	Justice system: Social welfare system:

<b>Specific Areas of Child Protection: JUVENILE JUSTICE</b>	
<b>Stand-alone national legislation?</b>	Law _____
If <b>yes</b> , is the statement of guiding principles drawn from CRC and other international standards in legislation?	
If <b>no</b> , are protections covered in existing legislation – such as a criminal code, evidence, etc?	Law (s) _____ Provisions _____
<b>Contradictions, conflicts, or gaps between legislation and the CRC, UN standards/guidelines on juvenile justice, and other international instruments?</b>	
<b>Intersections, contradictions, conflicts, or gaps between juvenile justice legislation and other national laws relevant to child protection?</b>	
<b>Gender analysis: disparities between girls and boys?</b>	
<b>Structures (ministries/departments) charged with implementing national legislation?</b>	Justice system:
<b>Legal standards for decision-making at critical points of the process depending on the nature of the decision and seriousness of consequences?</b>	Social welfare system:
<b>Explicit provision of services?</b>	Justice system: Social welfare system:
<b>Complaints/reporting mechanism(s)?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , children have a right to report independently?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , child-friendly procedures?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , confidentiality assured?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Monitoring mechanism(s)?</b>	
<b>Budget allocation in law?</b>	<input type="checkbox"/> Juvenile justice <input type="checkbox"/> Other
<b>Subsidiary legislation, such as regulations?</b>	<input type="checkbox"/> Yes _____ <input type="checkbox"/> No
Contradictions, conflicts, or gaps between subsidiary legislation, the CRC, and other international standards?	
Intersections, contradictions, conflicts, or gaps between legislation (including other relevant laws/regulations) and subsidiary legislation?	
Structures (ministries/departments) charged with developing and implementing subsidiary legislation?	Justice system: Social welfare system:

<b>Specific Areas of Child Protection: MIGRANT CHILDREN</b>	
<b>Stand-alone national legislation?</b>	Law _____
If <b>yes</b> , statement of guiding principles drawn from CRC and other international standards in legislation?	
If <b>no</b> , protections covered in existing legislation – such as immigration, nationality, labour, etc?	Law (s) _____ Provisions _____
<b>Contradictions, conflicts, or gaps between legislation and the CRC, the Migrant Workers Convention, the Palermo Protocol and other international instruments?</b>	
<b>Intersections, contradictions, conflicts, or gaps between legislation and other national laws relevant to child protection?</b>	
<b>Gender analysis: disparities between girls and boys?</b>	
<b>Structures (ministries/departments) charged with implementing national legislation?</b>	Justice system:
<b>Legal standards for decision-making at critical points of the process depending on the nature of the decision and seriousness of consequences?</b>	Social welfare system:
<b>Explicit provision of services?</b>	Justice system: Social welfare system:
<b>Complaints/reporting mechanism(s)?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , children have a right to report independently?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , child-friendly procedures?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , confidentiality assured?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Monitoring mechanism(s)?</b>	
<b>Budget allocation in law?</b>	<input type="checkbox"/> Immigration <input type="checkbox"/> Other
<b>Subsidiary legislation, such as regulations?</b>	<input type="checkbox"/> Yes _____ <input type="checkbox"/> No
Contradictions, conflicts, or gaps between subsidiary legislation, the CRC, and other international standards?	
Intersections, contradictions, conflicts, or gaps between legislation (including other relevant laws/regulations) and subsidiary legislation?	
Structures (ministries/departments) charged with developing and implementing subsidiary legislation?	Justice system: Social welfare system:



<b>Specific Areas of Child Protection: REFUGEE CHILDREN</b>	
<b>Stand-alone national legislation?</b>	Law _____
If <b>yes</b> , statement of guiding principles drawn from CRC and other international standards in legislation?	
If <b>no</b> , protections covered in existing legislation – such as immigration, asylum, criminal, etc?	Law (s) _____ Provisions _____
<b>Contradictions, conflicts, or gaps between legislation and the CRC, Refugee Convention/Protocol and other international instruments?</b>	
<b>Intersections, contradictions, conflicts, or gaps between legislation and other national laws relevant to child protection?</b>	
<b>Gender analysis: disparities between girls and boys?</b>	
<b>Structures (ministries/departments) charged with implementing national legislation?</b>	Justice system:
<b>Legal standards for decision-making at critical points of the process depending on the nature of the decision and seriousness of consequences?</b>	Social welfare system:
<b>Explicit provision of services?</b>	Justice system: Social welfare system:
<b>Complaints/reporting mechanism(s)?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , children have a right to report independently?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , child-friendly procedures?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , confidentiality assured?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Monitoring mechanism(s)?</b>	
<b>Budget allocation in law?</b>	<input type="checkbox"/> Refugee <input type="checkbox"/> Other
<b>Subsidiary legislation, such as regulations?</b>	<input type="checkbox"/> Yes _____ <input type="checkbox"/> No
Contradictions, conflicts, or gaps between subsidiary legislation, the CRC, and other international standards?	
Intersections, contradictions, conflicts, or gaps between legislation (including other relevant laws/regulations) and subsidiary legislation?	
Structures (ministries/departments) charged with developing and implementing subsidiary legislation?	Justice system: Social welfare system:

<b>Specific Areas of Child Protection: SOCIAL WELFARE</b>	
<b>Stand-alone national legislation?</b>	Law _____
If <b>yes</b> , statement of guiding principles drawn from CRC and other international standards in legislation?	
If <b>no</b> , protections covered in existing legislation – such as family law, child welfare, domestic violence, etc?	Law (s) _____ Provisions _____
<b>Contradictions, conflicts, or gaps between legislation and CRC and other international instruments?</b>	
<b>Intersections, contradictions, conflicts, or gaps between social welfare legislation and other national laws relevant to child protection?</b>	
<b>Gender analysis: disparities between girls and boys?</b>	
<b>Structures (ministries/departments) charged with implementing national legislation?</b>	Justice system:
<b>Legal standards for decision-making at critical points of the process depending on the nature of the decision and seriousness of consequences?</b>	Social welfare system:
<b>Explicit provision of services?</b>	Justice system: Social welfare system:
<b>Complaints/reporting mechanism(s)?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , children have a right to report independently?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , child-friendly procedures?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , confidentiality assured?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Monitoring mechanism(s)?</b>	
<b>Budget allocation in law?</b>	<input type="checkbox"/> Social welfare <input type="checkbox"/> Other
<b>Subsidiary legislation, such as regulations?</b>	<input type="checkbox"/> Yes _____ <input type="checkbox"/> No
Contradictions, conflicts, or gaps between subsidiary legislation, the CRC, and other international standards?	
Intersections, contradictions, conflicts, or gaps between legislation (including other relevant laws/regulations) and subsidiary legislation?	
Structures (ministries/departments) charged with developing and implementing subsidiary legislation?	Justice system: Social welfare system:

<b>Specific Areas of Child Protection: STATELESS CHILDREN</b>	
<b>Stand-alone national legislation?</b>	Law _____
If <b>yes</b> , statement of guiding principles drawn from CRC and other international standards in legislation?	
If <b>no</b> , protections covered in existing legislation – such as nationality, civil code, birth registration, etc?	Law (s) _____ Provisions _____
<b>Contradictions, conflicts, or gaps between legislation and the CRC, Convention on Stateless Persons and other international instruments?</b>	
<b>Intersections, contradictions, conflicts, or gaps between legislation and other national laws relevant to child protection?</b>	
<b>Gender analysis: disparities between girls and boys?</b>	
<b>Structures (ministries/departments) charged with implementing national legislation?</b>	Justice system:
<b>Legal standards for decision-making at critical points of the process depending on the nature of the decision and seriousness of consequences?</b>	Social welfare system:
<b>Explicit provision of services?</b>	Justice system: Social welfare system:
<b>Complaints/reporting mechanism(s)?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , children have a right to report independently?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , child-friendly procedures?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , confidentiality assured?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Monitoring mechanism(s)?</b>	
<b>Budget allocation in law?</b>	<input type="checkbox"/> Nationality <input type="checkbox"/> Other
<b>Subsidiary legislation, such as regulations?</b>	<input type="checkbox"/> Yes _____ <input type="checkbox"/> No
Contradictions, conflicts, or gaps between subsidiary legislation, the CRC, and other international standards?	
Intersections, contradictions, conflicts, or gaps between legislation (including other relevant laws/regulations) and subsidiary legislation?	
Structures (ministries/departments) charged with developing and implementing subsidiary legislation?	Justice system: Social welfare system:

<b>Specific Areas of Child Protection: VIOLENCE AGAINST CHILDREN</b>	
<b>Stand-alone national legislation?</b>	Law _____
If <b>yes</b> , statement of guiding principles drawn from CRC and other international standards in legislation?	
If <b>no</b> , protections covered in existing legislation – such as family law, child welfare, education, criminal, etc?	Law (s) _____ Provisions _____
<b>Contradictions, conflicts, or gaps between legislation and the CRC and other international instruments?</b>	
<b>Intersections, contradictions, conflicts or gaps between violence legislation and other national laws relevant to child protection?</b>	
<b>Gender analysis: disparities between girls and boys?</b>	
<b>Structures (ministries/departments) charged with implementing national legislation?</b>	Justice system:
<b>Legal standards for decision-making at critical points of the process depending on the nature of the decision and seriousness of consequences?</b>	Social welfare system:
<b>Explicit provision of services?</b>	Justice system: Social welfare system:
<b>Complaints/reporting mechanism(s)?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , children have a right to report independently?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , child-friendly procedures?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If <b>yes</b> , confidentiality assured?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Monitoring mechanism(s)?</b>	
<b>Budget allocation in law?</b>	<input type="checkbox"/> Violence <input type="checkbox"/> Other
<b>Subsidiary legislation, such as regulations?</b>	<input type="checkbox"/> Yes _____ <input type="checkbox"/> No
Contradictions, conflicts, or gaps between subsidiary legislation, the CRC, and other international standards?	
Intersections, contradictions, conflicts, or gaps between legislation (including other relevant laws/regulations) and subsidiary legislation?	
Structures (ministries/departments) charged with developing and implementing subsidiary legislation?	Justice system: Social welfare system:

Are the CRC core principles explicitly articulated, including non-discrimination; commitment to the best interests of the child; right to life, survival and development; and respect for the views of the child?

## B. Policy frameworks Checklist

NATIONAL	ADOPTED
Are national plans of action (NPAs) or other policy frameworks in place?	<input type="checkbox"/> Yes Specify _____ <input type="checkbox"/> No
Intersections, contradictions, conflicts, or gaps between policy (including other relevant policy), legislation and international instruments?	
Are the CRC core principles explicitly articulated, including non-discrimination; commitment to the best interests of the child; right to life, survival and development; and respect for the views of the child?	
Precise definitions of key terms	
Structures (ministries/departments) charged with setting and implementing policy?	Justice system: Social welfare system:
Justice system:	
Social welfare system:	
Clearly defined roles and responsibilities and lines of accountability?	
Guiding framework outlining objective, activities, outcomes, targets, benchmarks, timeframe and budget, focal points?	
Budget allocation? Financing and implementation plan?	
Coordination and cooperation mechanisms?	<input type="checkbox"/> Ministry for children <input type="checkbox"/> National council for children <input type="checkbox"/> Inter-ministerial committee <input type="checkbox"/> Commission for children <input type="checkbox"/> National task force <input type="checkbox"/> Secretariat <input type="checkbox"/> Other _____
Mechanisms placed under which authority?	
National and local level coordination?	
Reference to monitoring and evaluation of NPA implementation?	
OTHER POLICY FRAMEWORKS AND MECHANISMS	
Specify	

## Notes

## Notes

## Notes





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Technical Guide

Part Four: LEGAL AND REGULATORY SYSTEM

## 4.4 JUSTICE FOR CHILDREN PROGRAMMING

- A. The UN Approach to Justice for Children
- B. The need for a common approach
- C. Strengthening the justice system
- D. Justice for children programming

## **Purpose and intended users**

This technical guide provides an overview of the UN Approach to Justice for Children, specifically the guiding principles for developing strategies and which interventions should be considered for child protection programming. The UN Approach complements the global and EAPRO child protection strategies and offers a good starting point when planning interventions, plus it encourages greater uniformity among all UN agencies working with the justice system. The objective is to guide UNICEF child protection staff on developing strategic justice for children programming.

The section on the UN Approach to Justice for Children can be used as reference, although it and the following section on the need for a common approach also provide the basis for advocacy. The sections on strategies can be used both as a reference and guidance for incorporating child protection dimensions in broader development efforts.

## 4.4 JUSTICE FOR CHILDREN PROGRAMMING

This guide serves as an introduction to the justice system and the UN justice for children approach. It includes strategies for strengthening the justice system and interventions to promote justice for children.

Over the past few decades, UNICEF child protection practitioners have devoted tremendous energy and efforts toward strengthening the justice system to protect children from harm. The work has largely focused on the promotion of child justice standards in the criminal justice sector. Despite significant progress over the past few decades, there is still a long way to go before children have full access to justice and are treated as stakeholders in the broader rule of law, justice and security reform initiatives. A new step in moving towards this goal is the UN Guidance Note issued in September 2008 on a common approach to justice for children, which outlines strategies within existing principles and frameworks for the rule of law (in correspondence with the UN approach to rule of law assistance).<sup>1</sup>

### A. The UN Approach to Justice for Children<sup>2</sup>

In 2008, the United Nations Secretary-General issued a UN-wide policy, called the UN Approach to Justice for Children. It was developed under UNICEF's leadership and in close collaboration with the United Nations Development Programme, the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime, the United Nations Development Fund for Women, the Department of Peacekeeping Operations of the Secretariat and the United Nations High Commissioner for Refugees.

The goal of the UN Approach to Justice for Children is to ensure that children are provided access<sup>3</sup> to and better served and protected by justice systems, including links to the security and social welfare sectors. This applies to all children who come into contact with both the formal and informal<sup>4</sup> justice systems, including those who are victims, witnesses, in conflict with the law, *or require* care, custody or protection.

The UN Approach to Justice for Children specifically aims at ensuring full application of international norms and standards for all children regarding their care, custody or protection when coming into contact with the justice (or related) systems.<sup>5</sup> This approach applies in all circumstances, including crime prevention, crisis, post-crisis, post-conflict and development contexts.

The goal also includes ensuring children's access to justice to seek and obtain redress in criminal and civil matters through the various sectors: criminal justice, civil justice, administrative justice or informal justice (see guide 4.2 for an explanation of these sectors).

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<sup>1</sup> *Guidance Note of the Secretary-General: United Nations Approach to Justice for Children*, Interoffice Memorandum, Executive Office of the Secretary-General, 2 September 2008. Under the leadership of UNICEF in close cooperation with the Rule of Law Unit, this Guidance Note is the result of consultations among justice for children and rule of law specialists within the organization and has been endorsed by the Rule of Law Coordination and Resource Group.

<sup>2</sup> This section is summarized from the *Guidance Note of the Secretary-General: United Nations Approach to Justice for Children*.

<sup>3</sup> Access to justice can be defined as the ability to obtain a just and timely remedy for violations of rights as put forth in national and international norms and standards (including the CRC).

<sup>4</sup> In this Toolkit, 'informal justice' refers to the whole range of non-state mechanisms that deal with disputes at community levels, including traditional, customary, religious, and informal mechanisms.

<sup>5</sup> *Guidance Note of the Secretary-General: United Nations Approach to Justice for Children*. para. 4.

## Guiding principles on justice for children<sup>6</sup>

The UN Approach to Justice for Children is based on the following principles, which reflect the CRC:

<b>Giving the best interests of the child primary consideration</b>
This principle should guide the whole process (judicial, administrative or other) but also be a primary consideration in determining in the first place whether or not a child should participate in the process.
<b>Treating every child fairly, equally and without discrimination</b>
This principle underpins the development of all justice for children programming. Special attention must be given to the most vulnerable groups of children. This means that children deprived of liberty and children involved in war-time atrocities – often perceived as ‘less deserving’ – have the same rights as other children. A gender-sensitive approach should be taken in all interventions, including with respect to girl soldiers and girls in the (juvenile) justice system. Services offered should not be constrained by gender stereotypes and should provide a range of options for both boys and girls.
<b>Allowing every child to express his or her views freely and to be heard</b>
Children have a particular right to be heard in any judicial and administrative proceedings, either directly or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law. This implies, for example, that the child receives adequate information about the process, the options and possible consequences of these options and that the methodology used to question children and the context (where children are interviewed, by whom and how) be child-sensitive and adapted to the particular child. In conflict and post-conflict contexts, it is important to fully involve children in transitional justice processes. Children’s meaningful participation in state-run and non-state justice proceedings often requires a significant change in law, legal practice and attitudes. Obstacles that girls typically endure in having their voices heard, such as a lack of confidence or experience in being listened to and taken seriously, should be accommodated for.
<b>Protecting every child from abuse, exploitation, neglect and violence</b>
Children should be protected from hardship while going through state-run and non-state justice proceedings as well as after the process. Procedures and appropriate protective measures should be put in place, noting that the risks that boys and girls face will differ. Torture or other cruel, inhuman or degrading treatment or punishment (including corporal punishment) must be prohibited. Also, capital punishment and life imprisonment without possibility of release shall not be imposed for offences committed by children.
<b>Treating every child with dignity and compassion</b>
Every child has to be treated as a unique and valuable human being and as such his or her individual dignity, special needs, interests and privacy should be respected and protected.
<b>Respecting legal guarantees and safeguards in all processes</b>
Basic procedural safeguards – including but not limited to privacy, legal aid, support services and right to appeal – set forth in relevant national and international standards and norms shall be guaranteed at all stages of proceedings in both state-run and non-state systems as well as in international justice.
<b>Preventing conflict with the law as a crucial element of juvenile justice policy</b>
Emphasis should be placed on prevention strategies facilitating the successful socialization and integration of all children, in particular through the family, community, peer groups, schools, vocational training and work. Prevention programmes should focus on support for particularly vulnerable children and families.

<sup>6</sup> UN. March 2008. *UN Common Approach to Justice for Children Concept Note*. p. 5.

### **Depriving children of liberty as a measure of last resort and for the shortest appropriate period of time**

Provisions should be made for restorative justice, diversion mechanisms and alternatives to deprivation of liberty. Programming on justice for children needs to build on informal and traditional justice systems as long as they respect basic human rights principles and standards, such as gender equality.

### **Mainstreaming children's issues into all rule of law efforts<sup>7</sup>**

Justice for children issues should be systematically integrated into national planning processes, such as national development plans, common country assessments and UN Development Assistance Framework assessments, sector-wide approaches (SWAPs), poverty assessments and poverty-reduction strategies, and policies or plans of action developed as a follow up to the UN Global Study on Violence Against Children; in national budget and international aid allocation and fundraising; and in the UN's approach to justice and security initiatives in peace operations and country teams, in particular through joint and thorough assessments, development of a comprehensive rule of law strategy based on assessment results, and establishment of a joint UN rule of law programme in country.

## **B. The need for a common approach to justice**

Justice has long been high on the international development agenda. The UN and other bilateral and multilateral development partners recognize the importance of rule of law<sup>8</sup> and a functioning justice system in reducing poverty as well as promoting peace, security and human rights. Rule of law approaches are thus a cornerstone of the UN commitment to the Millennium Declaration, the fulfilment of the Millennium Development Goals and human rights for all.<sup>9</sup>

A common approach to justice for children enables UN agencies to integrate children's issues into, and leverage support through partners working on, broader agendas around the rule of law, including governance, security, social welfare and justice sector reform.<sup>10</sup> Translating inter-agency guidance into concrete, practical measures to improve the rights of children in contact with the law is critical to their protection. A common approach increases cost-effectiveness and maximizes respective outcomes and impact.

Moreover, a common approach precludes implementation of child justice interventions that are at odds among different UN agencies. For example, UNICEF may advocate for the mainstreaming of child justice standards separately from broader justice reform. Although this may not adversely affect children in discrete proceedings, it may be a missed opportunity for the protection of children within the broader justice context. Alternatively, broader justice reform can run contrary to or even obstruct the efforts of child protection practitioners if efforts are not coordinated. For instance, broader justice reform may advocate for law reform, calling for harsher mandatory sentences for specific offences, irrespective of whether or not the offender is a child. This can undermine existing or pending juvenile justice legislation promoting diversion, restorative justice or non-custodial sanctions for that same offence committed by a child.

Also, justice for children interventions may be undertaken through vertical approaches by child protection practitioners, aimed at improving either the juvenile justice system or responses to child victims and witnesses, without acknowledging the frequent overlap between these categories and the professionals and institutions with responsibility towards them.<sup>11</sup>

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<sup>7</sup> *Guidance Note of the Secretary-General: United Nations Approach to Justice for Children*, p. 6.

<sup>8</sup> Rule of law "refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency". Security Council, the Rule of law and transitional justice in conflict and post-conflict societies, Report of the Secretary General, S/2004/616, August 2004.

<sup>9</sup> Excerpted from the *UN Common Approach on Justice for Children Concept Note* (March 2008) p. 3.

<sup>10</sup> *Guidance Note of the Secretary-General: United Nations Approach to Justice for Children*, para. 5.

<sup>11</sup> *UN. March 2008. UN Common Approach to Justice for Children Concept Note*. p. 3.

Within the child protection context, the justice for children approach helps practitioners to make the connections among various child justice issues. This is important when developing strategies, not only along vertical or horizontal lines but also to deal with situations at cross purposes; for example, treating child victims of commercial sexual exploitation or trafficking as offenders because of their involvement in prostitution or other criminal activity rather than protecting their rights. In the same vein, children displaced by conflict or stateless children denied civil and political rights may illegally migrate across borders for livelihood opportunities but face recrimination at the hands of justice officials instead of receiving much-needed support and protection.

Making these connections is critical. It breaks down some of the barriers and preconceptions with respect to children in conflict with the law while underscoring the need for more creative, comprehensive interventions. Whether children come into contact with the justice system as victims, witnesses, alleged offenders or are in need of protection, care and custody, they are all entitled to minimum standards of care, protection and legal safeguards in accordance with the guiding principles on justice for children and international standards and norms.

Working in isolation on child justice interventions (for example, on juvenile justice with children in conflict with the law separate from child victims) can fragment the overall process of prevention and response to inter-related child protection issues. And it can create an endless workload for child protection practitioners. Where there is an overlap and nexus - whether promoting similar child justice standards, training the same group of justice officials or developing child victim identification criteria – child protection practitioners should take steps to consolidate, harmonize and streamline efforts.

The UN Approach to Justice for Children offers a framework for practitioners to develop systemic interventions to comprehensively prevent and respond to multiple underlying causes, contributing factors and manifestations of child abuse, exploitation, neglect and violence, regardless of the entry point to the justice system. It also facilitates appropriate links to the social welfare system for children and families and the social behaviour change system. Also, the Justice for Children approach ensures that children’s issues are integrated into broader justice reform and that children have full access to fair, transparent, protective, accessible and enforceable child-sensitive justice systems.

UNICEF is the lead agency for juvenile justice but its role is not limited to promoting justice for children in conflict with the law. UNICEF works to ensure that child victims of abuse, exploitation, neglect and violence (or witnesses) as well as those requiring care, custody and protection are provided better access to and better services and protection within the justice system.

**UN agencies involved in justice for children**

Numerous UN agencies have a decisive role to play in promoting justice for children. UNICEF is identified as the lead agency for juvenile justice. But other agencies have different roles to play within the overall strengthening of a national justice system, in both crisis/post-crisis and development contexts.

Other UN agencies involved in justice for children activities include:

- United Nations Office on Drugs and Crime (UNODC)
- Office of the United Nations High Commissioner for Human Rights (OHCHR)
- United Nations Development Programme (UNDP)
- Department of Peacekeeping Operations of the Secretariat (DPKO)
- United Nations Development Fund for Women (UNIFEM)
- United Nations High Commissioner for Refugees (UNHCR)
- United Nations Population Fund (UNFPA)
- International Labour Organization (ILO)
- United Nations Programme on HIV/AIDS (UNAIDS)



UNICEF child protection practitioners should take proactive steps to widely disseminate the *Guidance Note* and promote the common approach in forums such as child protection or protection working groups, clusters, networks or interagency groups focusing on the rule of law, security-sector reform, justice-sector reform, governance, poverty reduction or related issues. Concerted actions to promote justice for children will go a long way towards fulfilling children's rights to protection and well-being.

## C. Strengthening the justice system

In most countries, there is an existing justice system with various sectors – criminal justice, civil justice, administrative justice and traditional justice. Each justice sector contains different institutions that are governed by specific mandates, actors, procedures and norms. In the criminal justice sector, for instance, law enforcement and corrections are interlinked but also have separate institutions with their own set of rules.

The starting point in systems-building is to first assess whatever exists, irrespective of whether you want to strengthen or dismantle, revamp or rebuild the justice system in a way that better protects children.

Children *in contact with the justice system* can be involved in one or more of the sectors. They can be victims of or witnesses to a broad range of child protection issues, including abuse, trafficking, violence in the home, school or community, worst forms of child labour, violations of due process when in conflict with the law or affected by armed conflict.

Children *in conflict with the law* typically refers to criminal offences. However, children also can be apprehended for or charged with violations of other laws, such as immigration. Even though they are then subjected to other sectors of the justice system, such as administrative proceedings, they can experience deprivation of liberty, lengthy detention, inadequate due process or appalling detention conditions.

Child victims, witnesses and children in conflict with the law require better access, services and protections at all stages of the criminal justice process, including investigative, pre-trial, trial, sentencing and post-trial. There should be safeguards for children throughout criminal proceedings. This needs to be broadened to integrate child-sensitive procedures throughout civil, administrative and informal justice proceedings (such as custody, child abuse and neglect, immigration, asylum and guardianship).

Other justice sectors can play a crucial role in addressing child protection issues. In particular, traditional and customary justice sectors can be successfully synergized with the formal justice sector (see the following box on Papua New Guinea). When positive traditions are used as strengths, there is greater buy-in, stronger commitment and an increased likelihood of cost-effective, sustainable change. Drawing on the strengths of traditional and customary justice also can enhance the capacity of child victims, their families and communities to play an active role in the eventual outcome of the case, which may be limited in formal justice sectors.

## Synergies between formal and informal justice A look at Papua New Guinea

The resolution of conflict in traditional Papua New Guinea societies has long relied on principles of mediation, restorative justice and reciprocity. The complete absence of a specialized juvenile justice system provided the opportunity to successfully break from Western influences and contribute to a more locally relevant and effective system for dealing with juvenile justice.

Drawing on the strengths of Melanesian tradition, UNICEF Papua New Guinea has supported the development of a rights-based juvenile justice system. The adoption of traditional restorative justice principles has led to greater local ownership and a measurable decrease in the number of children in detention, particularly for minor offences.

Reforms have also led to a comprehensive legal and policy framework, more specialized response to juvenile offending and improved capacity of justice agencies to take a rights-based approach in dealing with children who come into conflict with the law. The introduction of provincial juvenile justice working groups has promoted systematic coordination at the provincial level.

These reforms have led to tangible results for children. Current data indicates that in 2007 there was a 62 per cent reduction in the use of correctional services facilities for holding children on remand and a 27 per cent reduction in their use for detention. Data from the Magisterial Services also indicates that the use of detention sentences has decreased from 24 per cent to 10 per cent since 2003. Similarly, there has been a reduction in the use of detention for minor or non-violent offenders, with the proportion of completed cases dropping from 24 per cent in 2003 to 8 per cent in 2006.

Source: UNICEF Papua New Guinea

### Intervention on one part involves all parts of the justice system

All three parts of the justice system (frameworks, structures and processes) must be taken into account when building up a country's justice system for children, even when an intervention focuses narrowly on only one part. Without a solid understanding of the various components of a justice system, interventions run the risk of being fragmented, inconsistent or marginal.

Law and policy reform, for instance, must be undertaken with a good understanding of the relevant laws and policy and the broad range of structures and institutions, such as the ministries responsible for enforcing laws and monitoring bodies, and the governing processes. This is crucial to ensure that all laws and policies relevant to child protection (even if justice system-building is the entry point) are harmonized, integrated and realistic – and thus capable of effective implementation. Laws and policies are the blueprints and the instruments by which justice sectors are empowered, organized, resourced and directed to promote child protection and justice.

Processes are critical for ensuring the smooth functioning of the justice system for child protection. And yet, many structures struggle with implementing laws and policies because staff don't have good processes to work with or don't understand how to strengthen them. Processes such as interagency guidelines, child victim screening and referral criteria, codes of conduct, intra-agency communication and information management can make the difference between an efficient system for child protection or a weak, defunct one. Processes governing coordination, communications, information management, monitoring and accountability at various stages and levels should also always be taken into account. UNICEF can make substantive contribution with technical support on clear operational guidance.

## Children's participation and law reform A look at Timor-Leste

"When the process of the Public Consultation on Timorese traditional justice on children in conflict with the law was taking place in 11 districts, we came to the frightening realization that children were not invited to take part in the consultation process.

Considering the primacy of children's participation (Article 12 from the CRC), we decided to invite NGOs whose work involves direct partnership with children. Our initial plan was to create a children's participatory group in order to discuss children's plight and struggles in regards to the CRC and mainly focusing on the aspect of juvenile justice in Timor-Leste.

The participating children were invited by the Ministry of Justice (MOJ), and we decided together to meet on a regular weekly basis (every Friday afternoon in the MOJ's meeting room). Doing so, we invited them to read the main aspects of the draft juvenile justice legislation and to give their opinions, while we were sharing with them the principles of children rights from the CRC and the Timorese Constitution. During the course of our meetings, it was interesting to note that as they grew in numbers, their enthusiasm in learning more about their rights heightened as well. After the tenth meeting we realized that through these encounters and dialogue, we found ourselves being formed into a group, [eventually] baptized as Rede komukasaum Direitu ba Labarik – RKDL (Children's Rights Communication Net).

The Rede's members have taken up the task of sharing their learning experiences in a children's workshop that was attended by the fellow children from the districts. It was a colourful sharing of life, struggles and experiences regarding children's rights. The participating children from the districts were moved by the possibility that someday they could be part of the RKDL expanding to the national level [or at least] not confined only in Dili. In the day following the workshop and still feeling empowered, all the children actively participated presenting the [juvenile justice reform] draft during the seminar Justice for Children: Strengthening Democracy in TL."

*Text was taken from the 2008 article Labarik nian lian: Children's Rights in East Timor, by Isabel Maria Sampaio Oliveira Lima, who is a Legal Adviser to the Ministry of Justice.*

## D. Justice for children programming

### Justice for children strategies

The UN Approach to Justice for Children framework emphasizes two strategies for cooperation:<sup>12</sup>

integrate justice for children issues within broader programmes aimed at establishing the rule of law;
reinforce additional, complementary programmes to improve respect for children's rights, with a specific focus on community-based efforts to promote access to justice and legal empowerment of the poor, excluded and marginalized.

Within the UN, rule of law is defined as 'a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.'<sup>13</sup>

<sup>12</sup> UN. March 2008. *UN Common Approach to Justice for Children Concept Note*. p. 7.

<sup>13</sup> UN. August 2004. *Report of the Secretary-General, S/2004/616*. para. 6.

## Selecting interventions

After the strategy is developed, the next question is: Which interventions build on the identified strengths and overcome the weaknesses of the protective environment? The response depends on the context and level of commitment of those within the justice system. Even when it is clear how to solve the problems and what should be done, realities on the ground may limit your choice of strategic intervention options.<sup>14</sup>

It is well recognized and fully respected that governments are responsible for undertaking measures to promote justice for children in line with obligations under the CRC. UNICEF's role is to help government partners identify the most cost-effective and strategic interventions while supporting their efforts in the implementation. Due to the interconnectedness and common basic elements of child protection issues, this generally calls for similar prevention and response justice interventions regardless of the child protection issue.

Although this section elaborates on strategic interventions for child justice, strengthening the rule of law for conflict prevention should emphasize:

promoting transparency in the judicial system;
ensuring access to justice;
promoting law enforcement;
strengthening institutions;
establishing accessible independent redress mechanisms;
building the presence and capacity of civil society in promoting the rule of law;
ensuring that attention is paid to gender equality and that women's rights are systematically addressed. <sup>15</sup>

The Justice for Children framework emphasizes greater attention to children in rule of law initiatives and the need for additional interventions to guarantee full respect for children's rights. The following offers a select range of strategic interventions<sup>16</sup> as proposed within the UN Approach to assist in determining what the UNICEF child justice programming should include. For more detailed information on the full range of justice for children strategic interventions, consult the *UN Common Approach to Justice for Children Concept Note* (March 2008).

## Integration of children's issues into broader legal processes

**National planning processes:** This includes national development plans, common country assessments and UN Development Assistance Framework assessments, sector-wide approaches (SWAPS), poverty assessments and poverty-reduction strategies, and policies or plans of action following up on the UN Global Study on Violence Against Children.

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<sup>14</sup> UNICEF. 2007. *Child Protection Programme Strategy and Programming Process*, p. 22.

<sup>15</sup> Supporting the realization of children's rights through a rights-based approach to legislative reform, UNICEF Division of Policy and Planning

<sup>16</sup> Strategic interventions outlined in this section are drawn from the *UN Common Approach to Justice for Children Concept Note*, March 2008.

**Law, institutional and policy reform** at the national and regional levels. Children’s issues must be integrated into:

constitutional reform and/or constitution-making processes;
law and policy reform efforts at national and regional levels;
codes of conduct, standards for recruitment and standards of practice for law enforcement and judiciary personnel, detention facilities management and staff, lawyers, social workers, paralegals and other professional interfacing with children in contact with the law. <sup>17</sup>

Potential entry points for broader law and policy reform include: CRC provisions, Committee on the Rights of the Child General Comment No. 10, relevant UN norms and standards in crime prevention and criminal justice, including the UN Economic and Social Council resolution on supporting national efforts for child justice reform, among other instruments.<sup>18</sup>

**Institutional capacity development and training programmes:** Children’s issues can be included in curricula for in-service and initial training for legal and judicial institutions (prosecution, legal assistance and representation, ministries of justice, criminal law, court administration, civil law) and law enforcement, parliaments, lawyers, paralegal professionals,<sup>19</sup> the social sector, justice institutions, prison staff, immigration officials, etc. Training on procedural or substantive issues could also be provided to non-state justice personnel and should include sensitization to a gender perspective.

**Codes of conduct, standards for selection and recruitment and standards of practice** for law enforcement, the judiciary, prison management and staff, mediators, arbitrators, labour inspectors, lawyers, social workers, paralegals and other professionals in touch with children in contact with the law.

**Accountability mechanisms for justice actors**, such as police accountability mechanisms or citizen review boards of police conduct.

**Monitoring bodies:** When establishing or reforming human rights monitoring bodies (parliamentary committees, ombudsman offices, human rights commissions, etc.), ensure that due attention is given to children in justice systems, including within closed institutions. These bodies could also play a role in ensuring that non-state mechanisms are compliant with human rights.

**Budgets and aid:** Children’s issues should be included in allocation of national budgets and international aid to ensure sufficient means for reforms and for prevention of and response to child protection issues by the justice and social welfare systems. Legislation or policies protecting children from harm should include a sufficient allocation of resources.

### **Interventions to consider for justice system-building**

The following are interventions to consider for building up the justice system and thus strengthening the protective environment and ensuring justice for children:

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<sup>17</sup> UN. 2007. *Guidance Note of the Secretary-General: UN Approach to Justice for Children*. p. 4.

<sup>18</sup> *ibid.*

<sup>19</sup> “Paralegals are laypersons, often drawn from the groups they serve, who receive specialized legal training and who provide various forms of legal education, advice and assistance to the disadvantaged”. Stephen Golub, *Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative*. Rule of Law Series, Carnegie Endowment for International Peace, Democracy and the Rule of Law Project, No. 41, October 2003; p. 33.

## Build the knowledge base on children in justice systems

	Create and maintain national databases on children in the justice system.
	Develop national research agendas on the nature and extent of crimes by and against children, <sup>20</sup> including victim research or analyses of the cost of deprivation of liberty versus alternatives or of the impact of detention on creating a safe society.
	Conduct research on the use of non-state justice mechanisms by children and their respect for child rights within these mechanisms.
	Systematically document good practices and lessons learned on justice for children approaches.

## Raise awareness on the rights of children in contact with justice systems

	Document the impact of going through the justice system on child victims and witnesses and children in conflict with the law.
	Document the differential impact of the justice system on the rights of particular groups of children, such as girls, minority and indigenous children, disabled children and children with HIV or AIDS.
	Highlight key messages, such as 'violence against child victims, witnesses and offenders is preventable and not justifiable,' <sup>21</sup> that many children in the criminal justice system do not belong there and that 'tough on crime' policies generally do not result in a safer society.

## Promote restorative justice, diversion and alternatives to deprivation of liberty

Institute interventions that promote children's reintegration into society, such as victim-offender mediation, family group or community conferences, and community youth panels or committees.

## Promote non-state or informal justice mechanisms in line with child rights

	Non-state justice mechanisms tend to address issues that are of direct relevance to the most disadvantaged children, including protection of land and property for children orphaned by AIDS or conflict, the resolution of family and community disputes and protection of entitlements, such as access to public services.
	Work with communities to bring these mechanisms in line with child rights and to remove discriminatory biases towards women and girls.

<sup>20</sup> Recommendations from the *Report of the Independent Expert for the UN Secretary-General's Study on Violence Against Children*, A/61/299, August 2006.

<sup>21</sup> UN. August 2006. *Report of the Independent Expert for the UN Secretary-General's Study on Violence Against Children*. A/61/299.

**Enable the full involvement of the social welfare sector and communities** in justice for children issues, strengthening coordination between the social welfare for children and families and the justice sectors. The social welfare sector has an important role to play at several levels:

	prevention of conflict with the law (such as supporting families at risk);
	during the judicial or extra-judicial process (such as preparing and/or assisting a child during the interview or conducting a social inquiry);
	diversion programmes and the provision of alternatives to deprivation of liberty (such as providing orientation, supervision or probation services);
	provision of support services to child victims of abuse, exploitation and violence;
	reintegration stage (including preparing the family for a child's return).

**Assist a government's ability to prevent all crimes against children, including gender-based violence, and to detect, investigate and prosecute offenders**

	Build the capacity of justice, military, law enforcement and social welfare professionals.
	Reinforce multidisciplinary cooperation among sectors.

### **Legal empowerment and access to justice interventions**

Justice systems will remain irrelevant if children, including the most disadvantaged, cannot access it. Barriers to access include economic barriers, legal and institutional discrimination, lack of awareness, lack of capacity, insufficient outreach, lack of trust of formal institutions, inadequate protection, fear of reprisal or lack of physical access.

Access to justice should:

	be maintained in emergency, conflict, post-conflict and long-term development contexts;
	in emergency situations, respond to 'usual' legal claims and those directly related to crises, such as property, guardianship or claims for assistance;
	grant all people, including children, equal access to legal remedies;
	ensure specific measures and support favouring marginalized or excluded groups, including children;
	give attention to aspects of disempowerment particular to, or disproportionately experienced by, girls.

Legal empowerment can be defined as ‘the use of legal services and related development activities to increase disadvantaged populations’ control over their lives’.<sup>22</sup> Legal empowerment:

is a necessary complement to law and institutional reform;
generally strengthens civil society and the legal capacities and power of the poor, excluded and marginalized to address their priorities;
is a component of access to justice and also has wider implications (in terms of increasing control over one’s life);
raises attention to the needs of those most in need, especially children;
at the community level can inform and influence legal reform at the national level.

### Strategic interventions for legal empowerment

This list provides examples and is not intended to be comprehensive:

**Integration of children’s issues into existing initiatives when** identifying groups whose equal access to justice are most at stake; identifying barriers to access or when defining strategies to remove barriers.

**Strengthen interventions to ensure full respect for children’s rights** and ensure child rights education and legal awareness for all children as well as for families and communities:

Inform children of their rights.
Ensure children understand what and what not to expect from the justice system, including benefits and risks (such as security) in seeking justice.
Integrate awareness programmes in school curricula and existing initiatives, such as life skills education, psychosocial counselling, child-friendly spaces.
Empower parents and communities to bring action on behalf of children (especially younger ones) when necessary and as appropriate and to defend rights of the whole household.

### Establish and/or draw on child participation projects

Ensure that children can help identify legal matters important to them from the outset.
In post-conflict situations, ensure that children can help identify the most appropriate transitional justice mechanism (s) and ways to enhance community dialogue.
Facilitate children’s representation in restitution decision-making processes.

### Ensure children’s full-fledged participation in judicial, administrative and community-based processes

Promote child-sensitive procedures and methods.
As necessary, engage in law reform, development of procedures (such as interview techniques), strengthening capacities, creating child-friendly physical environment and social behaviour change on child participation.

<sup>22</sup> Golub, Stephen. 2003. *Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative*. Carnegie Endowment for International Peace.



## Support community-based legal and paralegal services for children

	Develop the capacity of lawyers' networks and bar associations, paralegal professionals, <sup>23</sup> including women, from the concerned community.
	Support or establish NGO services at the community level, such as legal information centres, legal aid clinics and socio-legal defence centres to provide legal information and representation to children and support services.
	In (post) emergencies, services and professionals must be enabled to tackle guardianship, inheritance and other public law issues, in particular for orphaned, returning child refugees and internally displaced children.

## Support civil society organizations in facilitating children's access to non-state justice systems

	Raise public awareness on non-state justice mechanisms.
	Train justice providers in human rights issues.
	Monitor activities of non-state mechanisms to ensure compliance with international standards and norms.
	Report on human rights abuses and help ensure fair outcomes.
	Assist non-state justice mechanisms to be more responsive to children's needs and protection concerns.

## Crisis and post-crisis situations

Children are particularly affected in crisis and post-crisis situations because they can be:

	separated from their caregivers;
	orphaned;
	distressed by what they have seen and experienced;
	victims of abuse, exploitation, violence and discrimination, which can be exacerbated in times of crisis;
	victims of increased domestic violence as external tensions in the community often permeate into homes;
	pushed into conflict with the law, as a survival strategy or as a direct consequence of the overall breakdown in order;
	targeted by warfare, including abduction, rape, forced marriage, and recruitment into armed forces.

Child justice programming should be complementary to humanitarian and relief work to prevent or mitigate situations of high risk for children during emergencies. Fair and effective justice systems are also often a way to prevent additional violations.

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<sup>23</sup> Paralegals are an important multi-faceted resource in providing basic legal information, advice, representing children in administrative processes, assisting litigation and generally promoting rights awareness. As members of the community, these people are often closer to children's concerns and less intimidating to them.

## Strategic interventions in crisis and post-crisis contexts

### Ensure that children's concerns and their rights are included in peace agreements.

Ensure that children's concerns are included in discussion on transitional justice<sup>24</sup> mechanisms – including in ad hoc investigations, fact-finding and commissions of inquiry.

### Ensure children can fully participate in such mechanisms guided by the principle of their best interests.

### Ensure that procedures are in line with the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.

**Promote the post-crisis situation as an opportunity** to establish a juvenile justice system adapted to the needs of the country and to develop national strategies aiming at the child's rehabilitation:

Incorporate principles of restorative justice, diversion measures and alternatives to deprivation of liberty.
'Build back better' when reforming the justice system.
Ensure that immediate post-crisis interventions are part of a broader strategy aimed at establishing a national justice system in line with international standards in the mid to long term.

**Provide support in tandem to non-state justice mechanisms** because they may play a critical role in the immediate aftermath when restoring security and rule of law is a priority. Bring these mechanisms in line with human rights – and more specifically women's and girls' rights – through, *inter alia*, improved monitoring, awareness raising and capacity development.

**Ensure that children's concerns are included in security and justice discussions and initiatives**, including peacekeeping missions and joint UN assessments and planning missions, from the outset:

Advocate for children's voices to be heard.
Promote understanding that children's issues are likely to be key determinants in achieving peace.
In terms of security sector reform, train security forces, peacekeeping missions, with a focus on military and police peacekeepers, on child rights, gender sensitization, mediation and conflict resolution and focus on their responsibilities as duty-bearers in the protection of children.

**(Re) build the capacity of local human and child rights/child protection organizations, institutions and agencies, the media and community groups** to advocate on behalf of children and monitor fulfilment of their rights:

In conflict situations, support the establishment of a monitoring and reporting mechanism for child rights violations as per Security Council Resolution 1612. <sup>25</sup>
Use information collected through a monitoring and reporting mechanism to inform transitional justice processes.
Give attention to the implementation of Security Council Resolution 1325 <sup>26</sup> on Women, Peace and Security that covers girls' protection as well.

<sup>24</sup> In his 2004 report on rule of law and transitional justice in conflict and post-conflict situations, the Secretary-General defined the notion as comprising "the full range of processes and mechanisms associated with a society's attempt to come terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation." 'Security Council, the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies', UN. August 2004. *Report of the Secretary-General*. S/2004/616.

<sup>25</sup> Security Council, Resolution 1612, 26 July 2005.

<sup>26</sup> Security Council, Resolution 1325, 31 October 2000.

**Develop the capacity of legal services, civil society and paralegals on legal issues of particular relevance to children in crisis and post-crisis situations**

	Legal issues include guardianship, land and property rights (with due attention to the plight of girls who may not be permitted to lawfully inherit or own property). registration, national identification and citizenship, statelessness, as well as grave violations of human rights, such as sexual- and gender-based violence.
	Draw specific attention to possible discriminatory practices, for example towards certain ethnic groups, girls or adopted children.
	Ensure that paralegal professionals are both women and men.

**Develop the capacity of civil society to design and run programmes in relation to justice for children in emergencies**

	Keep children away from activities that conflict with the law (providing information on the risks of exploitation, abduction and recruitment by armed forces).
	Improve detention conditions.
	Ensure the rapid disarmament, demobilization and reintegration of children who have been associated with armed forces.
	As part of overall efforts to demobilize and reintegrate militia groups, ensure equal access to reinsertion packages for girls.

**Advocate with donors for significant resources to be invested in justice for children as part of the response to the crisis**

	Include justice for children issues in Common Humanitarian Action Plans and Consolidated Appeal Processes when relevant.
	Include justice for children issues in joint programmes and funding through new mechanisms, such as the Peace Building Fund.

## Leveraging children's issues in emergencies

### A look at Timor-Leste

Following the collapse of the National Police (PNTL) in the political crisis in 2006 and the deployment of a UN peace-keeping mission (UNMIT) by Security Council Resolution 1704, efforts have been undertaken to restore and maintain security in Timor-Leste and to reform, restructure and rebuild the PNTL.

UNICEF Timor-Leste capitalized on this opportunity, providing technical support to PNTL and UNMIT to strengthen law enforcement for children and create child-friendly police services, including dedicated units for women's and children's cases. In January 2008, the Child-Friendly Police Project was established with the PNTL/UNPOL. Every child-friendly police station is equipped with trained police officers in Rules of Procedure for Child Abuse Victims, Children at Risk and Children in Conflict with the Law developed by UNICEF in partnership with social welfare, security, legal and judicial actors in 2007.

There is also a separate place for child victims, witnesses and children in conflict with the law to be interviewed by these trained officers. Emergency food, clothing and shelter are also available. Community police workers conduct outreach to schools in the surrounding villages on the role of police in children's protection, children's rights and their right to protection in particular as well as where and how to report violations of these rights.

These stations are linked to newly decentralized social welfare services for children, allowing one of the 13 newly trained Government Child Protection Officers in the district to support any child in contact with the law to access necessary health, psychosocial, legal and other support services in the short and long terms. Each time a child-friendly police station is to be established, a group of children and young people is selected from the closest village to design and participate in the construction of the station, thereby promoting knowledge and awareness about the role of the Vulnerable Persons Unit in protecting children and how to access necessary assistance for vulnerable children.

In 2008, more than 500 police officers were trained on children rights, and rules of procedure for child victims. The reporting of cases of violence, exploitation and abuse of children as well as domestic violence has increased by at least 25 per cent in just six months of operation in all districts where the stations have been established.

Source: UNICEF Timor-Leste

## Notes

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## 4.5 DRAFTING JUVENILE JUSTICE LEGISLATION

- A. General principles
- B. Jurisdiction and age of criminal responsibility
- C. Diversion
- D. Arrest, police custody and investigation
- E. Pre-trial supervision
- F. Trial
- G. Sentencing
- H. Institutional standards and reintegration
- I. Records and privacy

## **Purpose and intended users**

This guide in its entirety is a tool for developing a model justice law for children in conflict with the law. It provides UNICEF child protection staff with an overview of the key components of a juvenile justice law for purposes of supporting either the development or reform of legislation relating to children who are in conflict with the law – children accused of committing crimes or other law violations.

Although intended to provide expert guidance on juvenile justice legislation, this tool also offers a broad overview of the principles and concepts associated with juvenile justice for all UNICEF child protection staff. In addition to outlining a legal framework for diversion, this tool specifies the protections that should apply to children in conflict with the law at all stages of the criminal justice process: arrest, police custody, pre-trial, trial, sentencing and post-trial.

## 4.5 DRAFTING JUVENILE JUSTICE LEGISLATION

This section presents guidance on the analysis and reform of a national juvenile justice law. In this context, a juvenile justice law refers to the legislative framework for responding to children in conflict with the law, such as children who are accused of committing crimes or other law violations.

How juvenile justice is addressed in the national legal framework varies from country to country, such as:

special provisions or a separate chapter on juvenile justice in a country's standard criminal code and criminal procedure code;
separate section within a broader child protection act that also covers child rights;
separate, comprehensive juvenile justice codes dealing solely with children in conflict with the law.

Globally, the trend seems to be towards introducing separate, comprehensive juvenile justice codes. As compared to simply including special juvenile justice protections within existing criminal laws, a comprehensive juvenile justice law allows for greater distinction and differentiation between the adult and juvenile justice systems. Comprehensive reforms are also preferable to piecemeal efforts to address specific legislative gaps (such as raising the minimum age of criminal responsibility).

A juvenile justice law is highly contextual. The scope and degree of detail contained in a child protection law will vary considerably depending on a country's legal tradition and drafting style. In general, countries influenced by the British common law system (Papua New Guinea, most Pacific countries, Myanmar and to some extent Philippines and Thailand, which are 'mixed systems'), tend to have laws that are detailed and precise. By contrast, in countries influenced by the civil law tradition (China, Indonesia, Lao PDR, Mongolia and Viet Nam), laws tend to be shorter and more general, with detailed guidance provided through implementation decrees, directives or regulations.

Drawing on international standards and global models, this section provides an overview of the common components in an overall legislative framework for juvenile justice; the degree to which these issues are covered in the main law or subsidiary legislation will depend on the individual country.

 **Components of a juvenile justice law**

- general principle
- jurisdiction and age of criminal responsibility
- diversion
- arrest, police custody and investigation
- pre-trial supervision
- trial
- sentencing
- institutional standards and reintegration
- records and privacy

This guide is not intended to be a template but instead provide guidance.

## A. General principles

Many juvenile justice laws begin with a statement of guiding principles, generally drawing from the CRC and other international instruments.<sup>1</sup> This allows for a clear articulation of how the State's approach to child offending is fundamentally different from the largely punitive approach of the adult justice system. The principles also provide guidance to judicial and administrative authorities when they are exercising their discretion under the law.

Statements of general principles often include the following:

<b>Best interest principle</b>	<b>Proportionality principle from the CRC</b>	<b>Primacy of diversionary responses</b>	<b>Statement of children's right</b>	
	Any response to a child in conflict with the law must be proportionate not just to the nature of the alleged offence but also to the circumstances and maturity of the child.	Unless the public interest requires otherwise, criminal proceedings should not be instituted against a child if there is an alternative means of dealing with the matter.	This refers to children's right to special protections and procedures at all stages of the criminal justice process.	
	<b>Rights of children</b>	<b>Non-punitive approach</b>	<b>Requirement</b>	<b>Statement of preference</b>
	Children have the right to participate in the proceedings and to express themselves freely and to have legal and other support (including family members) to assist them at all stages of the proceedings.	This approach should promote a child's reintegration and assuming a constructive role in society.	All child justice matters must be dealt with in a fair, just and timely way.	Community-based responses are preferred and obligation to use arrest, detention and imprisonment should only be a measure of last resort and for the shortest appropriate period of time.

<sup>1</sup> See laws of Australia (NSW), Canada, Lao PDR, Papua New Guinea, Philippines, New Zealand and South Africa.

## B. Jurisdiction and age of criminal responsibility

There are two key ages important to keep in mind when drafting juvenile justice laws:



### Minimum age

Globally, the minimum age of criminal responsibility varies widely, from a very low age of 7 years to 16 or, in some cases, 18 years of age. The UN Committee on the Rights of the Child has recently expressed its view that a minimum age of criminal responsibility younger than 12 years is unacceptable.<sup>2</sup>

In setting a minimum age of criminal responsibility, it is important to ensure that legislation clearly states how children younger than that age who commit criminal offences will be treated. The general approach is to refer them to child welfare services to be assessed and supported, if necessary, in accordance with child protection/welfare legislation.

### Upper age limit for juvenile justice protections

Another key issue when reviewing and drafting juvenile justice laws is to ensure that juvenile justice protections apply equally to all children younger than 18. The UN Committee on the Rights of the Child has been critical of countries that limit the application of their juvenile justice laws to children younger than 16. It also rejects the practice of limiting the scope of juvenile justice protections to only certain categories of offences.<sup>3</sup> For example, some juvenile justice laws apply only to children who commit non-serious crimes; children younger than 18 who commit more serious offences may be subject to 'adult' proceedings and adult sentences, either as a matter of law or at the discretion of law enforcement authorities. The CRC is clear that specialized protections for children in conflict with the law apply to all children younger than 18.

### Age determination

In countries with low rates of birth registration, age determinations can pose a challenge. Juvenile justice laws can address this by:

requiring that, pending a conclusive determination of age by a judge, police and prosecutors must treat a person as a child if she/he claims to be or appears to be younger than 18;
requiring judges to make considered age determinations based on a full assessment of all available information (not simply physical appearance), giving due weight to: any official documentation that is available (birth certificate, school records, health post records, etc.); a statement as to age from the parent or child; and an estimate by a medical practitioner. <sup>4</sup> Note that medical examinations, including x-rays, provide only an opinion as to age, generally with a margin of error of two to three years for teenagers.

<sup>2</sup> UN Committee on the Rights of the Child General Comment No. 10 (2007) on Children's Rights in Juvenile Justice.

<sup>3</sup> *ibid.*

<sup>4</sup> See, for example, Papua New Guinea, Philippines, Myanmar and South Africa.

In addressing the age issue, it is important to ensure that legislation clearly stipulates that reference is to the child's age at the time the offence was allegedly committed – not the point at which she/he was arrested, tried or sentenced (which can sometimes be years later).

#### Minimum ages: Various approaches

Some countries also continue to use a 'discernment' test to determine if a child is criminally responsible: Children who are older than a certain age (such as 12) but younger than a higher age (such as 14) are presumed to be not criminally responsible unless they have the required level of maturity. The assessment of maturity or 'discernment' is left to the court, often without the requirement of involving a psychological expert.

The UN Committee on the Rights of the Child has been critical of this approach, noting that the system of two minimum ages is often confusing and leaves much to the discretion of the court/judge and may result in discriminatory practices. In practice, it rarely provides additional protections to children and generally results in decisions based on the nature or seriousness of the child's conduct, rather than his/her mental and emotional maturity.

Laws in some countries also apply a lower minimum age of criminal responsibility if a child has committed specified categories of crimes (the minimum age is generally 16, but children 14 years or older are liable if they commit serious or very serious offences). This is also considered to be contrary to the principles of the CRC and the Beijing Rules, which emphasize that the minimum age of criminal responsibility should be set bearing in mind children's emotional, mental and intellectual maturity – not the seriousness or consequences of their actions.



## C. Diversion

Increasingly, diversion is at the core of juvenile justice reform initiatives. While often introduced informally prior to legislative reform, diversion operates best when it is imbedded into the legal framework.

An effective legal framework for diversion generally requires the following:

List of factors	Requirement to consider diversion
The factors to consider in deciding if diversion is appropriate generally are related to the nature and circumstances of the offence, the background and characteristics of the child and the views of the victim.	In all cases, before initiating or continuing with criminal proceedings, the authority must first consider if diversion would be appropriate.
Stipulation of the types of offences	Prerequisites for the use of diversion
Stipulation of the types of offences that may be diverted varies from country to country. At the minimum, it should include all first-time offenders charged with minor offences. Some countries also allow diversion for repeat offenders and broaden the scope to include more serious crimes. <sup>5</sup>	The child admits responsibility for the alleged offence;
	The child and his/her parents consent to the diversion;
	There is sufficient evidence to prove the offence.
Assignment of authority to divert	Obligation to monitor
Some countries give discretion to divert at each stage of the criminal justice process (police, prosecutors and judges). Others limit decision-making to prosecutors or to judges, or allow police diversion for only specified categories of minor offences.	Obligation of some authority (usually probation services, social welfare ministry or ministry of justice) to be responsible for monitoring, regulating and promoting the development of diversion programmes.

<sup>5</sup> See, for example, Canada, where diversion is presumed adequate for all non-violent crimes and may be used even if the child has previously been diverted or convicted of a crime; and Australia (NSW) where diversion is available for all summary offences and most indictable offences, except for specified violent offences.

Types of diversionary measures	Process for decision-making
<p>Some laws state the types of diversionary measures that may be used only in general terms, leaving it up to the relevant authority to develop appropriate programmes. Other countries stipulate options, sometimes categorized depending on the seriousness of the offence:</p>	<p>Process for individual decision-making about diversion. This may simply be assigned to a particular authority (such as the prosecutor) or may also include:</p>
<p>verbal warning;</p>	<p>Assessment by a probation officer or social worker, who meets with the child and family members and makes recommendations to the appropriate authority;<sup>6</sup></p>
<p>formal written warning;</p>	<p>Referral to a family group conference (FGC) to determine if diversion is appropriate and what diversionary measures would be most appropriate. Sometimes procedures for conducting a FGC are contained in the law, or they may be detailed in subsidiary rules or regulations;<sup>7</sup></p>
<p>oral or written apology;</p>	<p>'Pre-hearing' by a judge to review the case and determine if diversion is appropriate.<sup>8</sup></p>
<p>referral to a restorative justice process (victim/offender mediation or community conference);</p>	
<p>compensation or restitution;</p>	
<p>community service work;</p>	
<p>school or vocational training;</p>	
<p>supervision and guidance;</p>	
<p>participation in a competency development programme (anger management, problem solving, etc.);</p>	
<p>referral to a therapeutic treatment programme (drug or alcohol addiction, etc.)</p>	

<sup>6</sup> See, for example, South Africa and Thailand.

<sup>7</sup> See Australia (NSW) and New Zealand.

<sup>8</sup> South Africa

## D. Arrest, police custody and investigation

The initial contact with the police is often when children are at greatest risk of abuse and of having their fundamental rights violated. Children are more susceptible than adults to harsh interrogation techniques, which can undermine children’s right against self-incrimination and result in high rates of false confessions. In most countries, police stations do not have the capacity to separate children from adults, so children in police custody end up in holding cells together with adults.

To ensure that contact between police and children is managed in a manner that respects the legal status of the child, promotes the child’s well-being and avoids harm to him/her, juvenile justice laws generally include the following provisions:

<b>Prohibitions on use of violence</b>	<b>Use of arrest as last resort</b>
Use of violence against children is prohibited and there is a restriction on the use of any physical force or handcuffs, except in specified exceptional circumstances (such as when required to prevent the child from injuring him/herself or others).	Arrest and police custody are only used as a measure of last resort, sometimes with an explicit prohibition against arrest and police custody for specified minor offences. <sup>9</sup>
<b>Alternatives to formal arrest</b>	<b>Requirement to explain rights</b>
Alternatives to formal arrest are to be used in minor cases, such as issuance of a summons or written notice to appear in court. <sup>10</sup>	A child’s rights and the reasons for the arrest must be explained in language she/he can understand and with the assistance of a translator when necessary. <sup>11</sup>
<b>Obligation to notify parents</b>	<b>Authority to release children to parents</b>
There is obligation on the police to notify parents, guardian or some other supportive adult of the child’s choosing immediately upon arrest <sup>12</sup> or no later than a specified time period (generally a maximum of 24 hours). <sup>13</sup>	Authority is granted to police to release children under the custody of their parents, guardian or some other appropriate adult rather than holding them in police custody. <sup>14</sup>

<sup>9</sup> Australia (NSW), Lao PDR, New Zealand, South Africa and Viet Nam.

<sup>10</sup> Australia (NSW), Canada, Papua New Guinea and South Africa.

<sup>11</sup> New Zealand, Papua New Guinea, Philippines and South Africa.

<sup>12</sup> Canada and New Zealand

<sup>13</sup> See, for example, Lao PDR, Myanmar, Papua New Guinea, Philippines and South Africa.

<sup>14</sup> See, for example, laws of Fiji, Papua New Guinea and Philippines.

Requirement to separate children	Requirement that a support person be present
<p>Children who must be held in police custody must be separated from adults<sup>15</sup> or transferred to a special observation centre for children.<sup>16</sup></p>	<p>A parent, guardian or other supportive adult must be present whenever the child is being questioned by the police. In some countries, legislation states that if a parent or some other support person is not present, then any statement taken from the child cannot be admitted as evidence in court.<sup>17</sup></p>
Requirement that an advocate be present	Requirement that interviews be video taped
<p>A lawyer, lay advocate and/or a social worker or probation officer must be present during questioning. Provisions are sometimes made for the appointment of a lawyer free of charge when the child cannot afford to pay.</p>	<p>All police interviews of children must be video taped.<sup>18</sup></p>

<sup>15</sup> See, for example, laws of Papua New Guinea and Philippines.

<sup>16</sup> See, for example, laws of Thailand.

<sup>17</sup> See, for example, laws of Australia (NSW), Canada, New Zealand, Papua New Guinea and South Africa.

<sup>18</sup> Thailand

## E. Pre-trial supervision

In many countries, excessive use of detention during the investigation or pre-trial stage (sometimes referred to as ‘remand’) is one of the primary weaknesses of the juvenile justice system. Investigative delays and court backlogs can result in children languishing for months or years waiting for their trial, often resulting in periods of pre-trial detention that are well in excess of the maximum penalty for the crime they allegedly committed. In particular, migrant children, street-based children and other vulnerable children may be subjected to detention for very minor offences solely because their parents cannot be located or cannot afford to pay the cash bail required for their release. Conditions in pre-trial detention centres are often worse than other correctional institutions, with limited or no access to education and support services and greater restrictions on mobility and contact with family.

To reduce the number of children being subjected to pre-trial detention and to reduce the duration when pre-trial detention is used, juvenile justice laws generally include the following:

<b>Detention as last resort</b>	<b>Prohibition on use of pre-trial detention</b>
It must be explicitly stated that children should be subject to pre-trial detention only as a measure of last resort and for the shortest possible period.	The use of pre-trial detention for children is prohibited except for specified serious offences. <sup>19</sup>
<b>Obligation to review cases</b>	<b>List of criteria for release or detention</b>
A specified competent authority (prosecutor or judge) is obligated to review all cases within 24 hours of arrest to determine if the detention of a child is warranted. The authority must consider release options in all cases, regardless of whether the child or his/her parents have requested release or filed a formal application for bail.	The list of criteria for determining whether a child should be released or remain in pre-trial detention should differ from those used to make decisions in adult cases and should take into account the child’s personal background, circumstances and best interests – not simply the seriousness of the offence. <sup>20</sup>
<b>List of alternatives to detention</b>	<b>Elimination or restrictions on cash bail</b>
List of alternatives to pre-trial detention that may be used in children’s cases include: release on a promise to abide by specified behavioural and reporting conditions; release under the supervision of a parent, guardian or some other appropriate adult; placement under the guidance of a community mentor or community supervisor; supervision by a probation officer, social worker, or other authority; temporary foster care; or placement in an open custody children’s home or shelter facility.	The use of cash bail in children’s cases are eliminated or restricted. <sup>21</sup> At a minimum, the amount of cash bail should be set with regard to the child’s or parent’s ability to pay.

<sup>19</sup> See, for example, Canada, Fiji, New Zealand, Papua New Guinea and South Africa.

<sup>20</sup> See, for example, Canada, Papua New Guinea and South Africa.

<sup>21</sup> See, for example, Australia (Queensland) and New Zealand.

Requirement for referral	Stipulation of expedition of procedures
When pre-trial detention is used, children must be referred to a special juvenile facility <sup>22</sup> or, at minimum, be separated from adults.	When a child is detained, procedures must be expedited to keep the period of pre-trial detention to a minimum.
Stipulation of maximum period in detention	Requirement for review
The maximum period a child may be held in pre-trial detention <sup>23</sup> should be much lower than for adults, and according to the UN Committee on the Rights of the Child, should not exceed 30 days.	The legality and continued need for pre-trial detention must be periodically reviewed by a competent authority (judge or prosecutor). <sup>24</sup> This ensures that children do not get 'forgotten' and languish in pre-trial detention. The UN Committee recommends that reviews be undertaken every two weeks.

<sup>22</sup> See, for example, Fiji, New Zealand and South Africa.

<sup>23</sup> See, for example, Lao PDR, South Africa and Viet Nam

<sup>24</sup> See, for example, South Africa.

## F. Trial

The CRC and Beijing Rules emphasize that children in conflict with the law are entitled to have their case determined without delay by an impartial authority. Proceedings should be conducive to the best interest of the child and should be conducted in an atmosphere of understanding that allows the child to participate and express him or herself freely. In addition to standard procedural rights to which all defendants are entitled (such as presumption of innocence, right against self-incrimination, right to present evidence and cross-examine witnesses, etc.), juvenile justice laws generally provide for the following additional protections for children:

<b>Separate juvenile courts</b>	<b>Requirement for separate trials</b>
Completely separate juvenile courts (generally only warranted in major urban centres) must be created and/or the designation of specialist juvenile judges who hear juvenile cases on a separate day of the week or time of day than adult cases. <sup>25</sup>	Children must be tried separately in the juvenile court, even if co-accused with adults.
<b>Restrictions on use of handcuffs</b>	<b>Requirement of informal manner</b>
No handcuffs or other restraints are permitted while the child is in court or in transit to/from the court. <sup>26</sup>	Proceedings must be conducted in an informal manner to encourage maximum participation by the child and parents. <sup>27</sup>
<b>Right of the child to be present</b>	<b>Obligation of the court to explain</b>
A child has the right to be present during the trial, to participate in the proceedings and to have his/her views given due weight in the decision-making process.	The court is obligated to explain the charges and the procedures to the child in simple language that she/he can understand. <sup>28</sup>
<b>Right to have parent present</b>	<b>Right to be assisted by lawyer</b>
A child has the right to have his/her parents present during the trial, unless it is not in the child's best interests. Some laws give judges the power to force parental attendance through a summons or subpoena. <sup>29</sup>	Children have the right to be assisted by a lawyer, including provisions requiring the court to appoint a lawyer (or lay advocate) free of charge if that has not been done at the arrest or investigation stage. <sup>30</sup>
<b>Restrictions on who may be present</b>	<b>Requirement of speedy trial</b>
Limitations are placed on who may be present in the court, generally banning members of the public and anyone not directly involved in the case.	All trials must be concluded as quickly as possible. This generally includes limitation on the number and duration of adjournments and a maximum time for the completion of the trial once the case has been referred to the court (sometimes with a shorter period if the child is in detention). The UN Committee on the Rights of the Child has stated that courts should be required to make a final decision on the charges no later than six months after they have been presented to the court.

<sup>25</sup> See, for example, Fiji, Lao PDR, Malaysia, Myanmar, Papua New Guinea and Philippines.

<sup>26</sup> See, for example, Lao PDR, Papua New Guinea, Philippines and South Africa.

<sup>27</sup> See, for example, Australia (NSW and Queensland), Papua New Guinea, Philippines and South Africa.

<sup>28</sup> See, for example, Australia (Queensland).

<sup>29</sup> See, for example, Fiji, Lao PDR, Malaysia, Myanmar and Papua New Guinea.

<sup>30</sup> See, for example, New Zealand and South Africa.

## G. Sentencing

Sentencing is one of the key areas in which the rules applicable to children must be fundamentally different than for adults. The CRC emphasizes that although children must be held accountable for their actions, this must be done in a way that promotes their reintegration into society. Purely punitive approaches are prohibited, and any sanction imposed must be proportionate not just to the offence but also to the background and circumstances of the individual child.

In most countries, the national penal code stipulates, what the appropriate penalty should be for each offence. This usually includes the type of sanction that may be imposed (such as fine, probation or imprisonment) as well as the maximum amount or duration of that penalty (such as ten years of imprisonment). Juvenile justice legislation generally overrides these provisions, providing for different sentencing principles a broader range of non-custodial sentencing options and greater discretion or flexibility when deciding the most appropriate disposition.

Juvenile justice laws generally include:

<b>Statement of general principles</b>	<b>Social inquiry reports</b>
General principles or factors to consider when deciding the most appropriate disposition are clearly stated. <sup>31</sup>	Social inquiry reports must be prepared (by a probation officer or social worker) and considered by the court, sometimes with additional provisions regarding how quickly they must be prepared or allowing the judge to dispense with them if it would cause unnecessary delay. <sup>32</sup>
<b>Restrictions on detention</b>	<b>Prohibition on death penalty</b>
The use of detention is restricted except for specified serious offences.	The death penalty or life imprisonment are prohibited.
<b>Deprivation of liberty as a last resort</b>	<b>Referral to family group conference</b>
That deprivation of liberty shall be used only as a measure of last resort, for the shortest appropriate period is clearly stated.	Judges have authority, at their discretion, to refer the matter to a family group conference for sentencing recommendations. <sup>33</sup>

<sup>31</sup> See, for example, Australia (NSW), Canada, Papua New Guinea and South Africa.

<sup>32</sup> See, for example, Canada, Malaysia, Myanmar, Papua New Guinea and South Africa.

<sup>33</sup> See, for example, Australia (NSW), Canada, Papua New Guinea, New Zealand and South Africa.



Prohibition on corporal punishment	List of sentencing options
Corporal punishment (particularly where this was previously permitted by law) is prohibited.	<p>Sentencing options that are available must be listed, sometimes with the requirement that the least restrictive options be considered first and detention used only if other alternatives have been considered and are not appropriate. Options generally include:</p>
<b>Mandatory penalties do not apply</b>	
<p>Any minimum or mandatory penalties in the criminal code do not apply to children and a lower maximum period of imprisonment for children (generally between five and ten years) is stipulated. Some countries continue to allow 'adult' penalties to be imposed on children who commit very serious crimes (murder, aggravated rape, etc.). Others maintain the mandatory sentencing provisions of the criminal code but specify that the sentence for children is reduced by a certain percentage (such as children's penalty is half that of adults).<sup>36</sup> The UN Committee on the Rights of the Child has been critical of these approaches, which do not respect the proportionality principle and unduly limit judges' discretion to tailor the disposition to the individual child.</p>	
<b>Responsibility for supervision</b>	<ul style="list-style-type: none"> <li>discharge without recording a formal conviction;</li> <li>admonishment or reprimand;</li> <li>a fine, which should be limited to the child's ability to pay; some countries also explicitly prohibit imprisonment of children for non-payment of a fine<sup>34</sup> or allow it to be paid through community service work;<sup>35</sup></li> <li>restitution or compensation, including through personal service;</li> <li>good-behaviour bond;</li> <li>compulsory school attendance order;</li> <li>order to attend education or vocational training programme;</li> <li>community service work, with a maximum limit set on the number of hours, and prohibitions against work that is harmful, humiliating or interferes with the child's schooling;</li> <li>order to participate in a community-based competency development programme (such as life skills)</li> <li>counselling or treatment order;</li> <li>community supervision and guidance order;</li> <li>probation order;</li> <li>intensive support and supervision order;</li> <li>order to attend a reporting centre (non-residential) for a specified duration;</li> <li>suspended sentence;</li> <li>placement in an 'open' custodial institution for a specified period;</li> <li>placement in a closed custodial institution for</li> </ul>
<p>An authority responsible for community-based supervision and rehabilitation of children subject to a community-based sentence is designated, generally the probation authority or social welfare ministry.</p>	

<sup>34</sup> see, for example, Australia (NSW, Queensland), Fiji, New Zealand and Papua New Guinea.

<sup>35</sup> See, for example, Australia (Queensland), Canada and Papua New Guinea.

<sup>36</sup> See, for example, Lao PDR and Viet Nam.

## H. Institutional standards and reintegration

The CRC and the UN Rules for the Protection of Juveniles Deprived of their Liberty (the JDL Rules) provide a complete code of the rights of children who are deprived of their liberty. These basic standards should be incorporated into the national legal framework. In most countries, some of these standards are included in juvenile justice laws and detailed provisions are left for subsidiary rules or regulations.

These standards should apply to all places where children are deprived of their liberty (any institutional setting they cannot leave at will), whether run by government or non-government agencies, including police holding cells, pre-trial detention centres, juvenile rehabilitation centres, reform schools or training schools, children's homes and prisons.

Juvenile justice legislation may include:

<b>Stated purpose of detention</b>	<b>Statement of children's rights</b>
The purpose or objectives of detention, which emphasizes rehabilitation not punishment, must be clearly stated. <sup>37</sup>	The rights of children in detention, drawn from the CRC and JDL Rules (such as separation from adults, protection from violence and abuse, education, vocational training, recreation, access to health care, family and community contact) must be clearly stated. <sup>38</sup>
<b>Designation of authority to establish standards</b>	<b>Designation authority to conduct inspections</b>
An authority to establish minimum standards for children in detention and to accredit or license children's homes run by private or civil society organizations is designated. <sup>39</sup>	An authority to conduct regular, periodic inspections of all places of detention, including free access for unannounced visits, is designated.
<b>Complaints mechanism</b>	<b>Temporary leave</b>
An effective complaints mechanism must be in place in all institutional settings.	Provisions must be clearly stated relating to temporary leave from detention facilities for school, work, family visits or to support gradual reintegration. <sup>40</sup>
<b>Requirement for regular reviews</b>	<b>Procedures for early release</b>
All children in institutions must be subject to regular and periodic reviews.	Procedures for the early release of children where continued detention is not necessary or in their best interests must be established.
<b>Responsibility for supporting reintegration</b>	
An authority responsible for supporting the reintegration of children released from institutional care must be designated. <sup>41</sup>	

<sup>37</sup> See, for example, Canada

<sup>38</sup> See, for example, Australia (Queensland), Lao PDR and Papua New Guinea.

<sup>39</sup> See, for example, Fiji, Malaysia, Myanmar, Papua New Guinea and Philippines.

<sup>40</sup> See, for example, Australia (Queensland) and Canada.

<sup>41</sup> See, for example, Canada and Philippines.

## I. Records and privacy

The CRC and Beijing Rules emphasize the importance of protecting the privacy rights of children in conflict with the law. The purpose is to protect children from stigmatization, which can negatively impact on their reintegration. Children also need protection from the negative consequences that flow from having a criminal record, which can make it more difficult for them to re-enter school or find employment. To address these issues, juvenile justice laws generally include:

Juvenile court proceedings are closed to the public.	The publication of any information that might lead to the identification of a child (name, photo, etc.) is restricted, including sanctions on those who violate these provisions. <sup>42</sup>	The records of children as offenders must be kept strictly confidential and closed to third parties, except for those directly involved in the investigation, adjudication and disposition of the case. <sup>43</sup>
The use of a child's criminal record in subsequent criminal proceedings is prohibited once the child is an adult. <sup>44</sup>	A child's name is automatically removed from criminal records once she/he turns 18, sometimes with conditions (such as not having committed an offence within two years after the last conviction). <sup>45</sup>	

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<sup>42</sup> See, for example, Australia (NSW), Canada, Fiji, Indonesia and Papua New Guinea.

<sup>43</sup> See, for example, Papua New Guinea and Philippines.

<sup>44</sup> See, for example, Philippines

<sup>45</sup> See, for example, Australia (NSW) and Canada.

## Notes



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## 4.6 STRENGTHENING DIVERSION, RESTORATIVE JUSTICE AND ALTERNATIVES TO DETENTION

- A. Introduction
- B. Technical terms
- C. Diversion – approaches and guiding advice
- D. Restorative justice – approaches, common models and guiding advice
- E. Alternatives to detention
- F. Global promising practices and guiding advice

## **Purpose and intended users**

This guide provides a basic overview of juvenile justice concepts, UNICEF strategies and approaches in the arena of juvenile justice and some useful insights as well as global promising practices. The guide is intended as a fundamental primer and refresher on juvenile justice for UNICEF child protection practitioners, both new to the juvenile justice field and the more seasoned practitioners. It includes guidance on developing strategy and programming based on international standards, lessons learned and the promising practices.



## 4.6 STRENGTHENING DIVERSION, RESTORATIVE JUSTICE AND ALTERNATIVES TO DETENTION

### A. Introduction

Globally, the main focus of UNICEF's juvenile justice programming is the reduction of the number of children held in police custody, pre-trial detention, prisons and juvenile rehabilitation centres.<sup>1</sup> International experience has shown that children in institutional settings are at the highest risk of abuse and other harm and of having their fundamental rights violated. Detention isolates children from their families and communities, disrupts their education, limits their access to appropriate health care, deprives them of healthy recreational activities and exposes them to abuse and further criminalization. It has generally been proven to be ineffective at promoting recovery and may even increase the chances that the child will re-offend.

'Deprivation of liberty as a last resort' is one of the most misunderstood juvenile justice standards. This fundamental juvenile justice principle is violated whenever children in conflict with the law are detained because their parents cannot be located, because they are charged with another offence or solely because of the type of crime they have allegedly committed. The Beijing Rules emphasize that deprivation of liberty should not be imposed *unless* the child has committed a serious act involving violence against another person or if the child persists in committing serious offences and there is no other appropriate response. However, few countries abide by this standard. Globally, the overwhelming majority of children in conflict with the law have committed petty offences, such as property-related offences (theft, pick-pocketing, etc.). Many nonetheless end up in police cells, pre-trial detention centres or prisons, often under appalling conditions.

UNICEF's main strategy for reducing detention of children in conflict with the law is to promote diversion, restorative justice and community-based alternatives to detention at the pre-trial and sentencing stage. This strategy is intended to reinforce the core juvenile justice principles of the CRC, which emphasize that while children must be held accountable for their actions, any response to offending behaviour must take into account their age and the need to promote their recovery and reintegration. The objective is not just to punish but to help the child correct his/her behaviour and become a productive, law-abiding member of society.

International experience has shown that the most effective way to accomplish this is through community-based approaches.

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<sup>1</sup> See UNICEF's Child Protection Approach in the Sphere of Juvenile Justice (2001).

## B. Technical terms

<p><b>Diversion</b></p>	<p>Diversion is an alternative process for dealing with juvenile offences in an informal way, outside of the formal justice system. It refers literally to diverting or sending a child away from the formal justice system to some alternative means of resolving the offence. This can take the form of a simple caution or warning or may involve referral to a structured diversion programme (such as life skills or a competency development programme) or to a restorative justice process (mediation, family group conference).</p> <p>The term ‘diversion’ is sometimes erroneously used to refer to any resolution that ‘diverts’ a child from prison. However, strictly speaking, diversion occurs only when the child is not subject to a formal trial and adjudication by the courts. If a child has been formally adjudicated and sentenced by the courts to a community programme, she/he has not been diverted but has been given the benefit of an alternative sentence. Diversion generally requires the consent of the child and does not result in a criminal record - whereas alternative sentences can be imposed by the court regardless of consent and generally result in a criminal record.</p>
<p><b>Restorative Justice</b></p>	<p>Restorative justice is a way of responding to criminal behaviour that emphasizes repairing the harm caused by the crime – rather than merely punishing the offender. It is a process in which the victim and the offender and, where appropriate, any other individuals or community members affected by an offence, come together to decide collectively how to resolve the offence, generally with the help of a facilitator. The most common restorative justice processes are: victim/offender mediation, family group conferencing and community justice committees. Restorative justice processes are most commonly used as part of a diversion programme, although they may be incorporated into the formal criminal justice process.</p>
<p><b>Alternatives to detention or non-custodial options</b></p>	<p>Alternatives to detention and non-custodial options refer to measures that may be imposed on children who are being formally processed through the criminal justice system that do not involve deprivation of liberty. Deprivation of liberty is defined as the placement of a child in any institutional setting where she/he is not permitted to leave at will (and therefore encompasses placement in specialized juvenile rehabilitation homes as well).</p> <p>Alternatives to detention should be available: i) at the arrest and pre-trial stage to provide an alternative means of caring for and supervising the child pending his/her trial rather than placement in police station cells and pre-trial detention centres; and ii) at the sentencing stage to provide community-based options for the supervision and rehabilitation of children rather than sending them to prisons, reform schools or juvenile rehabilitation centres.</p> <p>Alternatives to detention commonly include measures such as probation, community supervision orders or community service work.</p>

## C. Diversion – approaches and guiding advice

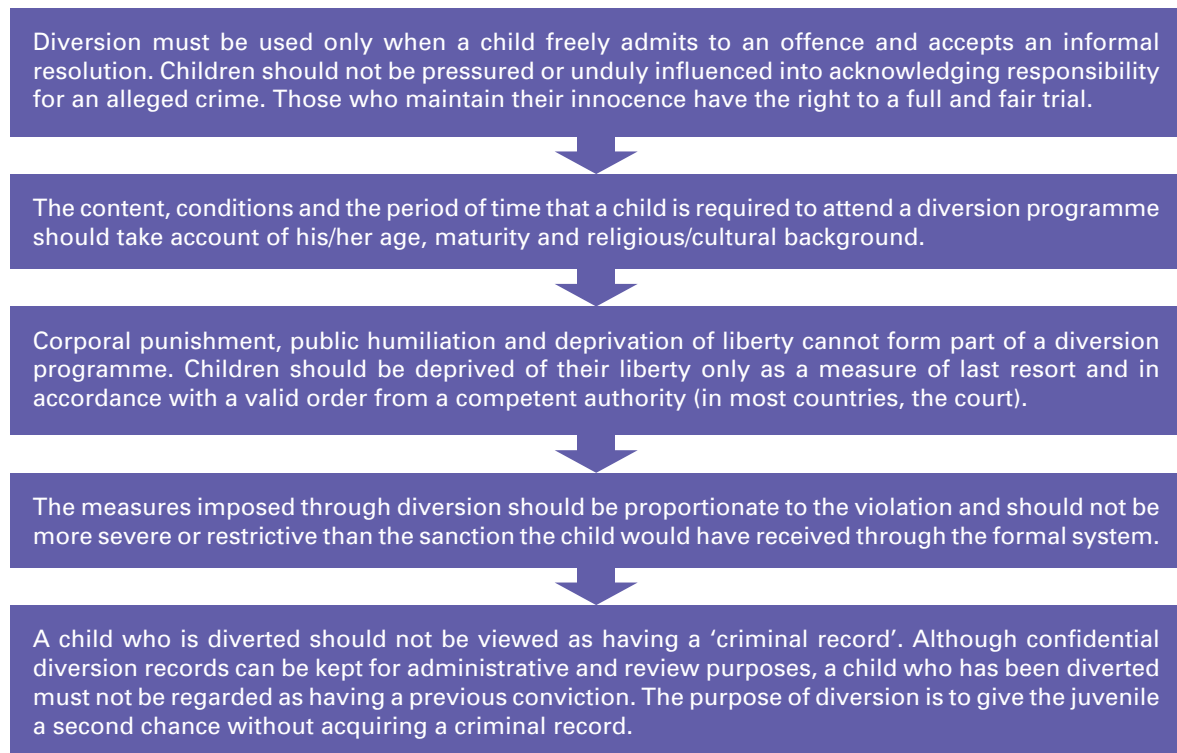
### The diversion approaches

In recent years, the introduction of diversion has been at the core of most national juvenile justice reform strategies. In many countries, diversion is now the main strategy for dealing with all first-time child offenders who commits non-violent crimes and is increasingly being used for those who commit repeat or more serious offences as well. Experience from other countries has shown that diverting juveniles away from the formal justice system can be a more efficient and effective means of preventing re-offending.

The most cited benefits of diversion:

Gives children a chance to reassess their behaviour and <b>take responsibility</b> for their actions without getting a criminal record	<b>Prevents stigmatizing</b> the child and prevents the adverse consequences that flow from being subjected to the criminal justice system
Allows justice sector officials to <b>deal with cases expeditiously</b> and to impose immediate consequences for offending behaviour	Generally encourages children to be <b>accountable</b> for the harm caused, but in ways that reintegrate them into society, particularly where a restorative justice approach is used
Reduces the number of minor and less serious offences and keeps them from clogging up the formal justice system and <b>allows resources to be focused</b> on repeat or high-risk offenders	

The CRC promotes the use of measures for dealing with children in conflict with the law without resorting to judicial proceedings (such as diversion) but with the important corollary: *providing that human rights and legal safeguards are fully respected*. This is generally interpreted to mean that the following basic principles must be respected:<sup>2</sup>



<sup>2</sup> See: UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules); UN Committee on the Rights of the Child General Comment No. 10 (2007) on Children's Rights in Juvenile Justice.

Decision-making authority over diversion varies from country to country and is generally influenced by the country's legal system. Ideally, diversion should be available at all points along the criminal justice process so that police, prosecution and judges each have discretion and authority to:

**Prevent the child from entering the formal justice system at the outset**

**Example:** A police officer mediates an informal settlement between a child caught shoplifting and the shop owner rather than arresting and initiating criminal proceedings against the child.

**Prevent the child from advancing further into the formal justice system by stopping formal proceedings after they have already been started and referring the child instead to a diversion process**

**Example:** A prosecutor reviews the file of a child arrested for a minor assault and decides to suspend the case and send the child to participate in a family group conference instead of referring the case to the court for trial.

There are a variety of different measures that may be used as part of a diversion agreement. In most countries, diversion may involve a combination of one or more of the following measures:

<p><b>Formal or informal caution:</b> Caution can be given directly to the child on the spot or more formally in the presence of parents. For the majority of first-time offenders, getting caught and warned by the police is sufficient to deter them from committing any further crimes.</p>	<p><b>Written or verbal apology to the victim.</b> A child writes an essay on the effects of the crime committed to help him/her gain insight into the consequences of his/her behaviour.</p>
<p><b>Behavioural contracts,</b> generally with conditions such as a curfew and agreements not to associate with specified negative peers.</p>	<p><b>Agreement to attend school and/or vocational skills training.</b> In some cases, this may require support from local authorities or other agencies to provide the assistance necessary (such as school fee reduction or exemption) to allow the child to return to school or gain access to skills training.</p>
<p><b>Community service work:</b> This requires the child to work a specified number of hours for free in some way that benefits the community. The purpose is to give the child the opportunity to make amends for the crime by contributing something of value to either the victim or the community in general.</p>	<p><b>Compensation or restitution to the victim,</b> ideally including an option for non-monetary forms of restitution when the child or family cannot afford to pay.</p>
<p><b>Referral to a peer education or youth mentorship programme.</b> <b>Referral to counselling or therapeutic treatment for drug or alcohol addiction.</b></p>	<p><b>Participation in life skills or other competency development programme.</b> These are specialized programmes designed to help children address the underlying problems that contributed to the offending behaviour. Issues commonly addressed include responsible decision-making, communication skills, problem-solving, conflict resolution, self-esteem, and anger management.</p>

Which measures, or combination of measures, are appropriate in each individual case generally depends on the nature and seriousness of the crime, the child's background and circumstances as well as what programmes are available in the community. In some cases, the diverting official decides what type of diversionary measure should be used. In other countries, the decision about which diversionary measure(s) is most appropriate is decided through a restorative justice process or through assessment by a social worker or probation officer.

## Guiding advice

**Legal system implications.** Diversion can be an effective way to reduce detention of children, particularly at the pre-trial stage, by removing them from the formal justice process at the earliest possible stage. However, before promoting or designing a diversion programme, it is important to have a firm understanding of the country's legal system. This will determine if legislative reform is required before diversion can operate effectively and also which authority would be most appropriate to make decisions about whether or not a child should be diverted. In many countries, diversion was first introduced informally, relying on existing discretion of police, prosecutors and judges, and then later incorporated into juvenile justice laws. However, this strategy will not work everywhere. Diversion rests largely on discretionary authority, and the extent to which there is any discretion, and who exercises it, varies considerably from country to country.

Many of the more familiar diversion models originated in common law countries. In countries influenced by the common law tradition (Papua New Guinea, most Pacific countries and to some extent the Philippines and Thailand, which are 'mixed' systems), police, prosecutors and judges all have comparatively broad discretion to deal with individual cases. 'In accordance with the interests of justice', and procedural processes are less rigid. Under these systems, it has been possible to introduce diversion without first reforming procedural laws. Discretion at the police level is generally accepted and encouraged, at least in relation to minor crimes, allowing for the introduction of diversion at the pre-arrest or arrest stage. After arrest and before the trial starts, prosecutors generally have even broader discretion to review individual cases and determine whether they should proceed to trial or be resolved informally.

However, in countries influenced by the civil law tradition (Cambodia, China, Indonesia, Lao PDR, Mongolia and Viet Nam), procedural laws are generally much more rigid and there tends to be less discretionary authority. To the extent that it does exist, discretion as to whether criminal proceedings will be initiated or continued generally rests with prosecutors or investigating judges rather than the police. Thus, diversion programmes that attempt to invest too much authority in the police will meet with resistance. Often there is limited scope to introduce diversion without first amending juvenile justice or criminal procedure laws. For example, some civil law countries follow the principle of legality (mandatory prosecution), which effectively creates an obligation for the prosecutor to prosecute whenever the basic elements of the crime are present. This considerably limits the discretion of the prosecutor and, in the absence of law reform, can make it difficult to divert cases before they have reached the courts. Understanding the limitations of the system you are working in is essential to good strategy development.

**Evidence-based planning.** Programming and policy decisions should be based on a sound analysis of existing national data on children in conflict with the law and a full assessment of the juvenile justice system. This type of analysis is essential for determining what type of diversion programme would be most effective and if there are sufficient numbers of children in conflict with the law in a particular area to sustain the proposed programme. The design of a diversion programme should also be informed by the growing body of evidence on what works and what doesn't in addressing offending behaviour (see the section on alternatives to detention later in this guide).

**Exercise of diversionary authority.** Another major concern raised by the UN Committee on the Rights of the Child is the need for clear guidance on how diversion authority will be exercised. While flexibility and individualized assessments should be encouraged, it is also important to ensure that decision-making is fair, transparent and guided by clearly articulated criteria. Guidelines should also be in place governing the types of diversionary measures that are appropriate for children, and minimum standards must be developed for all government and non-government agencies providing diversion services. Mechanisms should also be in place to monitor children's compliance with diversion agreements and to ensure that the diverting authority is regularly provided with this information so that they maintain confidence in the system.

**Integration into existing systems.** International experience also suggests that the most sustainable diversion programmes are those that build on existing structures and resources rather than creating costly new ones. Ideally, the design of a diversion programme should begin with a survey of what programmes, services and community-based structures already exist. For example, the experiences from both the Philippines and Lao PDR suggest that building on existing community justice committees rather than creating new child-specific ones may be more sustainable and replicable.

**Local capacity and resources.** This influences the type of diversion programmes that may be realistically promoted. For the majority of first-time, minor offenders, getting caught and participating in some process that requires the child to take responsibility for his/her actions is generally sufficient to prevent re-offending. These children generally can be safely diverted with limited intervention and support services. Indeed, over-responding to low-risk children and using diversion to try to 'fix' all of the perceived problems in their life has been proven to be counter-productive. However, children who are at higher risk of re-offending may require more intensive diversionary measures, such as referral to a competency development or drug treatment programme. For these children to be successfully diverted, appropriate community-based programmes and support services must be in place. Diverting children without the appropriate level of support creates the potential for high rates of re-offending, thus undermining community and justice agency support for diversionary measures.

Where community-based services exist, providing the appropriate level of support may simply be a matter of building the right partnerships with civil society organizations and developing the appropriate inter-agency agreements and referral protocols. However, where adequate services do not exist, it may be necessary to invest in building local capacity. See the discussion at the end of this section on promising practices and guiding advice on what types of programmes are most effective at addressing offending behaviour.

**Unintended consequences: net-widening.** When introducing a diversion programme, care must be taken to avoid 'net-widening'. Net-widening occurs when diversion programmes target the wrong children; rather than focusing on children who would otherwise be formally arrested and prosecuted, the diversion programme ends up (often inadvertently) being used for children who previously would not have been subject to any formal intervention. For example, children who are considered to be 'at-risk' or who commit petty offences that would previously have only resulted in counselling or caution are instead referred to the diversion programme, while children who commit offences serious enough to warrant arrest continue to be processed through the formal system. As a result, the main objective of diversion – the reduction in the number of children being formally processed by the criminal system – has not been realized, limited resources are instead being expended on the wrong category of children, and unwarranted additional restrictions and interventions are being imposed on children who would not otherwise have been subject to the criminal justice process. Diversion is fundamentally a criminal justice process and should not be used against non-offending children as a substitute for more appropriate child welfare measures.

**Political will and commitment.** For diversion to be effective there must be commitment and support from high-level justice sector authorities as well as the community. The introduction of diversion often requires a significant amount of advocacy, networking, training and sensitizing to overcome resistance on the part of officials and community members to what is generally perceived as a 'soft' approach. Keeping key stakeholders and community members informed through regular consultations and information sharing, addressing the concerns they express and inviting them, whenever possible, to participate in the programme will go a long way in creating a broad basis of support.

## D. Restorative justice – approaches, common models and guiding advice

Restorative justice is a way of responding to criminal behaviour that puts the emphasis on repairing the harm caused by the crime rather than merely punishing the offender. Globally, restorative justice processes are increasingly being used as the primary mechanism for resolving minor crimes committed by children.

### The restorative approaches

Restorative justice involves the active participation of victims, offenders and the community affected by the crime in identifying the underlying causes of the offender’s misconduct and designing a plan to remedy the wrong. This is generally done through a face-to-face meeting between the victim, the offender and community members, supported by an impartial facilitator, to discuss the circumstances surrounding the offence and agree to a fair resolution. The essence of restorative justice is collaborative problem-solving. Restorative practices provide an opportunity for those who have been most affected by an incident to come together to share their feelings, describe how they were affected and develop a plan to repair the harm done or prevent a reoccurrence.

The benefits of a restorative (rather than retributive) justice approach are that it:



## Common models for restorative justice

These restorative models can be used as an alternative or complement to the formal juvenile justice system at any stage of the process:

### Victim-offender mediation

Uses a trained or traditional mediator to bring victims and offenders together in order to discuss the violation and arrive at an agreed resolution to the conflict.

### Family group conference or community conference

A form of group reconciliation that is similar to victim-offender mediation but with a broader focus and participation. It involves bringing together the family of both the victim and the offender as well as other members of the community to participate in a facilitated process to address the consequences of the crime and explore appropriate ways to prevent the offending behaviour from reoccurring. A conference is generally facilitated by a trained professional. Conferencing models vary in the degree to which they involve community members, police, social workers and other professionals. Because they involve people who may be in a position to provide support and encouragement to the child, conferencing processes are particularly effective as a means of ensuring that the child follows through on agreed outcomes. Often, those who participated in the conference have a continuing role to play in monitoring the child's future behaviour and ensuring that she/he complies with the rehabilitative and reparative measures that were agreed. The two main models of conferencing are the New Zealand family group conferencing (FGC) and the police-facilitated 'scripted' community conference model developed in Wagga Wagga, Australia.

### Community youth panels or committees

Groups of local citizens, usually including government authorities, social workers, teachers, traditional leaders and community elders. The panel or committee is responsible for assessing individual juvenile cases and deciding on appropriate restorative justice measures. This is usually done by convening a meeting with the child and his/her family and the victim.

**Restorative justice options can be used as an alternative to the formal system (diversion):** By police, who may refer a child to a restorative justice process as an alternative to initiating criminal proceedings, or by prosecutors or judges, who may suspend criminal proceedings that have been initiated and send the child instead to a restorative justice process.



**Restorative justice options can be used as part of the formal system:** By judges, who may convene a community conference to assist in choosing the most appropriate sentence to impose or by authorities at a juvenile institution to help promote reconciliation and develop a pre-release and reintegration plan before the child leaves the institution.

## Guiding advice

Restorative justice processes can be an effective means to divert children away from the formal justice system and to promote community problem-solving. Studies have shown that, when done well, the process of a facilitated face-to-face meeting with the victim can have a significant impact on a young person's behaviour. This is dependent upon ensuring that:

the process seems fair to both the parents and the child;

the child is actively involved in the decision-making;

the victim is present and participates (must be voluntary, but studies have shown that their presence does have a significant positive impact on the child);

neither the child nor the parents are made to feel shamed or like a 'bad' person at the conference; and

the child feels genuine remorse through the process.



In many countries, there is a long tradition of using mediation or other restorative practices as a means of resolving disputes. Communities may already have respected individuals who have extensive experience and skill in negotiation and restoring harmony in dispute situations. Restorative justice programmes can therefore be promoted as a means of building on traditional community systems – rather than introducing something new.

However, where UNICEF promotes the use of restorative justice to divert children from the formal justice system, it is important to ensure that these processes respect children’s fundamental rights. Often, traditional dispute resolution mechanisms exclude children from the process or do not allow them to speak on their own behalf. Resolutions may involve measures that violate the CRC (such as corporal punishment) or that are shaming to the child.

Some community dispute resolution mechanisms have been criticized for failing to adequately inform participants about their rights or for patronage, corruption and gender bias. To alleviate some of these shortcomings, it may be necessary to promote new guidelines and approaches for handling disputes involving children and to support training and sensitization for mediators/facilitators and community leaders.

When assessing existing dispute resolution mechanisms, it is important to understand the difference between mediation and arbitration. With mediation, the mediator acts as a neutral facilitator who assists the parties to come to their own agreement on how the dispute will be resolved. By contrast, an arbitrator listens to both parties’ views and then imposes his/her own decision of the most appropriate resolution. Sometimes practices referred to as mediation are in fact arbitration, with limited real empowerment of the victim and offender.

Another problem to be guarded against is the over-reliance on cash compensation. Often, mediated settlements place heavy emphasis on requiring the offender to pay full compensation for any damage caused as a result of the offending behaviour. This can be difficult for children who generally do not have the means to pay and are therefore reliant on their parents’ willingness and ability to compensate for the damages. This tends to discriminate against children from disadvantaged backgrounds – while those with the means benefit from an informal resolution. Children who cannot pay damages are excluded and end up being subject to the harsher formal justice system. To the extent possible, the restorative justice process should seek to find ways to hold children accountable for their actions without necessarily requiring full cash compensation for the damages caused. This generally requires a skilled facilitator/mediator who can promote acceptance of a more creative resolution.

As with diversion, restorative justice processes should be directed by clear guidelines on who should be referred to a restorative justice process, how a restorative justice process should be conducted, what an appropriate restorative resolution may include, how agreements will be monitored and enforced, and what qualifications and training is required to be a facilitator or mediator.

## E. Alternatives to detention

In most countries, the introduction of diversion and restorative justice processes dramatically reduces the number of children being arrested, detained and processed through the formal justice system. However, the CRC emphasizes that, even where diversion is not appropriate or available and a child is being formally charged with a crime, she/he should, to the extent possible, be spared from detention. This means introducing and/or strengthening non-custodial alternatives for the care and supervision of children at both the pre-trial and sentencing stages.

### Alternatives at the pre-trial detention

In many countries, court backlogs and other systemic delays mean that children can spend lengthy periods of time in police cells or pre-trial detention centres waiting for their trial. Conditions in pre-trial detention centres are often worse than other correctional institutions, with limited or no access to education and other programmes and greater restrictions on mobility and contact with family.

Common alternatives for care and supervision of children in the community include:

<p><b>Release on bail</b> This typically requires one or more adults to pay a cash bond in a specified amount. Over-reliance on cash bail tends to discriminate against children from disadvantaged families.</p>	<p><b>Placement under the supervision of a parent, guardian or some other appropriate adult</b> State authorities bear the responsibility for making all efforts to locate the child's parents or some guardian or family member who can take responsibility for the child.</p>	<p><b>Appointment of a mentor or community supervisor</b> A volunteer from the child's community acts as additional supervisor, making regular home visits and telephone calls to check on a child's adherence to curfew, etc.</p>
<p><b>Intensive home supervision</b> Generally involves strict curfew, limited movement outside the home and frequent unannounced visits or telephone calls from probation officers (staff or volunteers).</p>	<p><b>Day or evening reporting centres</b> Non-residential programmes that provide 6-12 hours of daily supervision and structured activities for children who require more intensive oversight.</p>	<p><b>Temporary foster care</b> Particularly for younger, low-risk children. Families should receive specialized training and have access to appropriate support.</p>
<p><b>Open group home or NGO-run shelter</b> Unlocked, home-like centres for groups of children (usually older teens) located in residential areas. They rely primarily on close, 24-hour staff supervision, trust-building and a structured, daily routine to monitor the child's behaviour.</p>		

Often, each of these options may be accompanied by specified conditions the child must follow, such as abiding by a curfew, refraining from associating with a co-accused person and reporting regularly to a police officer, probation officer or social worker.

In most countries, one or more of these alternatives to detention are available, at least on paper. However, over-reliance on pre-trial detention often results from the lack of programmes and services to implement these options, particularly for the appropriate care and supervision of children without reliable parental care. Most children accused of property-related offences pose no great threat to the public but face detention because authorities do not take appropriate steps to identify a responsible adult to supervise them pending their trial.

## Non-custodial sentencing options

The CRC and Beijing Rules emphasize that to reduce the imprisonment of children, judges should be provided with a wide variety of non-custodial sentencing options and with flexibility to tailor the sentence to the individual child. In many countries, ‘social inquiry’ reports prepared by a social worker are used to help the court to gain a fuller understanding of the child’s circumstances and therefore better determine the most appropriate resolution.

A comprehensive continuum of sentencing options ideally should include what is shown in the table on the following page (in order from least intrusive to most intrusive, also shown by shading of boxes from lighter to darker).

While the sentences imposed on children should promote recovery and reintegration, the proportionality principle also requires that the measures used should not be more intrusive than the offence warrants and should not result in punishment more serious than would have been imposed on an adult. In other words, rehabilitation cannot be used as a justification for imposing measures on the child that are not warranted by the nature of the crime. For example, even though the objective is ostensibly to educate a child, he or she cannot be sent to a juvenile home or reform school for a period of time that is in excess of what the offence warrants or what an adult would have received for a similar offence.

## Guiding advice

Authority to impose an alternative to detention at the pre-trial and sentencing stage is generally limited to what options are available under national law (juvenile justice law, penal code or penal procedure code). Most countries do have some non-custodial alternatives stipulated in law, although their application is often limited by:

	unnecessarily rigid legal restrictions; for example, pre-trial detention is mandatory for certain classifications of offences or the penal code stipulates minimum mandatory periods of imprisonment for serious crimes;
	inability of children to meet the necessary criteria; for example, inability to pay cash bail or parents unable or unwilling to assume supervision;
	lack of initiative or creativity on the part of officials in finding ways to use existing alternatives; for example, failure of police to take appropriate steps to locate a child’s parents or find some other responsible adult willing to take responsibility for the child; lack of cooperation between the justice sector and social welfare agencies/NGOs to create appropriate care placements for child offenders who are without parental care;
	lack of programmes and services to support community-based alternatives, resulting in judges being reluctant to apply them; for example, probation services understaffed or not functioning effectively or community service work programmes exist in law but have not been put in place.

## Comprehensive continuum of sentencing options from least intrusive to most intrusive

<b>Discharge without conviction</b>	The child is found guilty of the offence but no conviction is entered.
<b>Judicial reprimand</b>	A trial judge issues an official caution or warning.
<b>Fines</b>	Used less frequently against children, fines may create inequalities because children without parental support or from poor families often cannot afford to pay them and therefore face a more severe sanction. At minimum, the amount should have regard to the child's ability to pay, and the law should not allow imprisonment of a child for non-payment of a fine.
<b>Restitution order</b>	Child makes some payment or performs some service to make amends to the victim.
<b>Community service work order</b>	The child performs a specified number of hours of work to benefit the community. Unlike fines, which are often paid by a child's parents, community service is an effective way for children to be held personally accountable for their wrong-doings. The most effective community service work placements are those that require juveniles to work alongside positive adult or peer role models and that give juveniles an opportunity to practise and demonstrate competent and responsible behaviours. However, it must not involve exploitative, harmful or humiliating work or interfere with a child's schooling.
<b>Guidance and supervision order</b>	The order places the child under the supervision and guidance of a specified adult or peer mentor (generally a volunteer) in order to monitor and guide the child's behaviour.
<b>Counselling/ treatment order</b>	The order addresses the underlying problems that contributed to the child's offending behaviour and to reinforce positive traits or resiliency, such as anger management, problem solving, family counselling and addiction treatment.
<b>Probation order</b>	Placement of the child under the supervision of a professional probation officer or social worker for specified period of time (usually six months to two years). This may involve varying levels of supervision and intervention, depending on the seriousness of the crime and the needs of the child. In many countries, probation amounts to little more than a monthly 'check-in' with an official. However, the most effective probation programmes are those that go beyond mere supervision and surveillance to include individually tailored services designed to address the factors that contributed to the offending behaviour, including competency development programmes, education, vocational training, family counselling and treatment for drug or alcohol addiction. The probation officer performs a case management function, referring the child/family to services available in the community.
<b>Intensive probation/ home detention</b>	This order involves frequent contact with a probation officer or social worker, intensive child or family support and limits on movements outside the home except for pre-approved activities.
<b>Day reporting centre</b>	A non-residential centre-based programme providing both intensive daytime supervision and programmes and services directed at preventing re-offending. The child is required to report to the facility on a daily basis at specified times but returns home to parents in the evening.
<b>Suspended sentence</b>	A penalty of imprisonment is imposed on the child but 'suspended' for a specified period, during which the child must abide by certain conditions (generally that she/he not misbehave or participates in some rehabilitation programme). Note that suspended sentences are not full non-custodial options because any misbehaviour or violation of the conditions of the suspension can result in automatic application of the original term of imprisonment.
<b>Open care facility</b>	Residential placement of a child in a group home or other unlocked, open-care facility. This option is generally used for children who have committed non-violent or less serious offences but are without parental care and therefore do not qualify for other non-custodial options. These facilities provide children with the necessary level of support and supervision but avoid the negative consequences associated with placement in a closed facility. The children attend education and vocational training within the community with other non-offending youth, thus preventing marginalization and stigmatization.

In countries where legal systems are rigid and law reform is not on the immediate horizon, UNICEF's best strategy may be to make the most of what alternatives are available under existing laws. Greater use of existing non-custodial options can be promoted by:

supporting the development of clear guidelines and criteria for police, prosecutors and judges on how to exercise their discretion in the application of alternatives to detention;
training and sensitizing for relevant officials to promote greater use of alternatives;
strengthening structures and programmes to support non-custodial options so that these alternatives are real and viable, including supporting partnership building between justice sectors agencies and social welfare agencies or NGOs;
strengthening monitoring mechanisms to ensure that all places of detention (police holding cells, pre-trial detention centres, prisons and rehabilitation centres) are regularly inspected and that children held without just cause or in violation of national laws are immediately released.

Promoting greater use of alternatives to detention also requires a shift in government resources and priorities away from expensive, ineffective and often harmful institutional solutions towards community-based programmes and services. This means investing in probation or social welfare services so that they have the competencies and skills necessary to respond appropriately to children in conflict with the law. While advocating for this kind of policy shift is not an easy task, international experience has demonstrated that the investment will pay off, both in terms of reducing re-offending and reducing the cost of the juvenile justice system.

Studies have repeatedly shown that investing in diversion, probation services and other community-based programmes is far more effective and far less costly than the operation of prisons and juvenile rehabilitation homes. For example, in the United States, the average per-client-cost of multi-systemic therapy (one of the most costly and staff-intensive community-based programmes for child offenders) is five to six times cheaper than an institutional placement.<sup>3</sup>

Building this type of evidentiary basis can help improve the prospects of advocacy efforts. In South Africa, for example, an extensive costing exercise was undertaken to estimate the resources that would be required to implement a proposed child justice bill (which included a significant shift from detention to diversion and alternatives to detention). The costing showed that, while the bill would require increased funding to agencies such as probation services and the social welfare department, this was offset by reduced costs to prosecutors, courts and the prisons department.<sup>4</sup>

### Fit person scheme A look at Uganda

Uganda's 'fit person' scheme is an interesting example of how it is possible to build on an obscure provision in the law to promote alternatives to detention. Under the country's Children's Act, one of the listed alternatives to pre-trial detention is the placement of a child with a 'fit person' who has been approved by the court. However, without proactive measures on the part of the State, fit persons are not likely to come forward on their own.

To address this issue, Save the Children UK supported a pilot initiative designed to recruit and train members of the community willing to take on this role. They provide support, supervision and in some cases temporary foster care for children pending their trials. The initiative has reportedly significantly reduced the number of children in detention in the pilot locations.

<sup>3</sup> Advocacy. 2003.

<sup>4</sup> Innocenti. 2007. *Reforming Child Law in South Africa: Budget Planning and Implementation*.

It is also important to ensure that where diversion or community-based rehabilitation programmes are being introduced, clear data collection and evaluation mechanisms are in place so that positive results (for example, reduced rates of recidivism among programme participants) are captured and can be used to support advocacy efforts and national policy development.

Where UNICEF does provide support to strengthen structures and programmes for children in conflict with the law, it is also important to ensure that programme design is informed by the growing body of evidence on what works and what doesn't in addressing offending behaviour. Too often, juvenile justice programmes are guided by 'conventional wisdom' or a sense of what someone thinks should work – rather than what has been demonstrated to be effective. Globally, much time and resources have been wasted on approaches that sounded good but proved ineffective. To the extent possible, UNICEF should promote the development of standardized, comprehensive and evidence-based programmes rather than ad hoc or untested initiatives.

## F. Global promising practices and guiding advice

The following is an extract from a review<sup>5</sup> of promising practices and practices not resulting well in working to keep children out of conflict with the law.

### What works

**Focusing on the most at-risk children:** This requires an investment in the early identification and support for children at high risk of re-offending and then providing less-intensive interventions for low-risk offenders (such as warnings and diversion). High-risk offenders need programmes with greater numbers of contact hours (generally 15-20 hours per week over 15-20 weeks). At the same time, over-responding to low-risk offenders can be counter-productive and is not an effective use of limited resources.

**Relying on programmes that are intensive, structured and focused:** The most successful programmes are multi-systemic; focus on developing skills and addressing risk factors; and use cognitive-behavioural techniques.

**Making an individualized approach:** Each child is unique, and effectively addressing offending behaviour requires an assessment of individual risk factors and resiliencies (within the family, school, community and peers).

**Understanding and targeting the multiple risk factors that encourage offending behaviour:** Studies have shown that persistent child offenders are generally those with specific risk factors relating to their family, school, peers and community. The most effective interventions are those that seek to identify and specifically target these factors in an integrated way. In particular, approaches that involve parents have been found to be more successful than those that focus solely on the child. For example, instead of simply trying to improve a child's attendance at school, an intervention may also aim to improve parents' skills in supervising their children and spending positive time with them on school-related activities.

**Teaching new skills using an experiential or active approach:** Adolescents learn by watching, doing and practising; simply lecturing children about what is right or wrong is not very effective. Children need to be given opportunities to learn and practise new behaviours and cognitive skills, for example through role plays and inter-active, experiential learning programmes.

**Modelling and mentoring:** Often, persistent child offenders are those who have not been exposed to significant positive role models in their lives and have therefore not learned how to behave in a positive, social manner. Effective interventions should aim at making sure children spend most of their time with people (adults and peers) who are law-abiding and productive citizens. This may be done by assigning them an adult mentor or by involving them in regular, ongoing sports, youth groups or cultural activities in the school or community where they will come into contact with adults and peers who are involved in more socially desirable lifestyles.

<sup>5</sup> For a full review of research on this issue, see: McLaren, Kaye. 2000. *Tough is Not Enough: Getting Smart About Youth Crime: A Review of Research on What Works to Reduce Offending by Young People*. New Zealand Ministry of Youth Affairs.

## What doesn't work

**Institutional-based rehabilitation programmes, including specialized juvenile rehabilitation homes:** Rehabilitation programmes in an institutional setting cost more and have to work harder to be successful than similar programmes run in the community.

**Vague, non-directive, unstructured counselling:** As noted, programmes for child offenders need to be intensive, structured and focused to be effective.

**Tactics that attempt to scare children out of criminal behaviour, such as a day in jail or lectures by former criminals.**

**Military-style 'boot camps' or other approaches that focus on discipline:** Many US jurisdictions invested heavily in this approach in the 1980s and the 1990s, with low success rates.

**Law awareness programmes:** Lack of legal knowledge is rarely a real contributing factor to child offending. Adolescents generally do not think through the consequences of their actions, and thus general deterrence tends to have limited impact on them. It also does not address the underlying factors contributing to the behaviour. A child who has a drug addiction will continue to steal to feed that habit, regardless of whether or not she/he knows there is a stiff sanction if caught. Studies have shown that children persistently in conflict with the law tend to be those who grew up in troubled environments and lacked the necessary skills and values to lead law-abiding lifestyles. Overcoming these problems requires skills-building – not simply legal awareness.

**Police surveillance and other forms of supervision without support services:** Supervision alone does not address the underlying factors contributing to the offending behaviour and may actually increase the likelihood of re-offending because of the stigmatization.

**Wilderness or adventure challenge programmes as a stand-alone intervention:** While they can be an effective component to a broader programme, children require follow-up support and supervision for lasting impact.

**Vocational training support alone:** Training is more effective if combined with programmes to improve social and cognitive skills relevant to the workplace (problem solving, impulse control, etc.) and if it includes support for job seeking and job placement.



## Notes

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## 4.7 TRAINING JUSTICE SECTOR OFFICIALS

- A. Training needs assessment
- B. Defining your objectives
- C. Choosing your audience
- D. Deciding how to train
- E. Training content
- F. Monitoring and evaluation
- G. Strategies for improving impact and sustainability

## **Purpose and intended users**

This guide provides insight on designing training in the justice sector. But the general principles used throughout can be applicable to training in other sectors. When designing and implementing training or capacity-building initiatives aimed at justice sector officials, UNICEF child protection staff need to consider the broad range of justice officials – law enforcement, prosecutors, lawyers, judges, prison staff, border guards, immigration officials, arbitrators, labour inspectors, village chiefs and tribal elders – who come into contact with child victims, child witnesses, alleged child offenders or children requiring care, custody and protection (such as orphans, neglected children, street-based children, abandoned children, children affected by migration, children affected by armed conflict, etc.).

Based on lessons learned and good practices on justice sector training, this guide explains the steps necessary for a strategic approach to training within a broader systems-building approach. It relies heavily on existing evaluations, reports and training guides as well as the practical experiences of UNICEF EAPRO country offices.



## 4.7 TRAINING JUSTICE SECTOR OFFICIALS

Every day in all parts of the world, children come into contact with the justice system as victims or witness of crime when they are in conflict with the law or when they require care, custody or protection from harm. This contact generally occurs at a time when children are at their most vulnerable and are most in need of support and protection. It is thus essential that all justice sector officials (police, prosecutors, judges, lawyers, prison and detention staff, probation officers, border guards, etc.) have the skills and sensitivity necessary to ensure that children’s experience of the justice system is a positive one.

In most countries, UNICEF’s child protection programming includes some form of training or capacity-building for justice sector agencies. Maximizing the impact of this investment requires a strategic approach to training is that: based on a clear and logical determination of who to train, on what, and how; that draws on recognized good practice; and that clearly situates training activities within a broader systems-building approach.

### A. Training needs assessment

Child protection training is a common programme activity for justice sector officials, but it must be approached carefully – and especially not with a perspective of treating all justice officials as identical.

Training and capacity-building schemes can be ineffective because structures within the justice system are little understood. Sometimes the wrong justice sector officials or institutions are targeted due to unfamiliarity with how justice structures are organized, including different mandates, sources of authority, budgetary processes, functions and procedures governing each institution within various justice sectors.

Before planning any type of training activity, the following questions can help you to determine if it is strategically appropriate:

Are we using the same competency training modules for actors of different institutions, such as trainings on child trafficking for police and judges?
Are we targeting the right audience?
Do we understand the hierarchy within institutions?
Do we understand the relationship between different justice institutions within and across the criminal, civil or administrative sectors?
Are we tailoring our strategies to fit the justice sector – such as monitoring prisons versus immigration detention centres?
Do we have a basic understanding of relevant child protection laws and policies governing justice institutions?
Do we understand the interplay between justice and social welfare institutions?

Once a decision to offer training has been made, any new training initiative should begin with some form of training needs assessment, which helps identify skills, knowledge or attitude gaps and potential entry points for building sustainable capacity-building programmes. This assessment should generally include:

#### **Review of existing national training programmes and curricula**

To assess gaps in existing official training programmes, gain a better understanding of the training approaches being used and identify potential entry points for strengthening child justice components of the official curricula. In most countries, official justice sector induction and in-service training programmes are provided through police academies, judicial training institutes, lawyers' associations, law schools and correctional services academies.

#### **Survey of past and ongoing training programmes**

To review what training has been or is being supported by other UN agencies, bilateral donors and NGOs. This will potentially reveal opportunities for UNICEF to influence or build on existing training programmes with minimal additional resources (such as by advocating for the United Nations Development Programme to include a child justice component in its judicial training programme, partnering with a bilateral donor conducting in-service police training to incorporate a session on children or ensuring that a donor-supported overhaul of a police academy training programme incorporates child justice as an integral component).

A full picture of existing training programmes is also important to avoid duplication and reduce the incidence of inconsistent or conflicting training content. In many countries, strong donor interest in the justice sector means that local officials' participate in multiple training sessions on similar or overlapping topics, with limited coordination or consistency of content. This leads to confusion, unnecessary duplication and wasted time and resources. To the extent possible, UNICEF's training strategy should seek to avoid duplication and to build consensus among donors on a coordinated and coherent approach that maximizes each agency's comparative advantage and resources.

#### **Trainee questionnaires**

To gain a better understand of the trainees' knowledge, attitudes and perceptions so that training can be better targeted to address gaps or weakness. A pre-training questionnaire also can serve as a useful baseline against which post-training improvements can be measured.

#### **Self-evaluation**

To reflect on your own capacity and comparative advantage within the specific country context. A training strategy should be informed by the resources that are available and the types of expertise you are able to draw on as well as the strength of UNICEF's relationship with the relevant justice sector agencies.

## **B. Defining your objective**

It is important to clearly define the objectives of the training initiative at the outset. Who you will train, on what and how will depend to a large extent on what you hope to achieve. For example, if the aim is to encourage significant changes in the procedures for handling children in conflict with the law, then the primary target would likely be higher-level decision-makers (rather than frontline officers), with content focused on sensitization and a comparison between national and international standards and practices. If, however, the objective is to strengthen implementation of existing procedures and protections, then training would be designed around sensitization and skills-building for frontline officials.

## C. Choosing your audience

Effective justice sector training also requires a good understanding of how the national justice agencies are organized and structured. Understanding the agencies involved helps in determining which agency(s) should be targeted, what level of officials should participate, if an inter-agency approach would be appropriate and who the most acceptable and effective trainers would be.

In most countries, the justice sector tends to have a distinct hierarchy between the different agencies. This, as well as the precise roles, responsibilities and authority of police, prosecutors and judges, varies depending on the legal tradition that the country follows. Understanding the relationship between the various agencies and which among them is most authoritative and influential can strengthen UNICEF's ability to leverage maximum support for reform from within the justice sector itself and also identifies who and how to target training.

For example, in countries influenced by the common law tradition (Malaysia, Myanmar, Papua New Guinea, most Pacific countries and to some extent the Philippines and Thailand), judges generally have broad discretionary authority, are held in high standing within the justice system as compared to the other agencies and can have a strongly persuasive influence over prosecutors, lawyers and police. They tend to resist participating in trainings together with police, prosecutors and lawyers (and indeed, prefer 'professional development' to the notion of 'training'). But they can bring weight of authority to a training programme as guest speakers or trainers.

In civil law countries (Cambodia, China, Indonesia, Lao PDR, Mongolia and Viet Nam), the hierarchy between judges, prosecutors and lawyers is less stark. In civil law countries influenced by the Soviet criminal system (Lao PDR, Mongolia and Viet Nam), it is generally the prosecutors (the 'procuracy') who wield the greatest authority within the justice system, with extensive supervisory authority over the police and generally higher qualifications and standing than judges.\*

The internal structure and divisions of authority within the individual agencies will also impact on the choice of trainees. For example, most countries have two or more levels of court, with the lower court dealing with minor crimes (theft, minor assaults, etc.) and a higher-level court with more serious offences (murder, rape, robbery). This generally means that it is the lower court judges/magistrates who deal with the bulk of children in conflict with the law, and they would therefore be the most likely target for training on juvenile justice.

However, serious crimes such as rape and sexual exploitation of children generally fall within the jurisdiction of the higher court, and thus it may be best to target these judges for training on handling cases involving child victims. A similar division of authority is found within most police forces, with lower-level 'patrol' officers handling minor crimes (and most commonly having first contact with child offenders) and more senior investigators dealing with serious offences (such as interviewing child victims of sexual exploitation).

Another issue to keep in mind is the hierarchical nature of justice agencies, particularly the police and prison officials. In general, changes to practices and procedures must come from the top. For lower-ranking officers to fully take on board training messages, there must be acceptance and reinforcement from more senior officials. Senior management should thus be involved at every stage of the design and implementation of a training programme. Hierarchy also influences whether or not it would be effective to train officials from different ranks together; the chain of command may mean that lower-ranking officials would not participate openly and freely in a training session if their senior officers are present.

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\* Note that these classifications are not exact or rigid, and many countries, such as Indonesia, Philippines and Thailand, have mixed systems that draw from both the civil and common law tradition while others incorporate elements of customary or Islamic law. See UNICEF's *Programme Guidance: Supporting the Realization of Children's Rights Through a Rights-Based Approach to Legislative Reform*. (2007), Division of Policy and Planning.

## Deciding who to train

Often the choice of who to target for training and who the particular participants will be is constrained by strategic or political considerations, agency demands and availability of personnel. However, to the extent possible, training programmes should be designed to maximize the impact of existing resources by targeting those who can affect the greatest influence on how children are treated at each stage of the justice system. A Consortium for Street Children guide recommends that decisions about who to train ideally should be based on the following criteria:

<b>Need for training</b>	Who has the least knowledge and the highest incidence of bad practice?
<b>Biggest potential impact on children</b>	Patrol officers have more direct contact with children but middle management have the power to enforce good practice on the ground, and senior management can influence an overall culture of good practice.
<b>Level of influence</b>	Do they have the power to put into practice what they have learned?
<b>Mixture of participants in one group or a group dynamic</b>	Will junior officers be prepared to speak in front of senior officers? Are there cultural or gender issues to consider?

## Targeting both senior and lower-ranking officials

One of the clear lessons learned from justice sector training is the importance of targeting both frontline officials and their superiors. As previously noted, buy-in from senior officials is essential to secure support for the implementation of child-friendly principles and procedures on the ground. This means both the senior-level decision-makers within a particular agency (such as a chief judge, chief prosecutor, police commander) as well as middle-management officials responsible for day-to-day supervision and enforcement (such as a senior district court judge or a police station commander). A well-trained, motivated patrol officer may quickly revert to old practices if his/her station commander is resistant to or not supportive of new child-friendly procedures.

However, this does not necessarily mean that senior-level and lower-ranking officials should be trained together. Agency hierarchy may mean that higher-level officials would decline to participate in training together with lower-level officers, or lower-level officers would feel constrained in front of their superiors. It is generally more advisable to run a separate training programme specifically designed to sensitize senior officials and win their support for proposed changes first. Once this commitment is in place, then more detailed training for lower-level officials can be rolled out, ideally with some of the senior officials participating as trainers or speakers to reinforce the support of senior management.

## Specialist vs. all officials

Another issue to decide is whether to advocate for and invest in the creation of specialist child justice units (specialized police units, children's courts, designated prosecutors and lawyers, etc.) or to promote a broader programme of child justice training for all officials. Specialist units have the advantage of allowing a higher level of skills development and promoting a clearer separation between the adult and child justice systems. However, even in developed countries, a specialist response is generally only warranted and feasible in major urban centres. In addition, even where a specialist response does exist, children will continue to come into contact with other officials within the system (such as arrest by a patrol officer). It is thus important that all justice sector officials receive basic training on how to manage cases involving children.

The ideal approach would be to promote basic training on child justice issues for all officials, and then offer a second layer of more intensive training for designated specialists. How best to divide UNICEF resources between these two priorities would depend on the national context. Generally, broad basic training is best accomplished by advocating for the inclusion of a child justice component in the standard induction training programmes of judicial training institutes, police academies, correctional training centres and law schools. Support for some in-service basic training may be warranted in specific geographic areas with high numbers of cases involving children or where there is a high incidence of abuse against children by justice officials. However, attempting to reach a full police force through in-service training is generally not cost effective.

## **Gender**

UNICEF promotes gender equity in all of its programming, and many donors request gender parity in the selection of training participants. This can be a challenge in the justice sector. Despite ongoing attempts in some countries to improve the gender balance within justice sector agencies, police, judges and prison officials remain overwhelmingly male in most countries. Because of institutional gender discrimination, women are often clustered in administrative or lower-ranking positions that are not the main target of the training programme or lack the necessary qualifications for advanced training. For example, a low-ranking female patrol officer will generally not have the necessary investigative experience, skills and credentials to qualify for appointment to a specialist investigative unit handling serious cases of child abuse. While every effort should be made to ensure gender parity in the selection of training participants and to promote the advancement of women within the justice sector, ultimately training participants must be selected on the basis of their position and qualifications – rather than gender alone.

In some countries, there is a tendency to assign female officials to handle children's cases on the assumption that their gender automatically makes them more suited to working with children. However, lessons learned from around the world suggest that gender alone does not qualify an individual to work with children: character, personality and skills are more important. While it is generally advisable to have a female official dealing with a female child victim, a boy in a similar situation may relate better to a male official. It also has been argued that automatically assigning female officials to work with children denies them the same career opportunities and freedom of choice that are available to their male counterparts and in itself, constitutes gender discrimination.

## D. Deciding how to train

### Form of training

As the following chart demonstrates, there are a variety of different types of training that may be employed, ranging from a one-off training session to more intensive on-the-job mentoring. Each approach has its own pros and cons, which should be factored into the decision-making process. Which approach is most appropriate will generally depend on the specific training objectives as well as the resources available.

Type of training	Pros	Cons
<b>Informal</b> One-to-one contact between trainer and individual or groups of officials	Easier and quicker to get approval as it may not require official authorization; low cost; ongoing; long-term relationship of trust can be developed between the trainer and individual officials; non-threatening	More difficult to conduct systematic, comprehensive and sustainable training; high turnover of individual officials means limited long-term benefits; no compulsory attendance required/voluntary.
<b>Formal</b> Officially recognized or organized courses	Compulsory attendance; official recognition; can be linked to promotion requirements; easier to track follow-up and evaluation	Can be difficult to get authorization and attendance due to competing priorities; potential lack of motivation or interest if attendance made compulsory; requires funding or other resources.
<b>Initial training</b> Part of basic training at colleges	Essential for widest possible coverage of training and long-term impact; young recruits motivated and open to new ideas; logistics made easier – part of existing training for which resources already available	Difficult for recruits to relate learning to actual experience; child rights is one topic among many and lessons may not have required impact; difficulty of getting specialized, experienced trainers.
<b>In-service training</b> For officials already on the job	Essential for coverage of existing officials; easy to relate lessons to practical experience; direct impact; opportunity for focused, specialized training sessions	Less effective for long-term institutional change; less time available due to conflicting priorities; not always easy to change entrenched attitudes; difficult to get attendance; benefits may be localized only, with limited national impact.
<b>One-off training session</b>	This can serve as a useful taster to promote greater commitment from officials; may be the only option available due to time restrictions, etc.	One-off training is not enough to cover the depth or sustainability needed to improve knowledge, attitudes and practice in the longer term.
<b>Series of training sessions offering a variety of lectures/sessions on different topics over a period of time</b>	Benefits are similar to formal course although if sessions don't result in a recognized certificate, there may be less interest in attending; opportunity to go into more detail on certain topics and discuss a wider range of topics overall	Different officers attending different sessions may result in lack of consistency; may not be taken seriously.

Type of training	Pros	Cons
<b>Specialized courses</b> For dealing with specific groups of children, such as victims only or offenders only; courses for specific skills like interviewing, evidence collection, etc.	Opportunity to go into depth and detail; responds to very specific needs of officials in the field	Only possible to reach a limited number of officials; courses take time and require particular expertise; doing a specialized course in one area may mean missing out on training in other areas where officials have responsibility towards children.
<b>Single-sector training</b> Only police present	Training can be specifically tailored to agency practice; opportunity for officials to exchange experience with fellow officers and to explore difficulties specific to their profession; easier to arrange; less complex training agenda needed	Juvenile justice system is multi-disciplinary; not enough just to train police if other actors are not aware of their roles to support/coordinate with police; missed opportunity to strengthen communication and collaboration between actors in the system.
<b>Multi-sector or interdisciplinary training</b> Police, social workers, lawyers, judges, etc. trained together in the same session	Multidisciplinary training needed for overall reform of juvenile justice system; opportunity to strengthen communication and collaboration between actors in the system; reflects the reality of how the system works as a whole	Complicated to organize – both in terms of logistics, politics and content of training; selection of participants more difficult to ensure correct balance for good group dynamics.
<b>Training of trainers</b>	Cost effective; sustainable; reaches widest possible audience; empowering for police trainers	More complex; takes time and resources for follow-up and ongoing support; difficulty in selecting core group of trainers.
<b>Mentoring of inexperienced officials by more experienced, child-friendly officials</b>	Useful process – can be conducted as on-the-job training; advice may be more accessible; peer training/exchange of experience is an effective learning method; promotes exchange of experience and develops team work	Mentors need support and training on how to effectively communicate their knowledge to others; training may be inconsistent or of poor quality; entirely dependent on motivation of mentor; high turnover of staff can disrupt mentoring programmes.

Source: Wernham, M. 2005. Police Training on Child Rights and Child Protection: Lessons Learned, Consortium for Street Children.

Experience suggests that on-the-job mentoring by a more experienced (often external) official, if done well, can be one of the most effective approaches for promoting behaviour change and ensuring that classroom learning is actually implemented. However, good mentors are difficult to find, and this approach is generally the most time and resource intensive. One-off, in-service training sessions are generally the most commonly used, but their impact can be minimal, particularly where officials lack the necessary support to implement what they have learned when they return to their posts. Ideally, at least some form of periodic reinforcement and follow-up should be built into the training strategy.



## Inter-agency vs. agency-specific approach

The appropriate mix of agency-specific vs. an inter-agency training should also be considered when deciding on a training strategy. Bringing judges, prosecutors, police officers, prison staff, lawyers and social workers together in one training session can help strengthen communication and collaboration between all actors in the system. By creating opportunities for different agencies to interact, these training events help break down barriers and open dialogue between agencies. And they help officials to gain a better understanding of the obstacles and constraints faced by other agencies, as well as the potential for support from non-traditional partners such as social workers, lawyers and NGOs.

However, while multidisciplinary training is effective for building consensus and collaboration, it generally does not provide the depth of learning required for skills-building and should not replace more intensive, agency-specific training. Members of each of the justice agencies have very distinct roles and responsibilities within the system, and promoting sustained changes in practices requires training specific to their particular functions.

## Choosing your instructors

The choice of trainers used is also crucial to the impact and effectiveness of a training programme. International lessons learned highlight the following:

<p><b>Trainers should be practitioners from the relevant profession:</b> Police respond best to training by experienced police officers, judges by judges, prison officials by prison officials, etc. Training by peers (rather than by UNICEF or NGO staff or even by academics) garners more respect and will be taken more seriously by participants. Experienced practitioners also have a better understanding of the distinctive professional culture that surrounds law enforcement personnel, are better able to relate training to the practical realities of the job, and better understand the difficulties that may be encountered in putting international standards into practice. NGOs staff or child rights trainers can be useful complements to the training team, particularly for sessions aimed at sensitizing participants to children’s rights. But skills and procedure sessions are best conducted by practitioners.</p>
<p><b>Good translation is essential:</b> If international consultants are involved in training, ensure that adequate and high-quality translation is available. Many child justice terms will be new and difficult for participants to understand (such as diversion and restorative justice). Poor translation can result in participants missing valuable information or lead to wasted time on unnecessary semantic debates. Steps should be taken in advance to agree on the most appropriate way to translate child justice terms and concepts into the local language. In addition, international consultants should familiarize themselves with local criminal justice terminology so as to reduce misunderstandings (terms such as ‘arrest’, ‘custody’ and ‘detention’ have different meanings in different legal systems and are often used imprecisely by those not familiar with the national context).</p>
<p><b>Trainers need to engage participants:</b> A good trainer requires more than just the necessary technical expertise; she/he should be able to actively engage participants and promote analysis and problem-solving. Not everyone with the special expertise, however, makes a good trainer.</p>
<p><b>Training of trainers (TOT):</b> If a TOT approach is to be used, then clear, objective criteria should be in place for selecting the participants to ensure that the end results in an adequate and qualified pool of resource people who can conduct echo trainings. Too often, the TOT approach fails because those chosen as trainers are not the best qualified or motivated or even suitable for the task. TOT participants should be selected on the understanding that their responsibilities will continue after completion of the training exercise. They also should be subjected to a post-training assessment of both their knowledge of the course content as well as their ability as trainers – before being allowed to conduct further training. The TOT training sessions should include not just the substantive content of the training programme but also lessons and materials designed to improve participants’ training skills.</p>

## Training methodology

An effective training programme is one that is designed to improve knowledge, skills and attitudes that contribute to appropriate behaviour.

While lecture-based training methodologies may be effective at imparting knowledge, the mere knowledge of standards is generally not enough to enable trainees to translate rules into appropriate professional behaviour. Skills development and sensitization require more creative and participatory approaches. The follow page shows some of the global lessons learned about effective training methodology:

### Global lessons learned about effective training methodology

<b>Use a variety of techniques</b>	Keep participants motivated and interested. Lectures should be kept to a minimum, with a mix of methods such as small group problem-solving, brainstorming, case studies, scenarios based on the 'real' world, panel discussions, role plays and field visits.
<b>Use participatory approaches</b>	Adults learn best through participatory methods and discussions. Tests have shown that adults remember: 10% of what they read; 20% of what they hear; 30% of what they see; 50% of what they see and hear; 80% of what they say; and 90% of what they say and do. This would suggest that participatory, interactive methods such as role plays, dramas, case studies and discussions are far more effective than lecture-based approaches. Note, however, that many justice sector officials may be more accustomed to an educational approach based on rote memorization that discourages analysis, critical thinking and independent judgements. Trainers need to be sensitive to this and allow time for participants to become comfortable with participatory approaches.
<b>Draw on participants' expertise</b>	Justice sector officials bring with them a rich pool of expertise and practical experience that can be tapped for the benefit of the training course. The extent to which the trainer acknowledges this, and draws from it, will largely determine the trainees' reaction to the training exercise. Justice sector officials generally do not respond well to being 'spoon-fed' new approaches. Instead, they should be encouraged to use examples from their previous experience as much as possible and to discuss how to translate international principles into effective everyday practices (including what challenges they might face and how to overcome them). Sometimes the best ideas come from the practitioners themselves – rather than outside 'experts'.
<b>Productive engagement, not finger-pointing</b>	Experience suggests that 'preaching' child rights and highlighting abuses is neither a credible nor effective approach to promoting behaviour change. A far better approach is to create an atmosphere of partnership and experience sharing, working together with participants to identify challenges and propose solutions to problems rather than simply condemning misbehaviour.
<b>Focus on sensitizing and attitudes, not just rules</b>	A good training programme should aim not just to impart knowledge of standards and practices but also to challenge attitudes and perceptions of children. Well-designed sensitization activities can help participants to gain greater insight into their own biases and attitudes towards certain categories of children. See the Consortium for Street Children guide (in the References section at the end of the Toolkit) for examples of sensitization exercises.

<b>Contact with children</b>	Including an opportunity for direct contact between justice sector officials and children as part of a training programme can be one of the most effective ways to sensitize officials. Increasingly, training programmes are being designed to include interaction between justice sector officials and children through field visits to NGO projects, visits to police holding cells or detention facilities, and joint sports matches or cultural activities. However, the experiences in this area vary greatly, and if conducted badly, such meetings can have a very negative effect.
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The following table draws together some of the pros and cons of involving children directly in training programmes for the police:

Pros	Cons
Can be very effective to sensitize police and the mutual breaking down of barriers.	If prepared/handled badly, it can reinforce negative stereotypes and result in misunderstandings and increased mistrust.
It gives the police and children an opportunity to meet in a different environment to the one in which they would usually come into contact, so they learn about each other as human beings.	Care must be taken to make sure that the reaction is not only one of 'pity' or disempowerment on the part of the police. Police must also be given knowledge and skills on how to intervene constructively in the best interests of the child.
If a police officer is touched on a personal level by the story of a child giving a first-hand account, it is something he/she will remember for the rest of his/her life. This will have a very strong impact on police practice towards children, even if the police officer is relocated to a different station/area.	Takes time to organize; such visits may divert NGOs away from other important work or take time away from their busy schedules.
Can be an empowering experience for children and an opportunity for them to voice their opinions.	Street children are likely to be wary of the police and time will be needed to break down barriers and build trust.
Children can learn about the role of the police and how to seek their help and advice.	
Can help to strengthen links between the police and local NGOs/street children organizations that can then be called on for referral or advice by the police in individual cases.	Due to high turnover of police personnel, face-to-face visits may have to be repeated often with different batches of police.
Creative presentations by children about their experiences with the police can be very effective (drama, role play, pictures, music, poetry).	Creative presentations by children as part of training sessions can sometimes be dismissed by adults as fun or recreation rather than treated as serious information.
Equally, it can be very effective if children participate in training sessions at the level of police - such as older children taking part in adult-style panel discussions. Adults might not necessarily expect this and it can gain respect for the children.	The participation of children in adult-style discussions, if not conducted properly, runs the risk of being perceived as tokenism.

Source: Wernham, M. 2005. Police Training on Child Rights and Child Protection: Lessons Learned. Consortium for Street Children.

## E. Training content

Equally important as the methodology chosen is the actual substantive content being imparted during the training programme. For example, whether it is effective to address two categories of children, such as children in conflict with the law and child victims, together in one training programme will depend on the local context, including what topics have been covered in previous trainings, the objective of the training and intended level of detail to be covered, the extent to which the training participants in fact deal with both categories of children and the amount of time allocated for the training programme. It is important to resist the urge to 'pack it all in' to one training programme and ensure that the scope and depth of the training does not over-reach the time that justice sector officials will realistically allocate for it.

### Children in conflict with the law: Child victims or both?

The aim of UNICEF's child justice programming is to ensure that children are better served and protected by justice systems, whether as victims, witnesses or alleged offenders. Regardless of the reasons for children being in contact with the justice system, they are usually dealt with by the same institutions and professionals. However, while there are many commonalities in terms of the skills and sensitivities needed for handling all cases involving children, there are also distinct skills and procedures applicable to these two distinct groups. For example, the specialized skills required to effectively elicit evidence from a young child victim of sexual abuse are different than those needed for interviewing a teenage child accused of theft. Handling children in conflict with the law often involves unique procedures applicable only to them (such as diversion).

Participatory approaches take time, and rushing through a series of topics will not have the desired impact. Where a combined approach is used, measures should be taken to ensure that the focus on children in conflict with the law is not diluted because it is generally easier for justice sector officials to feel sympathy for a child who is a victim/survivor rather than one who is in conflict with the law. Below are some issues to be considered based on international experiences and lessons learned.

**Practical not theoretical:** While theoretical discussions of international standards and child rights principles may be appreciated by some judges, policy-makers, higher-level officials, frontline justice sector professionals generally respond best to practical, operational-level content rather than something academic, theoretical or abstract. The trainee's unspoken question throughout the course will be: "What does this have to do with my daily work?" Frontline officials want to know not just what the rules are but also how they can realistically and effectively do their job within the confines of those rules. Rather than focusing on a recitation of the CRC and international standards, training content should include practical information on and participatory discussion of how the standards can be applied in everyday work. To the extent possible, international models and good practices presented should be appropriate to the local context and potentially replicable within existing resources and conditions.

**Tailored to the audience:** As noted, whenever possible, separate training programmes should be designed to provide more in-depth training on the specific operational roles and functions of each justice agency. It may also be advisable to design separate training for the different categories of staff within the each agency, depending on their function and the intended training objective. For example, different training programmes may be tailored specifically for: 1) high-level officials and policy-makers, to promote greater understanding and national incorporation of international standards; 2) middle management and station commanders, to promote knowledge of and support for child-friendly procedures being introduced; 3) frontline justice officials, to strengthen specialized skills in handling cases involving children in accordance with child-friendly procedures.

## F. Monitoring and evaluation

Proper monitoring and evaluation (M&E) of a training programme is essential if training is to be as effective as possible. An M&E strategy should be developed from the outset so that it is possible at the end of the programme period to determine just how many people were trained and also the impact of that training. It is also useful so that lessons learned can be incorporated into future training programmes.

Training evaluation forms are a simple and easy way to elicit comments and suggestions from participants and to identify areas that need strengthening. These should be systematically collected and reviewed so that adjustments can be made as the training programme is rolled out.

Pre- and post-training questionnaires are also a simple way to determine if core information is being conveyed in a manner that the majority can understand. These should be designed to test more than knowledge retention but also changes in attitudes. Where a TOT approach is being used, it is important to evaluate the competence of prospective trainees and also to establish a system to track and monitor the echo training that they conduct.

More difficult – and often neglected – is an assessment of the impact of justice sector training on actual performance. Has training resulted in an improvement in children’s experience of the justice system? Internal reflection workshops and self-assessments can provide some insight, but this should be complemented by surveys with stakeholders (children, their parents, NGOs and other groups working with children) to elicit their views as well. However, keep in mind that there are limits to what training alone can achieve. Real organizational and behaviour change also requires broader systems-building initiatives to strengthen normative, structural and process aspects of the system.

## G. Strategies for improving impact and sustainability

In recent years, the child protection sector has begun to experience ‘training fatigue’. There is growing concern that years of justice sector training has yet to produce real and lasting change in the way children in contact with the law are treated. While training is certainly not the panacea for all justice sector woes, it can and should be part of a comprehensive systems-building approach to justice sector reform. The following are some suggested strategies for strengthening the impact and sustainability of justice sector training programmes:

**Linkage to organizational policy and priorities:** If training is to produce the desired impact on behaviour and professional performance, it must be clearly supported by and linked to corresponding organizational policies and priorities. Buy-in and commitment from senior-level management is essential. Real change rarely takes place unless management is committed to ensuring its implementation and willing to allocate the necessary resources. In many countries, the justice sector reform priorities of national governments, donors and international agencies lie elsewhere (anti-corruption, drug enforcement, etc.), so sustained advocacy is necessary to ensure that children’s issues receive due attention.

**Ownership and incorporation into existing training programmes:** Ownership of the actual training programme and training content at the senior level is essential to sustainability, replicating and widespread impact. This means more than simply securing agreement with the relevant agency to deliver what is essentially viewed as a ‘UNICEF training programme’ to its staff. Ideally, UNICEF support should be aimed at the design and delivery of standardized, agency-owned training programmes that have been officially authorized and accredited and are incorporated into existing in-service and induction curricula (through judicial training institutes, police/corrections academies, lawyers’ associations, law schools, etc.). This generally requires a longer process of negotiation and some degree of compromise on content and methodology but ultimately has the potential for greater reach and impact. The usual ad hoc, informal donor/ NGO-supported training programmes can help improve the attitudes and practice of individual officials who participate. However widespread, consistent, long-term and sustainable change will only be possible when child justice practices are formally recognized and included in official curricula.

**Accreditation:** Training that results in an official agency certificate or accreditation and that is linked to promotion also tends to be more sustainable. In particular, officials who are assigned to a specialist children’s unit should all be required to undergo an accredited training programme prior to their appointment. For police in particular, this helps place child justice specialization on par with other recognized areas of expertise within the police force (drug enforcement, trafficking, etc.).

**Development of national guidelines, directives, and protocols:** Training for frontline officials that focuses mainly on the CRC and international standards will have limited impact on their behaviour if those standards conflict with national laws and procedures. For example, police, in their every day work, are guided by and required to follow their own internal ‘standard operating procedures’ or directives – not the CRC and the Beijing Rules. Regardless of how personally motivated they may be by a particular training programming, lasting, consistent and sustainable change will only take place if child justice principles and procedures are incorporated into agency guidelines, directives, protocols and standard operating procedures. Ideally, before a training programme is developed for frontline officials, UNICEF should advocate for a review and reform of national agency procedures to bring them into line with international standards (through, for example training and advocacy with higher-level officials and policy-makers). These national procedures can then form the foundation of the training programme for frontline officials.

**Planned follow-up:** Too often, training sessions are conducted on a one-off basis, with limited follow-up support. Trainees are left on their own to figure out how to incorporate classroom learning into their everyday work, often in an institutional environment that is not receptive to change. Meaningful capacity-building requires a degree of sustained commitment and planned follow-up if behaviour change is to be achieved. Training programmes should include structured follow-up plans from the formulation stage. This may include: periodic return visits by an external specialists for quality control, review and reinforcement purposes; periodic refresher courses; a system of review and reporting to be carried out by the local trainers themselves; regular communication with supervisors and station commanders to ensure that officials who attended the training are being supported in implementing what they have learned; and supporting participants with information and education communication materials (posters, pocket handbooks, etc.).

**Training alone is not enough:** As noted, it is also important to keep in mind that child justice training is necessary but generally not sufficient to achieve the desired changes. Training is only one part of a comprehensive systems-building approach to strengthening the justice system for children. Indeed, justice sector reform needs to be viewed as a long-term process of addressing broader institutional issues, such as corruption, low pay, low accountability, lack of resources and infrastructure, poor management, etc. Many of these issues are beyond UNICEF's core competencies but can be addressed in partnership with broader UN and donor-supported law and justice- sector reform programmes.

## Notes





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# **PART FIVE SOCIAL WELFARE SYSTEM**

**5.1 Introduction**

**5.2 The Role of a Social Welfare System for Child Protection and Promoting Children’s Well-Being**

**5.3 Checklist of Components in a Social Welfare System**

**5.4 The Process for Building Up a Social Welfare System**

## **Purpose and how to use**

This Technical Guide describes the role of the social welfare system in child protection and corresponding key functions, components and services at different levels. It also provides guidance and suggestions on programming.

Guide 5.2 is a reference for UNICEF child protection staff and for use in advocacy with government and non-government organization (NGO) partners and other agencies. It includes a summary of lessons learned and evidence-based practices from around the world. It also includes an explanation of the system's components and the benefits for children, families and societies.

Guides 5.3 and 5.4 are intended to be used by child protection practitioners. Guide 5.3 is primarily a reference for understanding the full picture and the specifics of a system. But it is also for guiding the assessment of a system and for identifying strategies and selecting interventions. It includes a technical checklist that goes into detail on what should compose a social welfare system in order to effectively function and progress in protecting children. This list is a benchmark for the minimum necessary elements. No one system will have all these items. But the list helps to assess what is there and where UNICEF might find entry points.

Guide 5.4 provides direction on the process of developing child protection programmes and identifying strategies and interventions for building up the social welfare system.

The guides can be used in combination or independently. Each has a preface page to clarify its purpose and intended users.

## 5.1 INTRODUCTION

The social welfare system is one of the three core components of the environment for child protection. Working together, the three systems – when functioning positively – allow a society to promote children’s well-being and protect them from harm. While this Technical Guide is dedicated to building up the social welfare system for children and families, it does not stand in isolation and needs to be considered in relation to the legal and regulatory system (there are references to it throughout this guide) and to the importance of social behaviour change.

The overall social welfare system is very wide but the portion dealing with children and families should include a set of services that are crucial for the protection of children. It is those particular services that are relevant for child protection programming. The State has the responsibility for ensuring the provision of such a social welfare system for children and families in fulfilment of its duties in regard to international legal instruments, such as the Convention on the Rights of the Child (CRC). In doing so, the State may provide and manage all or parts of the system. The most common scenario is to have the State seek out partnerships with civil society to share in the provision and management of those necessary services.

The theoretical framework and the model presented here are partially based on the lessons learned over the past century of experience on child protection and child and family welfare systems. Of course, much of the documented experience on child protection comes from Western countries, which have different approaches to welfare provision.\*

The social welfare system model presented in this Toolkit is basically a compendium of good practices and ways to avoid major problems and mistakes that some countries have experienced in promoting the welfare of children and families. But this model also has made use of, and been inspired by, the latest thinking and new approaches applied to child protection. These new approaches take into account social and cultural diversity. They particularly draw from native communities where cultural norms and traditional community mechanisms are strong.

Thus, the social welfare system laid out and described in the following section aims at combining Western wisdom with traditional Asian and Pacific practices in a comprehensive system. In no sense is the model presented as a replica of any of the Western models. And it does not ignore, diminish or substitute the role and the capacity of communities and traditional mechanisms. Rather, it is to complement and enhance those capacities and mechanisms.

The focus of this model is the formal and institutional part of a social welfare system (with a child protection focus) that needs to be there when families and communities fail in their responsibilities to protect children. However, the model suggests the need to regulate the interaction between the ‘formal’ and ‘informal’; it is in this interaction that the respect for and the promotion of positive cultural and traditional mechanisms takes place.

The model does not give specific requirements on how to organize structures and services. This aspect is a matter that needs to be sorted out in each country, based on the cultural, social and economic situations. The checklist of components provided here are the ‘ingredients’ that are considered necessary to put a system in motion in a positive direction. But the system is not static and will continue to evolve and progress as it responds to changing circumstances and problems in child protection and social conditions.

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\* See, for example, Esping-Anderson, G. 1990. *The Three Worlds of Welfare Capitalism*. Cambridge: Polity.



## 5.2 THE ROLE OF A SOCIAL WELFARE SYSTEM FOR CHILD PROTECTION AND PROMOTING CHILDREN'S WELL-BEING

- A. Defining social welfare
- B. A social welfare system for children and families
- C. Prevention – The proactive approach to protection
- D. Benefits of a social welfare system for children and families
- E. Conclusion

## **Purpose and intended users**

As an overview, guide 5.2 is for background reading, especially for new staff and colleagues in other sectors (as well as long-term staff approaching welfare for the first time). But it should be drawn upon for advocacy work with government counterparts and working with programming partners. It includes a summary of lessons learned and evidence-based practices from around the world. It also includes explanation of the system's critical features and services and the benefits for children, families and societies. Ultimately, it brings together evidence and scientific knowledge that supports the argument for promoting a social welfare system for children and families.

This overview can be used as a reference for advocacy in promoting child protection systems in general and the social welfare system in particular.

## **A note about terminology**

Throughout this Toolkit, the term 'children' refers to anyone younger than 18 years, in accordance with the Convention on the Rights of the Child (CRC). The term 'family' is used as shorthand to refer to those within the caring circle of a child. This caring circle varies according to culture and circumstance; thus, the use of the term 'family' recognizes that in many societies the care environment of a child is broader than the immediate family and includes the extended family, and in some places, the wider community. The term also recognizes that in some circumstances, children are primary caregivers. The term 'society' includes those not necessarily connected to the child and who are beyond the immediate community.

The term 'social welfare system' in this Toolkit implicitly refers to children and families.



## 5.2 THE ROLE OF A SOCIAL WELFARE SYSTEM FOR CHILD PROTECTION AND PROMOTING CHILDREN'S WELL-BEING

A social welfare system is a critical strand in the braided effort to protect and enhance the well-being and prosperity of societies. Unfortunately, the importance of social welfare is sometimes not well understood; it can remain underdeveloped or poorly implemented.

This guide first touches on what is the function of a social welfare system, identifies key features and explores the connection between social welfare and children's protection and well-being. Although the East Asia and the Pacific Regional Child Protection Strategy refers to a social welfare system in general, encompassing institutions in the wider society, this Toolkit focuses solely on social welfare provision for children and their families in the context of the work of UNICEF in protecting children.

Detailed technical guidance can be found in guide 5.3 on the checklist of components in a social welfare system.

### A. Defining social welfare

The concepts of 'social welfare' and 'social welfare system' generally appear to be commonly understood. But the terms have been overused, giving rise to multiple perceptions on what each actually means. Thus, it is first necessary to establish a shared language and understanding of these terms.

Social welfare in its broadest sense relates to human well-being: "*social problems are managed ... human needs are met and ...social opportunities are maximized*".<sup>1</sup> The absence of social well-being can lead to what has been called 'social ill-fare'.<sup>2</sup>

A social welfare system is the organization of services to promote and support social welfare. A social welfare system should be comprehensive and provide services that cover a spectrum of needs and that also consider individuality and well-being<sup>3</sup> in its widest sense.

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<sup>1</sup> Midgley, J. 1997. *Social Welfare in the Global Context*. Sage Publications, London.

<sup>2</sup> Titmus, R. 1974. *Social Policy: An Introduction*. Allen & Unwin, London.

<sup>3</sup> The well-being dimensions of a child or his/her care needs are identified as: physical, psychological/cognitive, emotional, social and spiritual/moral.

Providing comprehensive social welfare for children and families contributes to, among other things:
reduction of incidence of child abuse and neglect;
fewer children in out-of-home care;
improved school attendance and attainment;
reduction in crime;reduction in drug and alcohol misuse;
reduction of violence in society;
less family breakdown;
meeting the 'best interests' of children;
systematic organization of work;
easier monitoring of children's situations.
This then leads to:
better outcomes for children (cared for, safe and protected);
maximized resources;
advancement and development of the well-being of societies.

A system of social welfare for children and families exists within a larger framework of social welfare for the general population, especially for those who are particularly vulnerable and in need of additional support (such as people with disabilities or mental health problems). To ensure there is an effective focus on children in this broader social welfare provision, there must be a distinct system of social welfare for children and families (essentially a subsystem of the overall social welfare framework). Experience demonstrates that where children's services are not disaggregated from other client groups, their unique needs and vulnerabilities can be overlooked.<sup>4</sup>

What defines a social welfare system for children and families are the specific objectives of promoting children's well-being and their protection while enhancing the capacity of families to fulfil their responsibilities. All norms (laws, policies, regulations and standards), processes (day-to-day functioning) and structures (ministerial and service organization) should have an unambiguous child protection objective. 'Child protection' here does not mean the protection and promotion of children's rights generally but is specifically focused on the protection of children from abuse, exploitation, neglect and violence.

The other areas of social welfare and social policy that do not encompass child protection outcomes are not part of this system. Economic approaches, such as cash transfers, or the purchase of specialist services for a child or a family are part of the system only when they are used as an intervention in a case plan. More universal income support programmes, such as child maintenance payments or family bonuses, may be part of the system when their objective – at least in part – has a clear child protection intention.

However, any social welfare system for children and families cannot and should not stand alone and must interact with other services (such as education, health, and social safety nets) to provide comprehensive care for children.

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<sup>4</sup> For an interesting exploration of the organization of social welfare, see Parton, N. (ed) 1995. *Social Theory: Social change and Social Work*. Routledge, London, UK

## Addressing welfare and promoting rights

The concept of 'welfare' has become unfashionable to some extent within the field of humanitarian and social assistance. Because of connotations of 'charity' and 'benevolence', a welfare approach to service delivery can be seen as conflicting with a rights-based approach to programming.<sup>5</sup> Yet, a rights-based approach is both compatible with and essential for a comprehensive social welfare system.

### Accountability

Under the CRC, State parties have responsibility for ensuring that rights are fulfilled. Although governments may in practice choose to partner with other organizations to maximize resources and not take the primary lead for the delivery of certain services, they should still maintain overall responsibility for ensuring that services exist and are implemented. This involves the establishment of standards, including effective complaints mechanisms.

Specific children's rights in the CRC addressed by the social welfare system include:

**Article 19:** protection from abuse and neglect

**Articles 32, 34, 36:** protection from exploitation and sexual exploitation

**Articles 20, 21, 25:** provision of alternative care

**Article 39:** provision of rehabilitation and reintegration services

**Articles 22, 35:** on refugee children and trafficking, respectively

Despite the use of 'welfare' in its title, a social welfare system is not based on a charitable approach. Instead, it is a system that includes support services and programmes that are designed to promote well-being by meeting needs and rights. *A positive welfare system is based on human rights.* Social welfare support services are not simply 'handouts', which fall short of addressing the complex needs of people.

The support services are 'helping relationships' that assist clients in making positive changes in their lives. A rights-based approach is important because it emphasizes that there are certain conditions and services to which people are entitled. In addition, it reinforces the status of people as citizens and social actors who can influence and direct their situation rather than being merely recipients of benefits.

A positive social welfare system adopts within its service delivery modalities the rights-based approach. Responding to needs is essential to ensure that rights are promoted. A welfare system underpinned by rights is necessarily universal, aimed at supporting all families and promoting the well-being of all children in a given country.

Aiming at all children includes not only those with particular vulnerabilities, such as children with disabilities and their families, but also children without legal identification papers, all 'mobile' children, such as those who have migrated illegally and children without a documented nationality. Essentially, this covers all children who are currently in a country.

The main legal instrument relating to children's rights is the CRC. Several of the CRC-listed rights intersect specifically with the framework for a social welfare system, such as Article 19 on the right to protection from abuse and exploitation. There are other relevant rights, including the right to a family and rights to rehabilitative and out-of-home care services. Without these rights protected and thus fulfilled, many other rights cannot be realized and thus children are deprived of reaching their full potential.

<sup>5</sup> The distinction between a rights-based approach and a welfare- or charity-based approach may be of more importance to NGOs and UN agencies than governments.

Meeting the needs of children, at an individual level, is highly dependent upon a child's development and evolving capacities.<sup>6</sup> Children have a right to be involved in the decisions that affect them and this means being given both appropriate information and also being consulted. This is the basis of a helping relationship to which social welfare services for children and families should aim.

However, children do not develop or exist in isolation. They are intimately connected to their families and to their communities and the society in which they live. These connections influence their development and well-being.<sup>7</sup> Following the ecological theory to human development and a socio-cultural approach takes account of these connections: It means that services need to be designed and delivered in a way that is child focused but will simultaneously consider family and community. A child should never be considered in isolation.

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<sup>6</sup> It is assumed that most users of this Toolkit will have a clear understanding about the needs of children. For an in-depth exploration of the development of children (and their consequent needs), with particular reference to the application of dominant Western thought on other cultures, see Gardiner, H.W., Mutter, J.D. and Kosmitzki, C. 1998. *Lives Across Cultures – Cross-Cultural Human Development*. Singapore: Allyn & Bacon.

<sup>7</sup> Two models or theories that emphasize the connections between children and their environment are Bronfenbrenner's 'Ecological Model of Human Development' (see Kopp, C.B. & Kaslow, J.B. 1982. *The Child*. p. 648; Addison-Wesley, Reading USA); and Vygotsky's 'Sociocultural Theory of Development' (see Vygotsky, L.S. 1978. *Mind in Society: The Development of Higher Psychological Processes*; Harvard University Press, Cambridge, USA).

## B. A social welfare system for children and families

Child maltreatment<sup>8</sup> is a complex issue, encompassing abuse, exploitation, neglect and violence. It is not one activity or circumstance but a continuum of actions, behaviours and experiences. Rarely is it a one-off, isolated incident. More typically, maltreatment occurs within a progression; for example, escalating levels of violence, cumulative effects of emotional abuse or increasing harm caused by persistent neglect. It is a symptom of complex human problems and relationships and as such cannot be addressed with simplistic responses. If it appears that there is one simple answer to a human problem, then that answer is probably wrong or an insufficient response.

The solutions to child maltreatment are demanding and complex.<sup>9</sup>

There are two main approaches to addressing child abuse – reactive and proactive. Reactive approaches generally focus upon trying to solve the problem once it has occurred. Proactive approaches seek to address potential problems before they escalate or even before they are manifest by providing early intervention.

### Fulfilling the recommendations of the UN Secretary-General's Study on Violence Against Children

A social welfare system for children and families responds to most of the recommendations of the UN report on violence against children. In particular, a functioning system should prioritize prevention, provide services to victims and build information systems as well as contribute to social change.

The stark difference between these two divergent approaches can be seen through the theoretical case of children falling off a cliff: A reactive approach involves sending rescue teams to the bottom of the cliff to care for the injured children. A proactive approach involves considering *why* children are falling off the cliff and seeks to put in place measures to prevent the falling, beginning with the building of a fence.

A social welfare system *combines* the reactive and proactive approaches. This perspective recognizes that there will always be instances for which it has been impossible to effectively prevent abuse, and therefore reactive remedial action is necessary. And the system incorporates proactive approaches to child welfare to reduce the need for reactive services by preventing many problems from occurring. This approach also takes the proactive position even further by providing services for identifying emerging problems and reducing their impact.<sup>10</sup> One effect of this is to help control and contain state expenditure by tackling problems in a managed and budgeted way.

### The need for a positive system

As with any system, a social welfare system needs to have its many components in balance with a common goal: All parts need to function and work together, each understanding their role and how it connects to the wider process.<sup>11</sup> The goal of a social welfare system is to protect children and promote their well-being as well as the families'.

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<sup>8</sup> In most developed children's welfare systems, four main categories of child abuse are recognized – physical, emotional (sometimes referred to as psychological), sexual and neglect. Other forms of abuse and exploitation can be considered as further manifestations of these four basic types. For more information, see [www.ispcan.org](http://www.ispcan.org)

<sup>9</sup> For example, see the Protective Environment Framework model, developed by UNICEF at: [www.unicef.org/protection/index\\_action.html](http://www.unicef.org/protection/index_action.html)

<sup>10</sup> Cooper, A., Hethington, R., Katz, I. 1997. *A Third Way? A European Perspective on the Child Protection/Family Support Debate*. London, National Society for the Prevention of Cruelty to Children.

<sup>11</sup> Note that the roles of some workers may span more than one component. Similarly, some families and communities may be involved in more than one component at a time.

Unfortunately, some systems do not work like this. For example, various components in practice undermine, contradict or duplicate the efforts of the others (even if this is unintentional). The entire system should be framed around the common goal rather than having parts diverted to meet the requirements of individual departments<sup>12</sup> or other organizations.

A system needs to have a sense of *predictability* in that there should be consistency in the manner and sequence in which situations are handled. This does not mean that services provided for every child and family are the same. Services that are provided should be designed to meet needs that are identified instead of trying to fit children and their families into services that have been established. The services need to be *responsive* but with approaches and processes that are *consistent*.

### Fundamentals of a social welfare system

A social welfare system – the subsystem for children and their families – includes four sets of essential features:

1	A legal and policy framework composed of laws and policies that govern the system (defining aims, objectives, roles and responsibilities and regulating areas of intervention).
2	Structures with lines of accountability and responsibility for developing and delivering services (the structure includes three levels of provision: primary level with universal services, secondary level with targeted services, and the tertiary level with individual services). The structure also includes mechanisms for increasing capacities and maximizing resources.
3	Processes are required to identify the way each part of the system should work (for example, inter-agency guidelines and procedures). These processes promote a continuum of care that includes a predictable sequence of functions. The continuum and predictability provides consistency across different levels of service and ideally avoids gaps in responding to clients' needs (see the following diagram).
4	Finally, research and analysis is a fundamental part of the system to improve and keep on developing the system's capacity to make sure that all children are cared for, safe and protected.

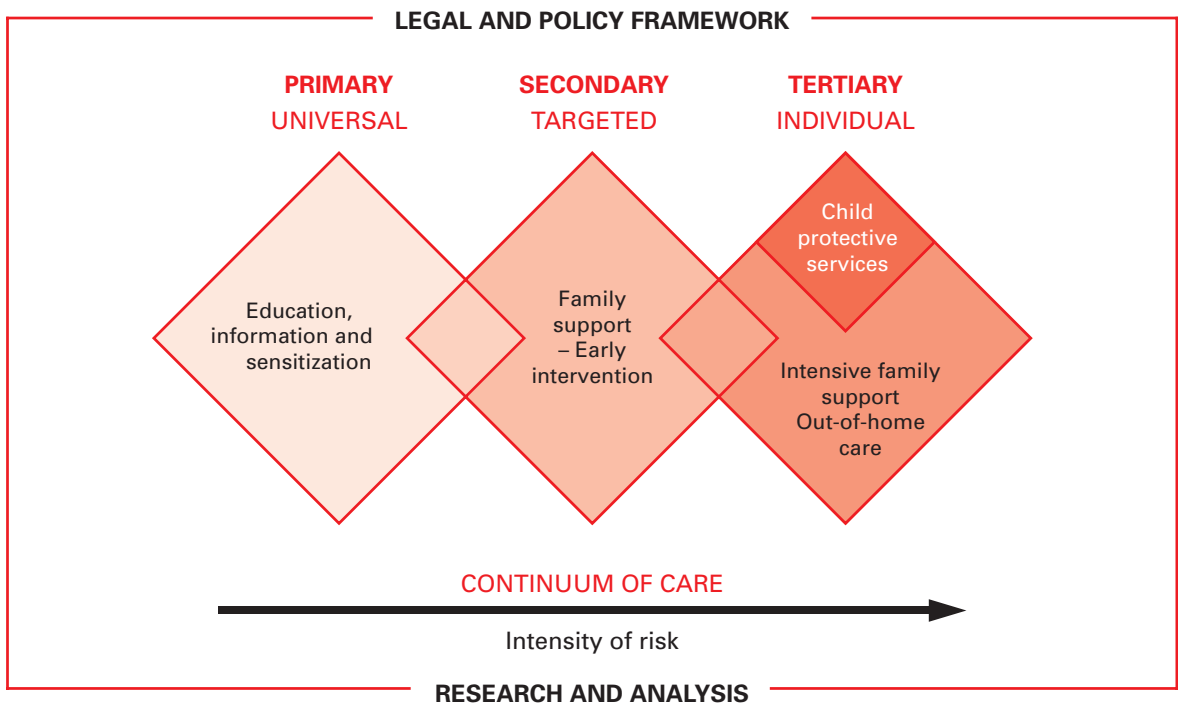
The diagram below shows only the main simplified components: at the primary, secondary and tertiary levels. In reality, other systems interact with and influence the functioning of the social welfare system; in particular, the health, legal (justice) and education systems.

The arrow in the diagram indicates the continuum of care and sequencing of primary to tertiary services. The arrow also identifies the increase in intensity of risk to a child's well-being along this flow and the need to move from prevention levels to more professional and specialized services.

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<sup>12</sup> For example, although important, administration or financial sections and departments should support the frontline work of protecting children rather than dictating the way that services are provided.

## The main components of a social welfare system for children and families



## **C. Prevention – The proactive approach to protection**

An important element of any social welfare system is the provision of proactive services – often called prevention and/or early intervention programmes. These services, which include what are also sometimes referred to as family support services or diversion programmes, need to be linked to the more reactive services in the tertiary level, such as child protective services.

When discussing the social welfare system, it is important to distinguish between these different levels of service.

All levels of intervention can be preventive to some extent: Even at the tertiary level, the aim is to prevent further abuse, exploitation, neglect or violence as well as initiating processes for children's protection, welfare, rehabilitation and avoiding deterioration when circumstances improve. In moving along the continuum from the primary to the tertiary level, the interventions required become more specialized. As such, they require specific professional support.

Given that even reactive services contain an element of preventive work and are not purely responsive, there can be a degree of overlap between the components of a social welfare system. This is not a duplication of provision – as long as it reflects a continuum of services required to respond to a wide range of needs. The diversity of childhood and children's situations means that a variety of overlapping services is needed to avoid gaps in provision.

### **Primary – Universal for all children and families**

Primary services are most commonly referred to as 'prevention programmes'. These tend to target general populations, although they may be directed towards specific groups. At this level, services promote knowledge and skills as well as strengthening the overall capacity of the community and society at large for caring and keeping children safe and protected. This level of work is linked to changes in attitudes and social behaviour change strategies. Common activities include awareness and advocacy campaigns, such as promoting the need for alternative forms of discipline rather than physical punishment, or sensitization on the impact of domestic violence.

Prevention programmes can be effective in reaching the public. But because they are general in nature, they do not address specific issues within individual families. Primary activities can be limited in terms of affecting change in families in which there are complex or long-standing difficulties.

### **Secondary – Targeting specific groups of children and families**

Secondary services often are called 'early intervention programmes' and 'family support services'. They are still preventive in nature but focused towards meeting identified needs within specific families or at-risk groups. They can be tailored to suit individual situations and thus are much less general than primary services.

Family support services provide necessary services as soon as a family is in difficulty or meets challenges that might deteriorate into serious problems. Early intervention services target families that are already at risk of engaging in abusive behaviours in order to change those circumstances before they create actual harm to a child. For example, families might seek help for separation, for mediating or dealing with disputes, for alcohol and/or drug problems, for domestic violence, for mental health problems or for difficulties in caring for children. Given this range of problems, a variety of actors provide services at the secondary level – both government and civil society organizations.

### **Tertiary – Targeting the individual child and family**

Interventions at the tertiary level are necessary to respond to circumstances in which a child is at serious risk of or is being abused, exploited, neglected or harmed in any way. These interventions may involve a child or children being removed from the home (family's or caregiver's) or place of employment when it is in their best interest.



In some circumstances, a package of interventions may be first attempted, designed to avoid removing a child from the family and placing him or her in the care of the State. This package may include the use of primary prevention and secondary intervention services, along with other support and protective actions. The details of plans and programmes for individual children need to be determined by the particular context and need to be based on the principle of best interests as enshrined in the CRC.

### Specialized services

Typical examples of such interventions include intensive family support (parenting programmes, relationship counselling, mentoring schemes and practical assistance) and specialized child development programmes (specialized support regarding education, social relationships development and self-esteem work). Alongside, there may be a specialized programme of services used as an early intervention, such as treatment or counselling for drug and alcohol abuse, for mental health problems or domestic violence – or all of those combined.

### Protective services


In terms of the best interests of a child, there remains a need for statutory intervention services also called ‘child protective services’, provided by the State as an integral part of the tertiary response. These services are called upon when all other ways of addressing the protection circumstances of a child (through primary and secondary services) have not resulted in a positive outcome and an individual child is at serious risk of danger.

The State has a core obligation to ensure these services are available to respond to all children in danger or at risk of harm. This duty requires the State to intervene if and when the family or the community fails to protect a child.

Once a child and family are involved with child protective services, their participation is mandatory – typically with sanctions via the courts for non-cooperation. This is because of the level of harm to which the child has been exposed (or is in danger of) can, in extreme cases, be fatal.

Because the child protective services are a state responsibility, they are not typically delegated to non-state agencies. Many departments within the government have a role to play in protecting children. But it is essential that a single agency (within a government department, a separate department or agency with the relevant mandate) has the statutory role and duty to intervene and, where necessary, also to remove children from their family (or other harmful situation) and to find temporary or longer-term alternative care arrangements.

This agency should take the lead on all aspects of intervention at this level, including: investigation of cases, assessment of family situations and the development of care and protection plans, including removal from the home.<sup>13</sup> That same agency also has responsibility for decision-making (or recommendation to the courts) for each case, returning the child/children to the family when it is safe, referring the family to other services, case review and case closure.

 The ‘best interests of the child’ relates to the well-being of children in total: their physical, emotional, psychological, social and spiritual welfare. It should not be determined only in relation to physical care and education.

Children involved in child protective services are at high risk. Thus, it is critical that anyone working in this area is appropriately qualified and supervised to make decisions regarding children’s safety and what is in their best interests.

<sup>13</sup> In many countries where it is unsafe for the child to continue living in their home, for example, where the abuser is living with the child, the common response has been to remove the child. In reviewing laws and practice, some States are adopting a more child-sensitive approach and opting for measures that require the alleged abuser to leave the home.

## Out-of-home care (alternative care)

When a child is removed from the care of the family, alternative care services must be available, either managed by the State or by civil society. It is widely recognized – and reflected in the CRC – that children fare best when they remain with their family or community.<sup>14</sup> Where this is not possible, or safe, then suitable alternatives are necessary.

‘Substitute’ or ‘alternative’ care includes various models with a wide range of options, from kinship care, fostering, guardianship and residential care to the permanent solution of adoption.<sup>15</sup> Sometimes such care can be used in the short term to prevent family breakdown (and as such it would be an early intervention strategy, although only when it forms part of a wider programme of support). However, it is essential that alternative care is part of a continuum of care provision.

Decisions regarding alternative care for children should be made by a competent authority (usually this is part of the protective services agency). This authority should be independent from the care provider, and decisions must be based on the best interests of the child/children.

Alternative care should always be understood and used as a temporary solution while other services work with children, families and communities to make sure that a child/children can be returned to the family whenever it is safely possible.

### The differences between primary, secondary and tertiary levels

Some services might be the same at the primary and secondary levels and from the same provider. The key difference between the primary and secondary services is the nature of engagement with families and children and the intensity of the support. The primary services are available to all. But where some children and families have been identified as needing to make use of those services as part of an individual preventive strategy, then they are classified as secondary. The distinction lies in a referral, a suggestion or the decision of families to use a particular service.

An important point about primary preventive services and the secondary, early intervention services is that they are both voluntary. This means that children and families can choose to participate. This optional characteristic contrasts with the tertiary interventions (child protective and other specialized services), for which participation *is not a choice*.

The compulsory nature of the tertiary services is the necessary response to a child’s situation – a child is already suffering or is highly likely to suffer harm. No matter how effective primary and secondary services are, there will always be a need for high-quality and efficient responsive services targeted at individual children and their families.

### Legal and policy framework, research and analysis

The two other fundamental elements interacting with and governing the social welfare system for children and families are the i) normative framework (the policies and procedures that set the context), which gives structure to the system, and ii) research and analysis, which bring a theoretical basis to the responsibilities and services provided.<sup>16</sup> Both may be areas in which UNICEF needs to work, if gaps or weaknesses are revealed in the first analysis of the social welfare system.

As part of the analysis, monitoring and evaluation (with the participation of children and families) are important to ensure that services are based on research and evidence (that is, based on what works). These processes in turn should inform the development of policies and procedures.

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<sup>14</sup> There are many resources that explore this issue. One that is particularly important because it emphasizes the importance of cultural context and related applicability of models and theories, is Gardiner, H.W., Mutter, J.D. and Kosmitzki, C. 1998. *Lives Across Cultures – Cross-Cultural Human Development*. Allyn & Bacon, Singapore.

<sup>15</sup> When adoption takes place, the child is no longer in alternative care because he/she is legally bound to the new family.

<sup>16</sup> This means doing *what works* as opposed to what is in vogue or derived from individual personal or professional preference or some other bias.

## D. Benefits of a social welfare system for children and families

As noted, a fundamental element of a child and family social welfare system is the provision of preventive or early intervention services – and not just reactive child protective services. The prevention or early intervention services need to be in place to support families to ensure they can fulfil their responsibilities so that a crisis does not occur or, if it does, the effect is minimized. The critical follow-up services need to be there to prevent deterioration of the situation or to ensure that further harm is avoided.

The human and social costs of child abuse, exploitation, neglect and violence are high. Child abuse and neglect have resulted in child behavioural problems, low literacy, non-completion of school, juvenile crime, increased drug abuse, early pregnancy (with lower birth weights)<sup>17</sup> and other problems. For example, in an American study researchers suggested – conservatively – that at least 13 per cent of all adult violence was directly related to childhood maltreatment.<sup>18</sup> Other studies found that children who committed a crime were significantly more likely to have been abused and neglected.<sup>19</sup>

Research has demonstrated that, in comparison with control groups from the same society, adults not abused as a child were 40 per cent more likely to be in regular employment (where this existed),<sup>20</sup> 50 per cent more likely to enjoy stable relationships with family and partners<sup>21</sup> and 2.5 times less likely to attempt suicide.<sup>22</sup> The phenomenon of the ‘cycle of deprivation and abuse’ is widely recognized – with one American study finding that mothers who were physically abused as a child were 13 times more likely to physically abuse their own children than mothers who had never experienced abuse growing up.<sup>23</sup>

Thus, the evidence suggests that the effect of maltreatment directly contributes to emotional and social challenges and difficulties for children’s development while growing up and in later life. In some cases, maltreatment pushes children to leave the family environment, places them at high risk of coming into conflict with the law and/or high risk of exploitation. In the longer term, maltreatment often translates into challenging behaviours, limited capacity to develop healthy relationships and an increased risk of the use of violence or abuse of alcohol or illegal substances. The effects of maltreatment can perpetuate the toxic environment that some children grow up in, potentially damaging their adult lives and the family life they create in an echo of their earlier treatment.

Much of the detailed research data that links the effect of child abuse to adversity and social problems in adulthood emanates from North America, Europe, Australia and New Zealand. This is not surprising because these are areas where social welfare systems have been developed and where resources have been allocated to track their progress.

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<sup>17</sup> Numerous writers have made this point – it is succinctly summarized in Durlak. 1998. ‘Common risk factors and protective factors in successful prevention programs’ in *American Journal of Orthopsychiatry*, 68: 512-520.

<sup>18</sup> Alabama Children’s Trust Fund. 2007. *The Cost of Child Abuse Vs. Child Abuse Prevention: Alabama’s Experience*. Center for Business & Economic Research, University of Alabama, Alabama, USA

<sup>19</sup> See Wildon, C. 2000. Childhood Victimization – Early Adversity, Later Psychopathology.

<sup>20</sup> *ibid.*

<sup>21</sup> *ibid.*

<sup>22</sup> Data from report by the United States National Institute of Mental Health, ‘Suicide Facts’ [www.nimh.nih.gov](http://www.nimh.nih.gov)

<sup>23</sup> Egeland, B., Jacobvitz, D. & Sroufe, A. 1988. ‘Breaking the Cycle of Abuse’ in *Child Development*, 59:1080-1088

Nevertheless, these studies are useful to understand the situation in other regions, such as East Asia and the Pacific – for two reasons:

1	there is increasing relevance. Due to globalization and urbanization, social trends in one culture or region are spreading to others – crossing the Western-Eastern divide.
2	there is greater incorporation of policies and practices derived from indigenous groups.

First, there is increasing relevance. Due to globalization and urbanization, social trends in one culture or region are spreading to others – crossing the Western-Eastern divide. Second, there is greater incorporation of policies and practices derived from indigenous groups. Within more industrialized and urbanized societies, greater attention is paid to diversity, taking account not only of the dominant ideas but also minority groups and, in places, to indigenous communities. In particular and best known has been the adoption of restorative justice ideas or the use of family group conferencing in child protection processes.<sup>24</sup>

### Prevention and early intervention

Given the demonstrated short- and long-term impacts of child abuse, exploitation, neglect or violence on individuals, families, communities and society, any measures that can minimize the incidence and magnitude should be worthy of further exploration and investment. There is persuasive evidence that services for prevention and early intervention can have a long-term impact on crime and other social problems, such as drug abuse.<sup>25</sup>

For example, researchers in an extensive study in California, USA, (in which children were followed until the age of 21) demonstrated that in one early intervention programme, the intervention group showed higher cognitive development, greater competence in social relationships, improved school attendance and less smoking and drug abuse in comparison to the control group.<sup>26</sup> In another study in New York, USA, concerning a programme of home visits to parents of young children who were provided with advice and support, abuse and neglect was five times more common among families who were also at risk but were not involved in the programme.<sup>27</sup>

Research results support the need for policies that address child abuse and neglect proactively as a strategy for crime reduction and prevention.<sup>28</sup> There is a common consensus among researchers and social scientists that early intervention programmes make a difference in reducing the incidence of maltreatment and its long-term impact.<sup>29</sup> It also leads to a reduction in the economic cost of social problems and the cost of providing reactive services.

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<sup>24</sup> For example, the development and use of Family Group Conferences (FGCs) in New Zealand as a model for decision making and care planning builds upon traditional Maori values and customs. The use of FGCs was enshrined in national legislation in the Children, Young People and Their Families Act (1989). The FGC model has spread to other areas of the world, including Australia, Canada and the United Kingdom. For further information, see [www.cyf.govt.nz](http://www.cyf.govt.nz)

<sup>25</sup> Farrington, D.P. 1994. 'Early Developmental Prevention of Juvenile Delinquency' in *Childhood Behaviours and Mental Health*, 4:209-227; many other authors and research confirm this, please see bibliography.

<sup>26</sup> Data from Abecedarian Project reported by Ramsey et al, 2000

<sup>27</sup> Olds, D.L. 1997. 'Long-Term Effect of Nurse Visitation on Maternal Life Course and Child Abuse and Neglect'. In *Journal of American Medical Association*. 278(8): 637-643.

<sup>28</sup> For example, Weatherburn, D. & Lind, B. 1997. *Social and Economic Stress, Child Neglect and Juvenile Delinquency*; NSW Bureau of Crime Statistics and Research, Sydney, Australia; and National Crime Prevention. 1999. *Pathways to Prevention – Developmental and Early Intervention Approaches in Australia*; Attorney General Department, Canberra, Australia.

<sup>29</sup> Sheerman, L.W. 1997. 'Thinking About Crime Prevention' in *Crime Prevention: What Works, What Doesn't Work and What Is Promising*. Department of Criminology & Criminal Justice, University of Maryland, USA. However, MacDonald has noted that there can be difficulties in evaluating the effectiveness of specific programmes; see MacDonald, G. 2001. *Effective Interventions for Child Abuse and Neglect: An Evidenced-Based Approach to Planning and Evaluating Interventions*; J Wiley & Sons, Chichester, UK. Difficulties arise from a number of reasons - from predicting what has not happened through to challenges associated with collecting data over longitudinal studies. Additionally, due to the complex nature of child abuse, it can be problematic to isolate the exact influencing factors.

This does not mean that all types of intervention will apply in every location. The specific context will dictate what type of support will be most effective and the manner in which it should be provided. Approaches need to be adapted to suit local conditions and not merely imported from elsewhere. However, *no research has been found to contradict the usefulness of preventive and early intervention services*. Indeed, so compelling are the messages from the breadth of research, many governments are beginning to either introduce a comprehensive social welfare system for children and families that incorporates preventive and early intervention services or to refocus the existing systems to place increased emphasis on such strategies.<sup>30</sup>

## Cost implications

In terms of costs, it is not a question of should a State invest in a child and family welfare system but how can the State afford not to do so. Sheerman (1997) notes that it is short-sighted to view the provision of a comprehensive social welfare system for children and families as expensive and beyond the reach of many governments.<sup>31</sup> Instead, investing in quality services for children and their families brings long-term benefits to society, as research has repeatedly affirmed.

### Cost effectiveness

Services that appear to contribute to children's welfare but in fact do not give any 'added value' are a drain on resources because they are not properly set up or managed. Examples of this include:

Ombudsmen/commissioner services that have no authority to influence welfare services because they are not sufficiently independent.

Elaborate multiagency or multidisciplinary meetings and structures set up in a context in which there are very little specialized services and resources to allocate; thus, these meetings contribute little in practice.

The International Health Policy Programme noted in its *Study Report on the Implementation of the Guidelines for Estimating the Costs of Interpersonal and Self-Directed Violence in Thailand* that the economic loss from interpersonal and self-directed violence accounted for 33 billion baht (US\$900 million) in 2005, equal to 0.5 per cent of the country's gross domestic product. More than 90 per cent of the economic loss was incurred from productivity losses, with about 80 per cent of economic loss deriving from men. Every death due to violence resulted in a productivity loss of about 2.2 million baht (\$60 million), on average. The total direct medical cost of violence was an estimated 4 per cent of Thailand's total national health budget in 2005. Given what is known about the cycles of deprivation and abuse, it is reasonable to assume that a significant proportion of violence occurring had its roots in childhood experiences.

In any calculation, it is important to consider the costs of *not providing* comprehensive services. Although this is difficult to quantify because it must be based on projected figures, it is still possible to calculate savings over a long term by taking into account the future costs to society of the negative effects of child maltreatment. For example, attempts to calculate this in the United States revealed a savings between \$7 and \$12 for each \$1 invested in services.<sup>32</sup>

Also, providing preventive services does not necessarily cost more in the short term in comparison to providing a reactive child protection service. It is an issue of refocusing expenditure in an attempt to be more cost-effective and to provide savings over the long term while maintaining effective and appropriate intervention services that act in the best interests of all children.

<sup>30</sup> For example, see UK initiatives at [www.everychildmatter.gov.uk](http://www.everychildmatter.gov.uk)

<sup>31</sup> Sheerman, L.W. 1997. 'Thinking About Crime Prevention' in *Crime Prevention: What Works, What Doesn't Work and What Is Promising*; Department of Criminology and Criminal Justice, University of Maryland, USA.

<sup>32</sup> See Alexander, R., Bacca, L., Fox, J.A., Frantz, M., Glanz, S., Huffman, L.D., Hynes, C.J., Reynolds A.J., Ritter, W., Trask, G., Walker, G.L., Newman, S.A. & Chisteson, W. 2003. *New Hope for Preventing Child Abuse and Neglect – Proven Solutions to Save Lives and Prevent Future Crime*. Fight Crime, Invest in Kids, Washington, USA; and Reynolds, A.J., Temple, J.A., Robertson, D.L. & Mann, E.A. 2002. *Cost-Benefit Analysis of the Title I Chicago Child – Parent Centers*. Paper presented at a meeting of the Society for Prevention Research Meeting in Washington, USA, February 2002.

## **E. Conclusion**

Providing a social welfare system for children and families means that services are focused both on preventing harm and on reacting and responding to situations in which children are being abused, exploited, neglect or experiencing violence. These services should target help and support where it is most needed and in a manner that is most effective in order to maximize resources and promote the care, safety and protection of children.

Although a social welfare system is complex, it is the only comprehensive way of addressing children's needs in both the short and long terms. The outcomes of systematic provision include reducing the negative impacts on society from the adverse and enduring impact of child maltreatment as well as supporting social and economic development. As such, child and family welfare services are neither expensive nor a luxury – but an essential national system.

## Notes

## Notes





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## 5.3 CHECKLIST OF COMPONENTS IN A SOCIAL WELFARE SYSTEM FOR CHILDREN AND FAMILIES

- A. Introduction
- B. Technical notes
- C. Glossary of technical terms
- D. The checklist

## Purpose and intended users

Guide 5.3 is primarily for guiding the assessment of a system and as reference for identifying strategies and selecting interventions. It includes a technical checklist that goes into detail on the minimum necessary elements that should compose a comprehensive social welfare system in order to function positively and provide protection for all children.

The components in the checklist break down by norms (the legal and policy frameworks), processes and structures; each includes primary, secondary and tertiary services. Included is a checklist of positive aspects that laws on child protection welfare and justice should include.

As an introduction to the checklist, there are technical notes on the fundamental principles and elements of a social welfare system for children and families and a glossary of the main technical terms.



The checklist is not intended for distribution unless accompanied by sufficient explanation and adapted to the audience and its familiarity with the subject. Similarly, data gathered through use of the checklist should not be released or shared without proper analysis.

Guide 5.3 provides technical direction on a social welfare system for children and families. The reference checklist has been developed by UNICEF. Thus, it is a technical tool primarily for UNICEF programme staff working with governments to develop or monitor comprehensive services for children. But it is open for use by other child protection practitioners.

However, it requires some understanding of child protection practice and social welfare services management. For an introductory overview to the social welfare system, review guide 5.2 on the role of a social welfare system for child protection and promoting children's well-being. Readers who are not familiar with social welfare systems should refer to that guide first.

## A note about terminology

Throughout this Toolkit, the term 'children' refers to anyone younger than 18 years, in accordance with the CRC. The term 'family' is used as a shorthand to refer to those within the caring circle of a child. This caring circle varies according to culture and circumstance; thus, the use of the term 'family' recognizes that in many societies the care environment of a child is broader than the immediate family and includes the extended family, and in some places, the wider community. The term also recognizes that in some circumstances, children are primary caregivers. The term 'society' includes those not necessarily connected to the child and who are beyond the immediate community.

# 5.3 CHECKLIST OF THE COMPONENTS IN A SOCIAL WELFARE SYSTEM FOR CHILDREN AND FAMILIES

## A. Introduction

The checklist is a contribution for understanding the complexity of the social welfare system for children and families and to appreciate the relationships between different components.

There are two main functions to the checklist: as a technical check on the necessary components and as a tool for assessment.

- 1 As a technical checklist, it is a tool to guide child protection officers or practitioners through the complexity of a comprehensive social welfare system for children and families. The checklist provides a benchmark of core components and requirements of a positive system. It is necessary to keep in mind the benchmarks for an entire system and the inter-connecting components even when working on a specific aspect.

The checklist works as a reminder of the essential elements and connections of a social welfare system. It should be referred to when analysing a system or when identifying programme priorities for improving or developing a system.

The checklist should be used to avoid stand-alone interventions that do not contribute to the development of a comprehensive system; stand-alones are isolated and thus not very effective or sustainable. The checklist should help in considering how each part of a system contributes to the functioning of the whole and to the positive outcomes for children.
- 2 As a tool for assessment, it can be used to measure the status of any existing social welfare system in a country. It can be used to create a set of baseline information at the beginning of a programme or for a baseline created retroactively. Or it is useful for monitoring the progress of the development of the social welfare system at any stage of the programme.<sup>1</sup>

When used as an assessment and monitoring tool, the checklist becomes a tool that can be marked up according to the degree to which each component is fulfilled. This process will consequentially identify gaps and strengths in the social welfare system. In working through the checklist, it is also possible to gain understanding of the overall status of the system and monitor its evolution over time.

As a benchmark, the checklist, it is used to gauge the degree in which the components are present as a national standard and are available universally across a nation. The analysis, though, needs to cross reference the information as part of a whole, avoiding reducing the findings to the mere 'check' of whether a component exists or not. The analysis through cross-referencing should thus also suggest the effectiveness and quality of those components.

The checklist can be used to inform the development of a series of tools for the comprehensive assessment of the social welfare system. An assessment would consider which components are achieved (complete and functioning), which are substantially achieved (mostly complete and functioning), which have limited achievement (partly complete and functioning) and which are missing.

The outcomes of an assessment then clarify the opportunities and challenges for promoting systems building. An assessment of the system as a whole reveals shortcomings that are not evident in project or sector evaluations. The results of the assessment enable the checklist to be completed for baseline and comparative analysis.

Alternatively, the checklist could be filled in through a consultative process involving all stakeholders. This should be the starting point of a long strategy and process of building consensus and planning towards the development of the social welfare system for children and families.

<sup>1</sup> Data collected with the tool must record date/ time of data collection so that it also can be used for monitoring progress.

## Assessment criteria

The proposed measuring criteria are a compromise in order to balance the difficulty of an objective appraisal for many components, the need to capture different degrees of achievement and the necessity of limiting the subjectivity of the measurement.

Each judgement should be supported with evidence (report, evaluations, documentation) or should be verified by a triangulation of data from informants (for example, government, NGOs or UNICEF).


The measuring criteria:

1	<b>Absent</b>	The component is not there or not functioning. There might be some discussions on generating the component, but no formal action has been taken to make it happen.
2	<b>Limited achievement</b>	The component is present in a very limited scope (for example, at just an initial stage of experimentation or is practised in only a small part of the country or only a few actors fulfil it).
3	<b>Substantial achievement</b>	The component is evident in the majority of situations and is widespread but not yet a national standard or nationwide presence.
4	<b>Achieved</b>	The component is a national standard nationwide. To confirm this status, there should be no doubt about it.

This measuring offers some degree of flexibility and aims to capture the different degrees of reality in a given context.

Based on the checklist, UNICEF child protection officers are encouraged to explore additional ways of measuring the degree of development of the social welfare system in their context. More options can be added, but a much more sophisticated interpretation also can be developed. Collaboration with monitoring and evaluation specialists is encouraged.

With the checklist completed, it is possible to produce graphs and visual representation of the system in its entirety or by sector. This is an important baseline, communication and advocacy instrument and useful for monitoring progress of the child protection programme. Combined with other tools, the checklist greatly contributes to a comprehensive analysis of the social welfare system for children and families.

 One of the objectives of the checklist is to contribute to the acceptance of common terminology and a common understanding of those terms. For this reason, UNICEF recommends carefully reading the technical notes and the glossary of technical terms before approaching the checklist.

As noted in the overview, a social welfare system is a complex set of interconnected components. For any country developing its social welfare system for children and families, it may be difficult to establish all elements at the same time. But it is important when starting any services to recognize that the goal is to eventually bring together a functioning comprehensive system. This includes an appreciation of the interdependence of the various components of the system.

## **B. Technical notes**

These technical notes concern the fundamental principles necessary to strengthen the development of an effective social welfare system for children and families. They are based on a human rights framework derived from the CRC to enable the protection of children. These technical notes provide further introduction to the checklist by explaining the recurring and underpinning components, principles and good practices in the list. The notes are organized by the title of a key component, followed by an explanation.

### **Overarching policy on child protection and family welfare**

An overarching policy on child protection and family welfare is important because the law may not be definitive or may give general provisions that need further clarification. Where the law is highly coded, the role of the policy may be more concerned with guiding implementation (and in the form of developing practice guidelines). But even where the law is more general in nature, it may be necessary for more detailed policy to be developed in relation to some of the procedural aspects and interpretations of the law. The policy may include specific definitions of thresholds of measuring abuse and exploitation because the meanings and understandings of different agencies and staff may vary. The policy may also identify which services and approaches should be adopted when working with children and families.

Those areas of social protection, social welfare and social policy that do not specifically aim at child protection outcomes are not considered here as part of the social welfare system. Economic approaches, such as cash transfers, or the purchase of specialist services for a child or a family, do become part of the system if and when they are used as an intervention in a child protection case plan. More universal income-support programmes, such as child maintenance payments or family bonuses, might be considered part of the system when the reasons for their use have, at least in part, a clear child protection intention. However, the main focus of a social welfare system is bringing about positive change by supporting and improving the quality of relationships.

It is important that workers in social welfare do not become just gatekeepers of financial support because it can seriously compromise the helping relationship. It also can over-stretch resources by placing additional administrative functions on social welfare staff and services. The mandates of the two functions should be clearly defined and separated. This is only possible if adequate resources and staffing are made available to satisfy both functions.

Any social welfare system for children and families should not stand alone and must interact with other governance systems and social services (such as education, health and social safety nets) to provide holistic care for children.

### **One national child protection agency**

It is strongly recommended that one agency be designated or established at the government level with responsibility for overseeing the implementation of a national child protection law and policy, a family welfare policy and the provision of statutory services. It is critical that one agency has responsibility for overseeing the implementation of a national child protection law and policy (advocating for the enactment of, where there is none, should be part of the systems-building and system-maintaining process) and family welfare policy. The single child protection agency should be the agency that also carries the statutory power and responsibility for responding to cases of child maltreatment (providing child protective services).

While the designated child protection agency is responsible for overseeing the implementation of national child protection policy and provision of statutory services, many other agencies (government, civil society or private sector) also provide services throughout the primary, secondary and tertiary levels and contribute to the positive outcomes of the system. These services may be provided through contracts between the designated national agency and civil society or other agencies. The national agency will then be responsible for setting standards and monitoring quality and consistency of services.

In this context, the designated national agency can be either a separate division of a specific government department or ministry or it can be independent.<sup>2</sup> This is not the same as a general social welfare ministry, which in many countries is mandated to take care of child protection – in addition to a broad range of social issues as well the financial social safety nets. In such cases, it is common to have a number of divisions, commissions, bureaus and departments dealing with the well-being of children and families, which means that provisions for children are scattered across various departments without any formal connections or consistent policy and practice. That situation is what this systems-building approach aims to avoid.

The important aspect of the single agency authorized and responsible for overseeing the national implementation of the child protection policy is that it has a precise mandate ranging from policy and standards development to service delivery – all coherently connected. Without this, there is a possibility of different approaches and responses to child protection at best; at worse, a lack of recognition of the importance of child protection.

There are a number of other advantages to having a single agency: One, it provides for clearer accountability. Two, it is easier to link structure and policy with practice at the local level. Three, it is less difficult to allocate recurrent fenced budgets and resources. And four, one child protection agency should provide the leadership necessary to spearhead the development and continuous improvement of a social welfare system for children and families.

The designated national child protection agency represents the leadership of the State in making sure that children are cared for, safe and protected. In order for the agency to be effective, there must be staff with sufficient knowledge and experiences to make competent decisions at every level.

The agency should have well-defined responsibilities, including a mandate for making reports of child abuse and for preventing and responding to child protection issues. Who is responsible for responding to reports of child abuse should be clear to all – professionals, workers and children – with a clear articulation of the expected actions deemed necessary once a case is reported, including who can make decisions on the case (in particular, closing the case or taking no further action).

Appropriate qualified and experienced practitioners are needed at all levels of services but especially for the tertiary interventions. Child protection and welfare work can be extremely difficult, often with especially complex cases. To be successful, social workers and other professionals need allocated time, knowledge and skills, together with appropriate support and supervision.

### **Independent supervisory and monitoring bodies**

The interaction between the State, families and children has proven to be controversial and sensitive in many societies. When families and communities fail to protect children, it is the responsibility of the State to intervene. It is also important that the system does not overreach its power and mandate. But at the same time, it cannot abandon children for fear of being seen as ‘interfering in private matters’. Moreover, the need to centralize decision making on child protection issues within state responsibilities can produce distortions; there needs to be checks and balances to ensure accountability.

Independent and supervisory bodies are agencies supported with government funds that have different lines of accountability (often, for example, directly to the parliament or to the prime minister) from the designated child protection agency and the ministry of social welfare. The independent bodies have a separate budget to guarantee their autonomy and impartiality in performing their auditing functions.

Examples of independent and supervisory bodies include children’s guardians, independent reviewing officers, ombudspersons or commissioners or independent government enquiry panels (such as investigating child deaths). Their function is generally not to provide supervision or direction but to give an impartial review of how matters are handled and recommendations for service development.

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<sup>2</sup> For example, in New Zealand and the UK, the specific agency is part of a ministry, whereas in some states in Australia and Canada, it is a separate agency.



## **Registration, accreditation and inspection**

Compulsory registration and accreditation of agencies providing services to children and families is the only practical way to ensure compliance with standards and policies. In reality, children's welfare cannot be guaranteed without mandatory standards.

Registration includes regular inspection of the organization and the services provided to ensure that standards are being maintained and that these remain consistent with the overarching social welfare policy.

Inspections must be carried out by competent staff and include examination of the quality of all elements of the service provided. For example, if a care home is being inspected, then the quality of the care provided should be assessed – not just the financial situation of the organization. Inspections can be carried out by independent supervisory bodies, where they exist. A satisfactory accreditation following inspection and maintaining inspection records should be a precondition for any contract that the designated child protection agency (or any other government agency) may award to a private or civil society organization for service provision to children and families.

## **Multidisciplinary and multi-team work**

Working together for successful outcomes for children is essential. To facilitate this, it is important that agencies coordinate their activities and are clear about both their responsibilities and their expectations of others. Even though one designated child protection agency should have overall accountability, it may not provide all services.

Although one agency should be responsible for managing cases, multidisciplinary working ensures the best use of resources and enables a more comprehensive view of a family's situation and what support is needed. Staff taking part in a multi-sector effort (from other agencies, such as health and education) should have specific training to understand child protection issues.

Where services are limited and/or where there are few professionals, the use of a multidisciplinary approach may be counterproductive because of the risk that people who are unprepared will be involved in decision making. And thus the process can become very time consuming.

## **Provision of comprehensive services (continuum of services)**

Comprehensive provision requires the existence of different types of support and intervention operating at different levels, with an emphasis on the interconnectedness between different components of the social welfare system. This includes provision of both reactive services and also, importantly, proactive services. The critical objective is to provide a package of services to children and families in order to prevent or reduce the impact of child abuse, exploitation, neglect and violence in a planned and systematic way.

## **Children first**

Irrespective of their circumstances or actions, children should be considered as children first (before, say, as offenders when in conflict with the law) and services must be provided to promote their welfare. For example, children in conflict with the law should be treated in a way that is consistent with appropriate child care and protection.

## **Consultation with children and families**

Children's and families' views should be taken into account during the development of care and protection plans as well as in all decisions made. Formal procedural mechanisms should exist to ensure that this happens. This includes a child's right to his/her own lawyer or advocate. Where intensive family support intervention is needed, it is crucial that plans are developed in collaboration with the family. Such plans should aim at reasonable goals and incremental improvements, consistent with the challenges and resources the families and individuals have. In the context of child protection, remember that what children and their families may want or feel may be contrary to decisions ultimately taken.

## Children's participation

Consulting with children on care and intervention plans is one of the areas of protection and social welfare provision in which children's participation plays a critical role, along with the involvement of carers and other relevant persons.

The participation of children (and families) should be sought when decisions are being made about the establishment, organization and running of services that will interact with children. These include decisions on, for example, location, accessibility, child- and user-friendly reporting mechanisms, complaint mechanisms, approaches to work and information sharing. In some places, children are involved in staff recruitment. It is also vital that a social welfare system has the support of individuals, families and communities in ensuring the care, safety and protection of all children. The users of services or clients (especially children) should be involved in evaluating the services.

## Child-centred and family-focused approaches

Children (typically) live and develop in a family and community environment, as recognized by ecological theory and sociological models of child development. Thus, any intervention that involves children also should consider their family and community. The latest good practices in child and family welfare show that this approach to child protection is the most effective.<sup>3</sup>

Considering a child without reference to his/her family almost always leads to the identification of that child as 'the problem'. And it frequently results in the removal of the child from the family or home. Instead, the circumstances that represent the risk or harm need to be addressed by working with the child, the family and the community as far as possible. It is even more important to consider the whole family where there are siblings because their circumstances and any other risks must also be assessed.

Child protection work needs to be child-centred because it is individual children who are harmed. But it must also be focused on families. In this way, interventions can address both the negative factors in the child's environment and harness the positive elements and resources for change. The child-centred and family-focused approaches are linked to the aims of family preservation.

## Family preservation

It is widely recognized that children fare and do best when they are brought up in families. The identity and the sense of belonging that a child can gain from being part of a family is critical to the formation of self-esteem and confidence that is necessary to develop to his/her full potential.

Efforts should be strongly directed towards maintaining children in their families whenever it is safe to do so and in supporting families in performing their care and protection responsibilities. Family crises may be part of the life cycle; and support provided should help families go through these periods safely. Support can be provided in a number of ways, but using solution- focused and strength-based methods of working can be highly effective. Even where crisis does lead to the separation of the family, the process still needs to be supported to avoid conflict.

Times of family crisis and difficult circumstances may necessitate providing intensive support to children and their families, keeping them under very close supervision and accompanying the entire family towards a positive change. Most of the time, families, if supported, can change. Only in cases of very dysfunctional families with multiple problems, and after all attempts at preventing family breakdowns have been tried, should a child be removed.

A decision to remove a child from the family (or other guardian's care) must be made by a competent worker from the designated child protection agency. In such situations, a care and protection plan should be developed. This plan should clearly identify the services that need to be provided to the child and family, with the aim of facilitating the reunification of the child to his/her family (if possible). These mandatory plans should identify goals to establish if the family has the capacity and willingness to positively change and provide a suitable environment for their child/children, and set timeframes for change.

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<sup>3</sup> This approach is also reflected in the UNICEF Protective Environment Framework – see [www.unicef.org/protection/index\\_action.html](http://www.unicef.org/protection/index_action.html)

Children should only be placed in long-term care when it has been established under the legal framework that a return to the home is no longer a viable option. In this case, a permanent placement should be determined for the child.

### **Out-of-home or alternative care provisions**

A range of out-of-home or alternative care options should be developed. These should not be limited to institutional or residential (orphanage) care but can include traditional alternative care models, such as kinship care and, where possible, foster care provision so that children can be looked after in family environments.

Kinship care should be the first option explored. It should be professionally monitored and supported. Many of the services and procedures normally applied for foster family care should be adapted to promoting kinship care to prevent exploitation and other abuses. In many cultures where the family, the clan and the community play an important role in the life of individuals, an alternative care solution sought within the extended family is even more important. Kinship care includes guardianship by older siblings, but they may also need support and monitoring.

Foster care programmes should include a range of measures to identify and monitor the families involved. These include guidelines and standards for family recruitment, selection, accreditation, training, counselling, economic support/incentives and monitoring. It also includes the identifying of the type of foster care that can be provided (for example, length of time – short term/long term). Ideally, there should be an 'over supply' of foster carers in order to allow for careful matching of children to suitable placements and thus to minimize the number of multiple placements children have (such as the problem of children moving from one short-term placement to another short-term placement).

Services should be identified to prevent placement breakdown when children's behaviour is particularly challenging to manage. Multiple moves between placements can be very damaging to children because this can reinforce negative self-image ideas that the child might have.

Non-family-based care should only be considered as a last resort and for a limited period of time whenever possible. Where necessary, it should be organized in the form of family-type homes for a small number of children. Institutional care is not acceptable for children younger than 5 years.

### **Permanency planning**

Children need long-term stable and consistent living arrangements. It is particularly important for younger children (especially those younger than 5 years) to develop secure relationships with significant adults. Although the goal should be, wherever possible, to work towards change to enable a child to return home, it is important to keep in mind the age and development of the child. In some cases, where parents are unable to meet their children's needs and the likelihood of them making necessary changes in a timeframe that meets the child's need for security is unlikely to be achieved, it may be more appropriate to seek an alternative living arrangement for the child. Permanency planning means making plans, as soon as feasible, for a long-term stable environment for a child.

### **Balancing investigation (prosecution and forensic medical approaches) with prevention, care and protection processes**

Where the social welfare system for children and families is in the process of development, it is common to observe an over-reliance on forensic processes: The entire child protection practice is centred on providing evidence for a legal case. Professions involved in the forensic processes are mainly the police, health officials and the judicial system. Where social workers appear, it tends to be only as a supporting role. In these cases, important aspects for children can be overlooked; namely care, protection and prevention.

Care and protection processes are those carried out by the designated state agency with the objectives to protect the child and support the family in a comprehensive manner. Although connected to court processes in cases of violence or abuse, exploitation or neglect of children, care and protection is a separate function. Sometimes advancing a legal case may not be in a child's best interest and may cause further harm. Where resources are heavily biased towards forensic processes or care and protection processes are lacking, there is a possibility that the child's needs may not be met – and that only medical and legal needs will receive attention. When this happens, the effect can be that efforts are concentrated on prosecuting abusers and not in helping children and families.<sup>4</sup> This may result in the child, and other siblings, being left in the same harmful situation.

Care and protection processes also involve therapeutic processes or services and are essential to support children: for protecting them from further harm and for taking decisions on the future of the child and the family in the longer term, beyond the outcome of a criminal case.

### **Care plans – (planning, supporting change, monitoring progress and reviewing)**

When children are in contact with the state child protective services, including when they are in alternative care,<sup>5</sup> an individual care plan should be made. The plan should be based on the current understanding of the needs and strengths of the child and his/her circumstances. And it should detail the long-term objectives for the care of the child as well as identify intermediate steps, participating actors and contingency plans.

Plans should be reviewed regularly because children's needs change over time and circumstances may alter. The chairperson of the review meeting should be suitably qualified but independent from providing services in order to ensure impartiality. The review meeting can be conducted by the designated state agency or another mandated independent body. Where children are involved with the designated child protection agency, this review may be undertaken by the court as part of legal proceedings relating to the situation of the child. In any event, the child's views must be taken into account when developing plans.

For children in out-of-home or alternative care, the review of placement is a right under the CRC. But the regular review is essential because children's needs change over time. A placement that was meeting a child's needs may no longer be appropriate or a care plan may no longer be viable or suitable. The periods of time between reviews will be shorter for younger children or for placements that are relatively new. For more stable placements for older children that have been established for some time, the reviewing period can be longer. But even in these circumstances, reviews should occur at least annually.

Plans should be comprehensive and include all aspects of a child's life – from basic care to education plans to the physical, psychological, social and emotional well-being. Counselling should be carried out with children in care to help them understand their experiences and the reasons why they are in alternative care. This may also include discussion about their family history (in many places this is referred to as 'life story work').

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<sup>4</sup> Although the prosecution of offenders is important, a balance must be struck between the best interests of the child and criminal proceedings.

<sup>5</sup> There are times when families may make arrangements for their children to be cared for outside the family. The alternative care discussed here are those arrangements made for the child by the designated child protection agency (typically together with the court). Children who are involved with state child protective services may not necessarily be in alternative care, but children in alternative care under the umbrella of a social welfare system must *always* be in contact with the state agency or a court.

## C. Glossary of technical terms

<b>Best interests of the child</b>	All decisions should be based upon the needs of individual children, taking into account their development and evolving capacities so that their welfare is of paramount importance. This necessitates careful consideration of the child's physical, emotional, psychological, developmental and spiritual needs. Unfortunately and frequently, the best interests of a child is wrongly based upon only physical or education needs.
<b>Case management</b>	<p>A process for systematically planning for a child's future and which includes regular review and monitoring of the plan. It is a collaborative process of assessment, planning, advocacy and facilitation of options of services to meet an individual's needs through a process of communication and evaluation of available resources to promote cost-effective, quality outcomes.</p> <p>The good practices in case management require organizational arrangements to support service delivery, staff who have been trained for the approach and its application to a particular setting, and strategies to ensure that the organization can be responsive to evidence from practice. The organization also needs to advocate for systemic and policy changes to support service delivery.</p> <p>The principles that underpin case management are individualized service delivery based on the comprehensive assessment that is used to develop a care or case plan. The plan is developed in collaboration with clients and reflects their choices and preferences for the service arrangements being developed. The goal is to empower clients and ensure that they are involved in all aspects of the planning and service arrangement in a dynamic way. Sometimes in child protection work, not all of the expectations of a child and the family will be in accordance with decisions taken to keep the child safe.</p>
<b>Case plan review/care plan review</b>	A process for checking over the plan at regular intervals to establish if it is still relevant to meet needs of the child and to ensure that timescales are being achieved. If the child's needs are not being met or will not be met under the plan, then the plan should be revised.
<b>Care and protection plan</b>	A comprehensive programme and schedule to identify in a comprehensive manner all areas of a child's care and protection needs (and related services) to ensure that his/her best interests are met. The plan is based on a comprehensive child-family-community assessment and the consultation of all relevant people. The care and protection plan includes the identification of key activities and timescales and the date and time of the next case review.
<b>Child protective services</b>	Part of the tertiary level of the social welfare system. These services are concerned specifically with the protection of children who are suffering harm or at high risk of suffering abuse, exploitation, neglect and violence. As part of the tertiary intervention services, they are carried out by a statutory agency (or ideally by a designated national child protection agency).
<b>Continuum of services</b>	Services and support to families should be comprehensive and delivered in a seamless way, ranging from low-level work to highly intensive interventions. All personnel working within the social welfare system must understand their role and its connection to the system and policy objectives. Services should exist along a continuum, from prevention to crisis response intervention – but all with the same objective.
<b>Early support services</b>	Services that are targeted at particular families and communities in a focused way to address specific identified problems. The goal with early intervention services is two-fold: to improve the situation and to prevent any deterioration. These services are voluntary for families and have no statutory implications.

<b>Follow-up</b>	Specifically targeted support that is either maintaining beneficial change and/or preventing relapse. Follow-up work is usually done according to goals that were set clearly in the care and protection plans and/or family support plans.
<b>Ladder of responsibilities</b>	This is a construction that corresponds to a clear division of responsibilities connecting the lower level of the formal child and family welfare services and the informal community mechanisms. The identification of responsibilities is meant to clarify how community networks, volunteer groups, forums and traditional mechanisms interact with the formal social welfare system services. A ladder of responsibilities clarifies to which extent the informal sectors and agencies can handle child protection cases or concerns and when those cases must be referred to the formal services and a designated child protection agency.
<b>Multidisciplinary approach</b>	A way of working that includes the views and skills of professionals from a variety of backgrounds when making decisions. Within a multidisciplinary approach, one agency must retain overall responsibility for decisions made.
<b>National database</b>	An information management system for children and families receiving child protective services. The purpose of the database is to ensure that children are not 'lost' within the system and also to assist with monitoring and tracking of trends. This can be set up at different governance levels but should be an important feature of a national child protection agency.
<b>Out-of-home or alternative care</b>	Care provided to children outside of their family. This may be achieved using a variety of models, including kinship care, foster care and institutionalized care (such as group homes, shelters and safe houses). In the context of a social welfare system, out-of-home or alternative care relates to children who are placed in a care situation outside of their family. They should be either under the monitoring of a welfare agency or under supervision in connection with child protective services. These forms of care are not related to decisions that parents may make independently regarding the care of their children.
<b>Participation</b>	Seeking the opinions and views of children and their families (and where possible of communities) regarding the services and support offered to and used by them and taking their views into account when making decisions. The participation of children and families in a system should also be sought in decision making on the establishment, distribution, organization and implementation of services and on matters such as location, accessibility, child-and user-friendly reporting mechanisms, complaint mechanisms, approaches and information sharing. Essentially if a social welfare system is oriented to improve the care, safety and protection of all children through the support of individuals, families and communities, it is vital to involve children (and adult clients) in the evaluation of services.  Children's participation is also essential to identify problems and solutions for social welfare services. Finally, but not least, participation is very important in promoting children's resilience and providing psychosocial, social and emotional support.
<b>Permanency planning</b>	Making plans that will provide a secure and stable solution for a child over the long term (that is, until adulthood), preferably within a family. Long-term solutions should be sought for children – not just immediate short-term answers or a quick fix – with emphasis on providing long-term security and stability (for example, avoiding repetitive cycles of moving into care and then returning out without any work having been done to address underlying issues).
<b>Prevention services</b>	The activities that are specifically aimed at limiting or removing the conditions and situations that put children at risk of maltreatment before they occur.

<b>Primary interventions (universal)</b>	Services and programmes targeted at populations in general, often called 'universal prevention'. At this level, services aim at promoting knowledge and skills, strengthening the overall capacity of the community and society at large for caring and keeping children safe and protected. Typical activities include awareness-raising campaigns and information giving.
<b>Secondary interventions (targeted)</b>	Services and programmes targeted at specific communities or individual families who are identified through assessment and research evidence as being vulnerable to particular issue and problems. Early intervention services target families that are already at risk of engaging in abusive behaviours in order to reduce or remove those circumstances before they create actual harm to children. For example, families might seek help for separation, disputes, alcohol and drug problems, domestic violence, mental health problems or child-care difficulties. Typical services include family mediation and other family support programmes, specialized outreach activities for children who are street based or working and other early intervention programmes.
<b>Statutory services</b>	All the services that are mandated by law, for example police, health, education and usually at least tertiary interventions of a social welfare system. The term does not typically include services that NGOs and charities provide, although they may have a role in protecting children (by reporting concerns and providing services). But the primary responsibility at the tertiary level should be a statutory agency to ensure that cases are investigated, risks assessed, decisions made (including referral to other agencies or recommendations to the court) and that necessary planning and reviews take place – the child protective services.
<b>Solution-focused and strength-based approaches</b>	These are interventions that are designed to be outcome focused, building upon strengths. The approaches have been found to be particularly successful as part of prevention and treatment programmes, affecting positive change over short timescales. Strength-based approaches aim at maximizing the involvement of children, families and communities, focusing mainly on the strengths they have to overcome a crisis. These approaches make children and families the main actors of change instead of being passive victims or service recipients. This is regarded as the most advanced rights-based approach in social work.
<b>Tertiary interventions (individual)</b>	Specialist services directed at individual children and families where a child is suffering, has suffered or is highly likely to suffer from abuse, exploitation, neglect or violence. Tertiary services include child protective services (also referred to as statutory services) as well as intensive family support services and alternative care services that could be provided by either state or non-government agencies.

## D. The checklist

The checklist covers the three main dimensions of any system: norms (legal and policy framework<sup>6</sup>), processes and structures. The separation of the elements within the checklist is in some cases artificial. And there are duplications. This reflects the inter-dependence of the various activities and criteria.

### Assessment criteria

The proposed measuring criteria are a compromise in order to balance the difficulty of an objective appraisal for many components, the need to capture different degrees of achievement and the necessity of limiting the subjectivity of the measurement.

Each judgement should be supported with evidence (report, evaluations, documentation) or should be verified by a triangulation of data from informants (for example, government, NGOs or UNICEF).

The measuring criteria:

5	<b>Absent</b>	The component is not there or not functioning. There might be some discussions on generating the component, but no formal action has been taken to make it happen.
6	<b>Limited achievement</b>	The component is present in a very limited scope (for example, at just an initial stage of experimentation or is practised in only a small part of the country or only a few actors fulfil it).
7	<b>Substantial achievement</b>	The component is evident in the majority of situations and is widespread but not yet a national standard or nationwide presence.
8	<b>Achieved</b>	The component is a national standard nationwide. To confirm this status, there should be no doubt about it.

This measuring offers some degree of flexibility and aims to capture the different degrees of reality in a given context.

Based on the checklist, UNICEF child protection officers are encouraged to explore additional ways of measuring the degree of development of the social welfare system in their context. More options can be added, but a much more sophisticated interpretation also can be developed. Collaboration with monitoring and evaluation specialists is encouraged.

With the checklist completed, it is possible to produce graphs and visual representation of the system in its entirety or by sector. This is an important baseline, communication and advocacy instrument and useful for monitoring progress of the child protection programme. Combined with other tools, the checklist greatly contributes to a comprehensive analysis of the social welfare system for children and families.

As noted in the overview, a social welfare system is a complex set of interconnected components. For any country developing its social welfare system for children and families, it may be difficult to establish all elements at the same time. But it is important when starting any services to recognize that the goal is to eventually bring together a functioning comprehensive system. This includes an appreciation of the inter-dependence of the various components of the system.

In considering the checklist, two additional points need to be taken into consideration:

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<sup>6</sup> See also Part Five, guide 5.4 for the list of components of a legal and regulatory framework.



### **Practice vs. policy**

It is important to assess the relationship between policy and practice because practice may not always be consistent with policy, and vice-versa. It is essential in a social welfare system that policy and practice are in harmony. Policy should always be informed by the evolving understanding of good practice. This is one reason why a designated single national state agency is necessary. A single agency can be mandated to develop policy, implement services and undertake (in conjunction with others) research and analysis to ensure that both policy and practice remain in line with current developments and knowledge.

### **Evaluating quality**

The social welfare system checklist is just one of the tools that can be used for assessing a system in a given context. It is not the only one, nor is it an all-encompassing tool. While the checklist gives a comprehensive picture of a system, it does not provide methods to explore the quality of the functioning of components nor the reasons behind certain gaps, challenges and successes.

To assess and understand the deeper qualitative aspects of the social welfare system, it is necessary to combine this tool with others (for example, a mapping of service providers, network analysis of provision, an assessment of service capacity together with feedback from children and families, and an objective service evaluation). However, the checklist provides a framework for the parts and components that need to be considered when assessing the social welfare system for children and families.

## Checklist of Components in a Social Welfare System for Children and Families

# CORE COMPONENTS

A social welfare system for children and families is a complex system that operates through and is composed of three main components and their specifications: norms, processes and structures. The following outlines the contents of the Checklist within these components.

### NORMS

#### National overarching policy on child and family welfare

- Institutional arrangements
- Approaches
- Specific provisions

### PROCESSES

#### Child protection inter-agency guidelines

#### Decision making

### STRUCTURES

#### One national child protection agency

#### Other structures

#### Primary services

#### Secondary services – Family support and early intervention

#### Tertiary services – Specialized interventions

#### Tertiary services – Out-of-home care

#### Child and family welfare services and justice system

#### Child and family welfare services in emergencies

#### Professional capacities

### Recommended national laws on child and family welfare

#### Protection laws

#### Adoption laws

#### Child victims in the justice system

#### Children in conflict with the law

<b>NORMS: National overarching policy on child and family welfare</b>		
<b>Institutional arrangements</b>		
<b>1</b>	Roles and responsibilities of main agencies are clearly defined (leading agency, contributing agencies and independent bodies).	
<b>2</b>	There is one national child protection agency at the national government level responsible for overseeing the implementation of a national child protection policy and providing statutory services.	
<b>3</b>	Independent supervisory and monitoring bodies for child protection are in place.	
<b>4</b>	Systems are in place to register, accredit (compulsory) and inspect any service provider offering services to families and children.	
<b>5</b>	A national database for children and families receiving child protective services is instituted.	
<b>6</b>	There are provisions on regular statistical reports, analysis and research on national child protection and family's welfare. This includes a research agenda regularly updated.	
<b>7</b>	There are specific provisions explaining the kind of services that can be contracted out and the modalities for doing so.	
<b>8</b>	Budgeting and financing of the social welfare system for children and women components is clearly articulated.	
<b>Approaches</b>		
<b>9</b>	There are precise definitions of abuse, exploitation, neglect and violence (if the law does not provide details).	
<b>10</b>	Guiding principles are stated, which at least include: the best interests of the child, non-discrimination, universality of the welfare system, <sup>7</sup> family preservation, child and family participation, continuum of services and permanency planning.	
<b>11</b>	Policies and operations are child centred and family (and community) focused, with a solution-focused and strength-based approach.	
<b>12</b>	There are clear national guidelines for determining the best interests of the child.	
<b>13</b>	The approach is not exclusively forensic (prosecution and forensic medical examination), but there is equal emphasis on therapeutic processes (prevention, care and protection).	
<b>14</b>	There is logical development of policy between the primary, secondary and tertiary interventions (policy continuum).	
<b>15</b>	Essential services to be delivered to children and families (central, mid and local levels) are defined for all primary, secondary and tertiary interventions (including statutory services).	
<b>16</b>	The policy lists the required sector guidelines, regulations, standards (including on quality) for child and family welfare services provision and identifies the agencies responsible for their development.	

<sup>7</sup> Specific mention should be made of children with disabilities, children from minority groups and all children within the national territory, including those of different nationalities or without papers.

<b>NORMS: National overarching policy on child and family welfare (continued)</b>		
<b>Specific provisions</b>		
<b>17</b>	There is a specific policy on secondary interventions (family support), with regulations and standards for all service providers.	
<b>18</b>	There is a logical progression between the aims and approaches of secondary-level interventions policy and the tertiary level.	
<b>19</b>	There is a specific policy on tertiary level interventions (including protective services), with regulations and standards for all providers.	
<b>20</b>	There is a logical progression between the aims and approaches of protective services policy and out-of-home care and secondary interventions.	
<b>21</b>	There is a specific policy on out-of-home care, with standards of services and regulations, including at least kinship care, foster care, institutional care, guardianship and adoption (where family based care in its different forms is the priority and institutions are only considered in exceptional cases, for short term, and possibly organized in family-like units).	
<b>22</b>	There is a logical progression and connection between the aims and approaches of out-of-home care policy and secondary interventions and tertiary protective services.	
<b>23</b>	There are provisions clarifying the kind of services the social welfare system will provide to children in conflict with the law.	
<b>24</b>	Provisions are in place regarding child protection practice in emergency situations (disaster situations affecting entire communities).	

<b>PROCESSES: Child protection inter-agency guidelines<sup>8</sup></b>		
<b>25</b>	The guidelines include: agencies' roles and responsibilities (specific roles of social welfare services, health professionals, police, courts and legal practitioners, civil society, private service providers, professionals working with children, teachers).	
<b>26</b>	The guidelines include: directory of services (services location, opening hours, contacts and reference persons).	
<b>27</b>	The guidelines include: reporting mechanisms and practice (who should report, when, how and to whom).	
<b>28</b>	The guidelines include: practices and procedures after reporting (timing, step-by-step practice of case management).	
<b>29</b>	The guidelines include: managing information in child protection (information to be collected, who has access to information – need to know basis, information management, confidentiality and information-sharing modalities).	
<b>30</b>	The guidelines include: criminal proceedings. A coordination and referral mechanism to ensure that child victims who come to the attention of the police receive appropriate social welfare services. The guidelines should set a formal protocol on the involvement of statutory welfare services with all child victims.	
<b>31</b>	The guidelines include: explicit principles in working with children and families (child centred while family and community focused, developmental approach, families and children as partners).	
<b>32</b>	The guidelines include: formal protocols between basic services (education and health), social welfare services for children and families and other social benefit providers (cash transfers and in-kind assistance).	
<b>33</b>	The guidelines include: inter-agency conflict resolution mechanisms (between services of different agencies).	
<b>34</b>	The guidelines include: a coherent ladder of responsibilities concerning decisions for government agencies, civil society organizations, including community networks.	
<b>35</b>	The guidelines include: a simplified set of inter-agency guidelines specifying simplified decision making lines of authorities and processes in case of declared emergencies.	

<sup>8</sup> Inter-agency guidelines are not a process per se, but they constitute the most important tool that summarizes processes and relationships among agencies into one document.

<b>PROCESSES: Decision making</b>		
<b>36</b>	Explicit criteria and procedures for making decisions about child protective services are established, based on an individualized assessment of a child and his/her family.	
<b>37</b>	Any decision on care and protection plans is taken by a mandated (a national child protection agency and/or a court) and qualified authority through a multidisciplinary approach, supported by a formal administrative process or a court decision.	
<b>38</b>	Decisions about child removal <sup>9</sup> and out-of-home care are made by a qualified authority (gate keeping function), based on a full assessment of the child's best interests and subject to judicial review. This 'gate keeping' function is carried out by a recognized authority not involved in the provision of alternative care services.	
<b>39</b>	The focus in all decision making should aim at striking a balance between family preservation and the best interests of the child principles.	
<b>40</b>	Permanency planning is an important goal: Due regard is given to the importance of ensuring a stable home and consistent caregiver for the child.	
<b>41</b>	Care and protection plans, through the contribution of different support services, aim at: reconnecting the child with family members, friends and community members; normalizing daily life and building on and encouraging a child's and family's resilience.	
<b>42</b>	Children's and families' views are taken into account during the development of care and protection plans and in all decisions taken.	
<b>43</b>	Any case with a care and protection plan is followed by a qualified and recognized case worker or case manager of a national child protection agency, which maintains responsibility for the case until its closure.	
<b>44</b>	Any reported case and subsequent decisions are recorded and the information is maintained in a national database.	

<sup>9</sup> This includes those mechanisms to remove a child to a place of safety if a child's life is in immediate danger from harm.

STRUCTURES: One national child protection agency		
45	The agency is exclusively dedicated to child and family welfare, with a coherent organizational chart able to guarantee analysis, policy development (formulation of a overall national child protection policy); formulation of procedures and guidelines; child protective services (at least) development, organization, management and monitoring; and relations with other actors.	
46	The agency has internal well-defined responsibilities and roles reflecting the mandate to prevent and respond to child protection issues. This includes who does what within the agency, accountability lines and identification of mandated/ qualified/competent officials – those who have the mandate and responsibility to take decisions.	
47	The agency has guidelines, protocols and standards developed at the national level that are child centred and family focused and clearly articulate strength-based approaches (this includes the way services work and interact with families, timing, engagement, relationship, tools and approaches recommended).	
48	The agency promotes integrated and child-friendly services for child victims and their families through a coordinated referral system with health, education and justice sectors, as well as with civil society organizations.	
49	The agency has designated practitioners at all administrative levels (national to local levels) to carry out statutory child protective services and to coordinate preventative and out-of-home services.	
50	The agency has a clear authority and obligation to provide statutory child protective services and has adequate professional officials (social workers and psychologists) and resources (budget and transportation) at the local level.	
STRUCTURES: Other structures		
51	If not part of the agency: There are coherent, logically organized ministerial structures (can be of different ministries) dealing with the formulation of policy, procedures and guidelines; and services development, organization, management and monitoring in the area of primary interventions.	
52	If not part of the agency: There is a coherent and logical ministerial structure dealing with the formulation of policy, procedures, guidelines; services development, organization, management, and monitoring in the area of secondary interventions (family support services).	
53	If not part of the agency: There is a coherent and logical ministerial structure dealing with the formulation of policy, procedures guidelines; services development, organization, management and or contracting out, and monitoring in the area of out-of-home care services.	
54	There are statistical and research offices dedicated to child and family welfare research (within the mandated national child protection agency or contracted out) on a long-term basis.	
55	There are independent monitoring and supervisory bodies for child protection.	
56	There is a complaints mechanism accessible to children and their families, independent from service providers (could be linked to independent monitoring bodies).	

<b>STRUCTURES: Primary services</b>		
57	Communities are mobilized to conduct primary level activities aimed at supporting parenting, family life and child well-being generally and provide basic support to families and children who are experiencing stress or who are at risk of maltreatment.	
58	Community programmes and services are in place to support children and adolescents, particularly children at social risk – getting into conflict with the law (peer and adult mentoring programmes, drop-in centres, recreational programmes targeting children at risk, life skills programmes, etc.).	
59	There is a child protection and family welfare surveillance system (integrated among various social services or independent) that allows service providers to monitor child and family welfare conditions over time and identify families and children with additional needs.	
60	Standard systematic primary-level prevention programmes are carried out by health and education professionals or para-professionals.	
61	The national legal framework is widely familiar among the public, and professionals working with children are aware of its requirements and responsibilities.	
62	Information is widely disseminated on available services.	
<b>STRUCTURES: Secondary services – Family support and early intervention</b>		
63	[Family support services] Holistic family and community assessment is accessible at the local level.	
64	[Family support services] Family mediation (violence, disputes, separation, divorce) is accessible at the local level.	
65	Accessible family support services: Family legal advice is accessible at the local level (general family issues, disputes – family law).	
66	[Family support services] Intensive parenting and child protection skill support is accessible at the local level.	
67	[Family support services] Individual/family therapeutic support (such as for alcohol, drugs, anger management) is accessible at the local level.	
68	[Family support services] Referral to other services (economic support, housing, social benefits) is accessible at the local level.	
69	[Family support services] Restoration of children into families and monitoring is accessible at the local level.	
70	[Family support services] Provided in conjunction with care and protection plans (regardless whether the child is still with the family or in out-of home care).	
71	Specialized outreach services for hard-to-reach children (street-based children, child labourers, domestic workers, children without identity papers).	
72	Temporary and emergency care arrangements (day care, respite care and safe homes) are available at the subdistrict or district level.	
73	[Justice sector] Therapeutic programmes are in place to provide support and supervision to children under the age of criminal responsibility who have committed an offence, including programmes relating to rehabilitation / anti offending.	
74	[Justice sector] Community-based programmes are in place, such as mediation or other restorative justice programmes (counselling, mentoring, life skills programmes, supervision) in order to facilitate diversion.	



<b>STRUCTURES: Secondary services – Family support and early intervention (continued)</b>		
75	[Justice sector] Community-based programmes are in place to support alternative sentences (including probation); care, guidance and supervision orders; counselling.	
76	[Justice sector] An authority has been designated responsible for the reintegration of children released from detention, and programmes are in place to provide direct assistance and support for their recovery and reintegration into the community.	
<b>STRUCTURES: Tertiary services – Specialized interventions</b>		
77	There is a designated service and officials to receive reports, including, where possible, a free national centralized hotline for case reporting (child protection specific) connected to the national child protection agency.	
78	[Statutory service] There are designated and mandated professionally trained officials to receive and screen reports of child maltreatment.	
79	[Statutory service] There are designated and mandated professionally trained officials who carry out the child and family assessment (post report).	
80	[Statutory service] There are designated and mandated professionally trained officials who develop (in collaboration with families and children) care and protection plans.	
81	[Statutory service] A competent and mandated authority (a court or the national child protection agency at the local level) taking decisions on the care and protection plan, activation, change and closure (including removal from family).	
82	[Statutory service] There are designated and mandated officials who refer clients to necessary services according to the care and protection plan (family support services and out-of-home care).	
83	[Statutory service] There are designated and mandated officials who perform case management (follow individual cases from intake to discharge from the system).	
84	[Statutory service] There are designated and mandated officials who review the active cases and propose changes or case closure.	
85	[Health sector] There are child and victim-sensitive medical and counselling services.	
86	[Health sector] There are objective child-sensitive forensic medical examination services.	
87	[Health sector] There are long-term psychological counselling services (continuing through the care and protection plan, involving a child and family).	
88	Legal advice to families and children is available about options and legal provisions on child protection.	
89	There is a clear link and continuum of services with the family support and out-of-home care services.	

STRUCTURES: Tertiary services – Out-of-home care		
90	Mechanisms (and services) are in place to support kinship care as the first option for out-of-home care.	
91	There is a national foster family care programme.	
92	There is a dedicated structure in charge of monitoring and ensuring compliance of foster family care services with policies guidelines, standards and regulations.	
93	Foster family care services are active in all provinces through government or accredited civil society organizations or service providers.	
94	There is a national registry of all foster families and perspective foster families.	
95	There is a national institutional care programme (identified in the policies as a very last resort).	
96	There is dedicated structure in charge of monitoring institutional care services and ensuring compliance with policies guidelines, standards and regulations.	
97	Institutional care services are able to serve the national needs through government or accredited civil society organizations or service providers.	
98	There is a national registry of all institutions taking care of children.	
99	There is a national adoption (in-country and inter-country) programme.	
100	There is a dedicated structure in charge of monitoring adoption services and ensuring compliance with policies, guidelines, standards and regulations.	
101	Adoption services are active in all provinces through government or accredited civil society organizations or service providers.	
102	There is a national registry of all adoption agencies.	
103	All adoption cases are recorded in single files and feed into a national database.	
104	Mechanisms are in place to appoint a guardian for all trafficked, unaccompanied and children without legal documents who come to the attention of authorities.	
105	[Contextual services] Drop-in centres and out-reach programmes are available for hard-to-reach children (street-based children, child labourers, domestic workers, children without legal documents).	
106	[Contextual services] Safe homes, shelters, transit centres and other forms of short-term care are available for children at the local level (government or civil society organizations) while more durable solutions are being assessed.	
107	[Contextual services] Family tracing and reintegration <sup>10</sup> services for children separated from their families who want to return (street-based children, trafficked and exploited children).	
108	[Contextual services] Children being deported or repatriated are provided appropriate accompaniment.	
109	[Contextual services] Children being deported or repatriated are provided appropriate accompaniment.	

<sup>10</sup> These should include proper assessment of the placement of the reintegrated child – also of the original family.

<b>STRUCTURES: Child and family welfare services and the justice system</b>		
110	Social workers are present and support child victims at all stages of the criminal proceedings (during the police interview, evidence collection and court hearing).	
111	A victim/witness support programme is in place to familiarize children with the court process and provide support at all stages of the proceedings.	
112	Responsible authorities/services are identified to provide support and supervision to children under the age of criminal responsibility who have committed an offence.	
113	Community-based programmes are in place (mediation or other restorative justice programmes, counselling, mentoring, life skills programmes, supervision) in order to facilitate diversion.	
114	Community-based programmes are in place to support alternative sentences, including probation; care, guidance and supervision orders; counselling. community service work opportunities; education and vocational training, etc.	
115	Children released from detention are provided support for their recovery and reintegration into the community. An authority is designated responsible for children's reintegration, and programmes are in place to provide direct assistance.	
<b>STRUCTURES: Child and family welfare services in emergencies</b>		
116	Measures are in place to ensure that children recruited or involved in hostilities are demobilized or otherwise released from service.	
117	Services are in place to promptly identify unaccompanied and separated children or children in very vulnerable families.	
118	Emergency support services for families are in place covering all affected communities.	
119	Tracing and reunification services are in place covering all communities.	
120	Emergency foster family care services are in place covering all affected communities.	
121	A central authority maintains a database of active child protection cases.	
122	Children are provided appropriate assistance for their physical and psychological recovery and their social reintegration, where necessary.	
<b>STRUCTURES: Professional capacities</b>		
123	Teachers, law enforcement personnel, health care professionals and child care workers have the knowledge, skills and motivation to identify and report suspected incidents violence, abuse, exploitation or neglect.	
124	Social work is recognized as a profession with training and accreditation process and ethical code for social work professionals and para-professionals.	
125	Professional and paraprofessional social workers and civil society service providers receive recurrent specialist training (child protection and family systems, child and family welfare system functioning, mechanisms and tools).	
126	The National child protection agency has designated professionally trained practitioners at all administrative levels (national, mid and local levels) to carry out statutory child protective services, and coordinate preventative services.	
127	Social welfare services to children and families are staffed with qualified social workers (or trained para-professionals in absence of national qualifications).	

STRUCTURES: Professional capacities (continued)		
128	All professionals involved in the child protection system (social workers, lawyers, doctors, police) are regularly trained on the functioning of the system (processes and tools).	
129	There are officially recognized training curricula (or training guidelines) for protection related issues that emphasize systemic approaches and the links between the training topic and the rest of the child and family welfare system.	
130	The government or contracted institution has the capacity to analyse, study and generate knowledge on child protection and family welfare (research in child protection).	

## Recommended national laws on child and family welfare.

The checklist following provides guidance on the analysis and reform of legislation regarding the provision of social welfare services to prevent and respond to abuse, neglect and violence towards children. Legal frameworks governing the social welfare system for children and families generally have the following common objectives:

- to delineate authority and responsibility for the provision of child protection, prevention and response services;
- to clearly define the various forms of abuse, exploitation, neglect and violence, and establish the standard for state intervention where a child is deemed to be in need of protection;
- to stipulate the processes and procedures for making decisions about reported or suspected cases of abuse;
- to specify the continuum of services that should be available to children and their families.

## Protection laws

A national child protection law has been enacted to establish the framework for the provision of child and family protection services that:

	Establishes clear procedures and accountabilities for reporting, assessment and intervention in cases of children at risk and children who have experienced abuse, exploitation, neglect or violence.	
	Makes clear the responsibilities for professionals working with children (health professionals, teachers, child care workers, etc.) for reporting suspected incidents of child maltreatment and protects them from liability for doing so.	
	Specifies the duties and powers of social welfare agencies and others to prevent child abuse and exploitation, to support children and families at risk, and to take protective measures where necessary.	
	Promotes a coordinated and multidisciplinary response to children in need of protection.	
	Specifies a variety of supportive and protective interventions that may be used (family supervision orders, respite care, parental education, temporary foster or other alternative care, emergency shelter, counselling, therapeutic services, financial assistance, income-generation support, education/vocational training assistance, etc.), and procedures and criteria for applying those interventions.	
	Prohibits separation of children from the family against their will, except by order of a competent authority and when necessary in the best interests of the child (see the section on family separation and alternative care).	

Defines the legal obligation of the State to provide alternative care for children without parental care or who cannot in their best interest be permitted to remain in parental care, and the forms of alternative care to be provided (foster care, kinship care, guardianship, adoption and institutional care) (see the section on family separation and out-of-home care).	
Requires the best interests of the child be the paramount consideration in any decision affecting the child and provides guidelines for determining the best interests.	
Requires that the views of the child be sought and respected in any decision about intervention or support services.	
Minimum standards have been established for the professional qualification, training and ethical conduct of social workers and individuals working in agencies caring for children.	
Minimum standards have been established for the types and quality of support services to be provided to children in need of protection and their families, governing services provided by both government and non-government service providers.	
Family laws stipulate that when parents separate, the grounds for allocating parental responsibility are based on the individual child's best interests. There is a presumption that children's best interests, unless proven to the contrary, are in maintaining contact with both parents.	
There are legal limitations on the ability of parents to voluntarily give up their parental responsibilities (such as by admitting a child to an orphanage or other institution).	
Family/child protection laws state that parents and children may be separated against their will by authorities only when it is in the best interests necessary to protect the child.	
The law designates a competent authority (a national child protection agency or a court) to make determinations about when a child can be separated from his/her parents and stipulates grounds and procedures for doing so. These decisions are subject to judicial review.	
The law requires that priority be given to placement of a separated child with members of their wider family, with appropriate support where necessary. Institutionalization is explicitly a measure of last resort.	
The law requires that the best interests of the child be the primary consideration in making decisions about alternative care and that due regard must be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.	
The law requires that the child's views be taken into consideration in any decision made about alternative care and that those views be given due weight in accordance with the child's age and maturity.	
The law requires that all children in out-of-home care (foster care, adoption, institutions, etc.) are subject to a regular review of that placement.	
The law gives children separated from their parents the right to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.	
Standards of care have been established for residential care facilities and other forms of alternative care (including fostering, guardianship, etc.).	

## Adoption laws

The law requires that all adoptions be authorized only by a competent authority, and that:

The best interests of the child is the paramount consideration.	
The views of the child are considered and give due weight having regard to the child's age and capacity.	
Authorities must be satisfied that the adoption is permissible in view of the child's status and that all consents required by law have been given.	
Where consent is required, the law requires that counselling be provided.	
Due regard must be paid to preservation of the child's identity and the desirability of continuity in the child's background and to the child's ethnic, religious, cultural and linguistic background.	
Inter-country adoption is limited to cases in which the child cannot be placed in a foster or an adoptive family or cannot be cared for in any other suitable manner within the jurisdiction.	
Improper financial gain from inter-country adoption is prohibited by law and appropriately sanctioned.	

## Child victims in the justice system

Criminal procedure laws/guidelines include measures to protect the rights and interests of children at all stages of the justice process and to reduce trauma and secondary victimization, including:

Inter-agency referral procedures to promote coordination between police, health care workers, social workers and other service providers.	
Child-friendly police interview environments and interview techniques.	
Victim/witness support programme to familiarize children with the court process and provide support at all stages of the process.	
Child-friendly court procedures, including alternative arrangements for giving testimony such as screens, video-taped evidence and closed-circuit television.	
Measures to protect the child's privacy, such as closed-court proceedings and bans on publishing the child's identity.	
Measures to protect the safety of child victims and their family and to prevent intimidation and retaliation, including safe shelter (emergency and longer term), relocation and prohibition on the disclosure of information concerning the victim's identity and whereabouts.	
Guarantee of children's right to participate in the proceedings, to legal representation, and to compensation.	
The law protects all child victims of exploitation from prosecution and involuntary detention.	
Police, prosecutors and courts have specialized units or designated specialists to handle cases involving child victims/witnesses.	
Training is provided to police, prosecutors, judges and lawyers on an in-service basis and also incorporated into induction training programmes.	
Data on reported cases of violence and exploitation of children is systematically collected and appropriately disaggregated.	

## Children in conflict with the law

The law includes special procedures and protections for all children younger than 18 who are in conflict with the law.

A minimum age of criminal responsibility has been established that is at least 12 years (as per the UN Committee on the Rights of the Child Comment).	
Children are guaranteed the right to be presumed innocent until proven guilty, to remain silent, to legal representation at all stages of the proceedings and to have the matter determined by a competent authority without delay.	
Arrest is used only as a measure of last resort, and laws/guidelines include restrictions on the use of force or restraints against children.	
Parents are notified immediately upon the arrest of a child and are entitled to be present during all investigative and trial proceedings.	
The use and duration of pre-trial detention against children is limited, and there are alternative measures in place for supervising juveniles accused, pending trial.	
Police, prosecutors and judges have broad discretion to resolve juvenile cases through diversion.	
Community-based programmes are in place (mediation, restorative justice programmes, counselling and supervision) in order to facilitate diversion. A responsible authority (probation, community-based corrections or social welfare agency) has been designated responsible for regulating and monitoring diversion programmes.	
Measures are in place to manage juvenile cases so that they are expedited and tried by a specialized court (or a specially designated judge) separate from adult court proceedings.	
Criminal procedure laws include special rules of procedures for conducting juvenile trials to ensure that they are conducted in an atmosphere of understanding, which allows the juvenile to participate fully.	
Pre-sentence or social inquiry reports are prepared and considered prior to imposing sentence on a juvenile.	
Deprivation of liberty is imposed only as a measure of last resort against children who commit serious crimes of violence or persist in committing other serious offences. A wide range of alternative, community-based dispositions are available, and judges are given broad discretion to tailor the sentence to the individual juvenile.	
Community-based programmes are in place to support alternative sentences, including probation; care, guidance and supervision orders; counselling; community service work opportunities; education and vocational training, etc. A responsible authority (probation, community-based corrections or social welfare agency) has been designated responsible for promoting, regulating and monitoring community-based programmes.	
Life imprisonment and capital punishment are not imposed on children.	
Juveniles are separated from adults in all places of detention, including police custody, pre-trial detention centres and prisons.	
Regulations have been established, setting special standards for all juveniles deprived of their liberty.	
Special facilities have been established for the detention of juveniles, including open-custody and small-scale centres designed to promote rehabilitation and reintegration.	
All children deprived of liberty have access to effective complaints procedures concerning all aspects of their treatment.	

	There is an effective system for inspection and monitoring of all institutions in which children may be deprived of their liberty.	
	Juveniles released from detention are provided with support for their reintegration into the community. An authority has been designated responsible for juvenile reintegration, and programmes are in place to assist juveniles who are released from detention.	
	Police, prosecutors, courts and prison officials have specialized units or designated specialists to handle children in conflict with the law.	
	All justice sector officials, including police, prosecutors, judges, lawyers and prison officials, receive training and sensitization on juvenile justice as part of their induction training (at police academies, law schools, judicial training programmes) as well as on an in-service basis.	
	Appropriate mechanisms are in place to monitor the treatment of children in conflict with the law and to appropriately sanction justice sector officials who violate children's rights.	
	Data on children in conflict with the law is systematically collected and appropriately disaggregated.	



## Notes

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## 5.4 THE PROCESS FOR BUILDING UP A SOCIAL WELFARE SYSTEM

### Step 1: Problem analysis: What are the issues and why?

- i) Identify and prioritize issues
- ii) Identify contributing factors

### Step 2: Strategy development

- i) Choose strategies most likely to have maximum impact
- ii) Make programme strategies setting specific
- iii) Identify allies

### Step 3: Intervention selection

- i) Select priorities and actions
- ii) Summary of the steps for developing a child and family social welfare system

### Mapping and network analysis

## **Purpose and intended users**

This guide provides an overview of the process to build a social welfare system in different settings. It reflects the structure of the UNICEF East Asia and Pacific programming process in the Regional Child Protection Programme Strategy. Part of the guide's purpose is to present a consistency of language within UNICEF's programming documents to help UNICEF staff orient themselves and consider the steps that might be most appropriate for their setting.

This guide is intended for internal use and mainly for UNICEF officers who have responsibility over strategic and programme decisions. However, it is also recommended reading for any child protection officer to understand the challenges and opportunities that the process might entail. The guide requires a good understanding of the social welfare system for children and families in its overview and its components.



## 5.4 THE PROCESS FOR BUILDING UP A SOCIAL WELFARE SYSTEM

This portion of the social welfare technical guide provides more detailed direction on the programming process for UNICEF staff for strengthening the social welfare system. This section builds on the general programming guidance provided in Part Three of this Toolkit and is focused on three stages:

problem analysis,
strategy development and
intervention selection.

A guidance note on mapping and network analysis is provided at the end of the section.

### Step 1: Problem analysis: What are the issues and why?

#### i) Identify and prioritize issues

Problem analysis can be focused in two ways: on the manifestations and extent of harm to children and on the status of the child protection system. These two are linked. But for systems building, the latter is most useful, given the difficulties of data collection on issues that are sensitive and kept hidden.

Traditionally, child protection programmes have focused attention on manifestations such as the incidence of street-based children, institutionalization of children, trafficking and commercial sexual exploitation. Statistical analysis of these and other child protection problems has been limited because of the impossibility of gathering reliable information. Trying to establish a baseline for child protection violations presents multiple challenges, both methodological and practical, and risks capturing only the most visible manifestations. Circumstances such as abuse and neglect in the home, which are at the origin of most evident child protection problems, are undetected and invisible to outsiders most of the time. These difficulties create the risk that baseline assessments will concentrate only on what is immediately visible or measurable. This kind of baseline assessment is therefore unable to overcome the problem of issue-based analysis that reinforces the practise of labelling children into categories.

In fact, the absence of reliable information itself suggests the more important problem: the absence of a functioning system. This brings a different perspective to problem analysis that is particularly relevant for a systems-building approach. Rather than seeking out only manifestations of abuse, exploitation, neglect or violence, the baselines for problem analysis should include and focus on the status of the social welfare system for children and families.

This assessment should constitute the baseline for the UNICEF child protection programme. The basic, underlying questions include: Is there a functioning system? Are there gaps in the norms, structures and processes? Are there strengths upon which to build?

Approaching the problem analysis in this way transforms the absence of good information from being a limitation to an important indicator. An effectively functioning system can regularly produce information and analysis on child protection phenomena and their root causes as well as contributing factors. The time when good information starts to become available is a sign of a system beginning to function well.

## Assessment of the social welfare system

An assessment of the status of a social welfare system for children and families is qualitative in nature, although it is possible to make it measurable and use as a baseline. Benchmarks can be used in an assessment that are based on international standards and lessons learned<sup>1</sup> while also recognizing the uniqueness of each situation and the different cultural, socio-economic and political dimensions of each country. The benchmarks should be taken from the almost universally ratified CRC, along with learning from established good practices in social welfare systems that fit with the intentions of the Convention.

The assessment should encompass analysis of the:

	norms (laws, policies, regulations and standards);
	processes (coordination, approaches and practice);
	structures (institutional structures, services, capacities and resources).

Most of this information is often already available but not systematically compiled and analysed as a whole. Most child protection programmes have a fairly good understanding of the normative framework and services, although the information may not be brought together to capture the interrelations and interdependence between different components. There may be information gaps on the structures' supporting services, processes linking them and some specific aspects in the normative framework. An initial, rapid and superficial analysis of the system might highlight the areas where further understanding is needed.

## Approaches

The assessment could be undertaken in two different ways:

i	a comprehensive assessment of the system, <sup>2</sup> based on clear reference benchmarks (the checklist in guide 5.3 is proposed as a regional standard for UNICEF);
ii	a composite series of assessments and analysis that incrementally completes a full understanding of the system. <sup>3</sup>

The first option offers advantages in providing a complete baseline of the system and could be repeated at regular intervals to monitor change. This option also ensures consistency and an analysis of the entire social welfare system for children and families. However, it is a big task and requires the involvement of professionals with different expertise who need to work together and share the same approach. A local academic institution could be a viable option, although their availability and their understanding of social welfare systems might constitute a serious limitation for many countries. An assessment of this kind should be undertaken in stable situations in which systems are already partially developed and the government is willing to be involved in the process.

Conversely, the process of assessing specific components incrementally and compiling the full picture of the system takes longer but might be more manageable. Smaller assignments can be carried out by individual consultants. The risks of this approach are higher: In practice, it probably involves the use of different consultants for assessing different components, and they may bring in many different approaches and understandings of systems. Following this method will also require more leadership to keep the process on track and make it fit together. But this incremental compilation might be a preferred approach in unstable environments or in emergencies where greater attention is given to support for service provision and where, given the circumstances, a full assessment of the system could not be justified.

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<sup>1</sup> The social welfare system for children and families checklist was developed starting from the CRC, the draft UN Guidelines for the Appropriate Use and Conditions of Alternative Care for Children and lessons learned and good practices from child protection and social welfare systems around the world.

<sup>2</sup> Country offices that so far opted for this option are the Philippines, Indonesia, Myanmar and, to a certain extent, the Pacific.

<sup>3</sup> Country offices that are undergoing this option and are more advanced in the process are Cambodia and Thailand.

### The most common systemic shortfalls in the East Asia and Pacific region:

Shared responsibility: No accountability and inconsistent leadership.
Absence of an overall child protection policy framework.
A very limited spectrum of human services available to families and children.
Skewed presence and effectiveness of those services (uneven approaches and capacities).
High fragmentation of those services.
Gap between service providers and communities (limited outreach capacity/hard to access services).
Narrow interpretation and understanding of child well-being, disconnect with families and community.
Child protection is not identified as a specific area of responsibility of the State.
Absence of understanding of the concept of a child protection system.

Some common shortfalls of systems in the East Asia and Pacific region are highlighted in the box. These are some of the points to look for in any assessment.

## ii) Identify contributing factors

### Review of norms

In an assessment of existing systems, the analysis of the legal and policy framework (norms) is a precondition for understanding a system's functioning or malfunctioning in a given context.

### Common findings on child and family welfare systems in East Asia and the Pacific:

High fragmentation of structures.
Remarkable gap between agencies' mandates and their functions.
Lack of coordination.
Considerable gaps in child protective services (exclusively child rather than child and family focused; forensically driven).
General lack of accountability.
Absence of prevention or family support services.

The normative framework review should focus on the legal framework and policies. At the minimum, it should encompass the most relevant laws and policies, such as laws on child protection, family, trafficking, domestic violence, labour/work/employment, rules and regulations on adoption and out-of-home care and the criminal code. The legal and regulatory framework should be considered against common international standards (such as the CRC and UN Guidelines) and positive examples of legislation related to child protection and family matters. The review looks at the consistency of legal provisions and at their clarity and applicability. Essential features that might be considered at an initial stage include:<sup>4</sup>

<sup>4</sup> For a list of the features of a functioning social welfare system for children and families, see guide 5.3.

clarity of definitions of abuse, exploitation, neglect and violence (and their relevance compared to the CRC);
clarity and presence of guiding principles for state intervention into families and communities for the protection of children (and their relevance compared to the CRC) – for example, the best interests of the child, the importance of the family and its preservation, alternative care as a temporary measure, children’s participation in decisions affecting their lives;
a clear indication of the services that are available to children and families;
a clear indication of the designated roles, responsibilities, structures and mandates within a statutory system.

Analysis of the normative framework should include the policy framework. The aim is to check links, verify compliance and particularly look if there are additional policy elements and clarifications that permit better implementation of legal provisions.

Information gathered on the normative framework should include the financing processes and budgeting allocation, which is often very difficult to obtain.<sup>5</sup> But at an initial stage, before launching in-depth assessments on budgets, it is important to understand processes for financing the system. General figures are also useful to gauge the status of the social welfare system in a given country. For example, in 2005 in Thailand, the entire Ministry of Social Development and Human Security received an estimated 0.3 per cent of the national budget compared with the 6 per cent and the 15 per cent allocated to the Ministry of Public Health and the Ministry of Education, respectively.

The results of this preliminary analysis can be shared and discussed with a wide range of partners and government counterparts at the central and local levels. This process of verifying and discussing progressively with many different stakeholders is an opportunity to identify potential allies, good counterparts and those who might represent a challenge to systems building and change.

### Mapping<sup>6</sup> structures and social welfare services

Parallel to the analysis of the normative framework, a mapping of structures, services and their functioning should take place (some common findings on structures are provided in the box). The mapping will provide a graphic representation of government structures with a stake in child and family welfare at the central level as well as their extensions at local levels, including service providers from government, private and civil society sectors.

In this mapping, particular attention must be paid to ensure that the type of services that are provided are captured and not just the service provider.<sup>7</sup> The mapping should identify:

stakeholders at the central level and service providers at the local level;
actual roles and responsibilities and contribution to the local and national systems of each agency or stakeholder;
the type of services provided by each agency;
the effectiveness, strengths and weaknesses of each agency (structural and procedural).

<sup>5</sup> Another challenge is to define the specific budget for social welfare services, which requires detailed budget analysis. Often a budget analysis refers to ‘social services’ as a whole – not differentiating between education, health and social welfare services.

<sup>6</sup> More detailed guidance is provided at the end of this section.

<sup>7</sup> Lesson learned: The meaning attached to social welfare services can differ. Sometimes social welfare services are based on charity tradition: handouts and/or financial compensations, scholarships for victims and placement in institutions.

Analysis of the information collected should demonstrate what structural challenges exist in implementing social welfare policies and in practice for children and families. The analysis will provide evidence of national inconsistencies or any incoherence and illogical organization of some structures (such as the fragmentation of divisions, bureaus, departments and commissions). At local levels, the mapping exercise should capture gaps in service delivery and child protection practice but also identify the opportunities and strengths of the existing set up.

### Process analysis

The processes element of a system can be assessed through a network analysis, generally combined with the mapping exercise. It reveals in more detail the relationship among all stakeholders and service providers. In the multidisciplinary field of child protection, the quantity and quality of interactions among different agencies (government and civil society organizations) make the difference between having positive and negative outcomes from prevention work and protection interventions.



#### The guiding questions for this analysing of networks might focus on:

- Is there a formal and clear framework of collaboration among agencies?
- What is the nature of the interaction among agencies? For example, is it regulated, institutionalized, formalized or based on personal connections?
- Is there a common guide or protocol (including flowchart) for dealing with child protection cases and identifying different contributions? And is it being used?

The network analysis brings to light the actual day-to-day functioning and implementation of policies and laws. It shows if there is a proper system or if agencies are working in isolation or in separate networks. The analysis should detect aspects of systems, such as a proactive nature of certain agencies, or the tendency of some agencies to recreate self-contained systems because of weak collaboration.

### System effectiveness (services level)

An in-depth analysis of the quality and effectiveness of services can be carried out by examining information on the clients of a service over a period of two years or more (to capture variations over time).

The maintenance of case files and the practice of aggregating information is an important indicator of the maturity of social welfare services. Those services that do not recognize the importance and advantages of collecting, aggregating and analysing in order to develop and improve service provision, cannot be considered as fulfilling the requirements of a system. Where available, information on cases is very useful to cross-check if the services are actually fulfilling their declared mandate. This information also illustrates the coverage and accessibility of services and the nature and quality of child protection practice.

It is this information that reveals whether or not the system is universal in coverage and whether or not every family in need of support or child in need of protection is being reached. The information on cases shows the services in use; for example, are secondary prevention services really provided, is there a continuum of services linking family support and protective services, are the services addressing abuses at the initial stage and not exclusively focused on extreme cases of physical and sexual abuse? The compilation and analysis of comprehensively gathered information should show who leads the protection process (such as police, doctors, social workers, courts) and what the entry point of the child and family welfare system is (such police or the child protection agency).

Information is needed from different sources to understand the functioning and effectiveness of the system. It is also essential for advocating for changes and improvement in the system. Information may be limited to courts and health services that are more likely to have data systems, but even this can indicate aspects of the incidence of child abuse, exploitation, neglect or violence in a country. For example, information can be extracted for the production of fact sheets on child protection, such as the number of (known) abuse cases per year and the kind of abuse treated in hospitals, by gender and age of victims and related costs. Similarly, information from a ministry of justice on children in conflict with the law could demonstrate the impact of an absence of social welfare services for families and children. Information generated by government services can be extremely useful for advocacy with government agencies.

Important information that might be readily available for collection includes the following areas:

incidence and/or prevalence of child abuse, neglect and possibly exploitation and violence;
incidence and/or prevalence of domestic violence;
cost analysis of services provided to reported cases of abuse, exploitation, neglect or violence;
budget allocation to the social welfare system for children and families;
case load and case profiles of:
child abuse and neglect;
children in conflict with the law;
children in out-of-home care.

### Using the system assessment results

The general overview of the mapping, network and information analysis can be either part of a wider comprehensive assessment of the social welfare system or the beginning of a process that would be completed by additional in-depth specific assessments. The findings from either process should show opportunities and challenges that transcend the problems of individual parts of the whole system. The key to this analysis is to look at the work done and relationships between stakeholders. This includes the responsibilities and roles played and how and what services are offered. Most importantly, the analysis must examine how each stakeholder relates to the rest of the system and how it contributes to the overall intended system outcomes for children and families.

The assessment will identify the status of the system, which can be categorized in one of the following scenarios:

#### 1. Social welfare system for children and families in need of improvement

This category represents the best scenario out of the three. The normative framework is fairly well developed and comprehensive, most of the structures are present, processes are in place but the entire system is not yet in balance. There might be shortfalls and a lack of predictability, inconsistencies and major differences in capacities to provide services.

In this scenario, there should be clearly identified government counterpart(s) to work with on improving the system.

## **2. Social welfare system for children and families in an embryonic stage**

This category captures all those contexts where the normative framework, structures and services are partially developed but without an overall vision, coordination and leadership. In these scenarios, there is some focus on child protection and family welfare that is evidenced by delivery of some services. A system in embryonic stage is characterized by few services, and these are generally oriented to the prosecution of perpetrators and weak on care and protection as well as preventive services. In a daily practice, this scenario has a serious lack of predictability, very limited effectiveness and major differences in the capacities to provide services across the country.

Also in this scenario, there is usually a multitude of agencies and representatives to work with, from across the governance structures and with overlapping responsibilities rather than a clearly identified government counterpart(s).

## **3. Absence of a social welfare system for children and families**

This category includes those contexts in which the normative framework is very poor or non-existent, structures are extremely limited in scope, and capacity, resources and processes are absent. This would be the case where the very few services that exist are provided almost exclusively by NGOs and the State is virtually absent. Services are provided in very limited geographical areas and characterized by the use of many different approaches, without a unifying aim or practice.

In this scenario, either there is no state counterpart (some emergency situations) or only one that might be extremely weak, almost powerless (little to no mandate) with which to work.

## Step 2: Strategy development

### i) Choose strategies most likely to have maximum impact

Child protection programmes have a unique feature among the programme areas in UNICEF. While programme areas such as health and education can and, in most countries, should focus on disparities in access and exclusion, child protection programmes have major challenges in adopting the same approach. What makes child protection unique is the fact that in most cases child protection systems are in embryonic stage of development or totally absent. As such, they are unable to serve and cover even the average national population. Conversely, education and health systems are usually established and often able to serve a majority of the population. This fundamental difference has important implications for the child protection programme and making strategic choices. While UNICEF is increasingly focused on inequalities, in the area of child protection it is necessary to keep a broader strategic perspective on developing universal child protection systems – keeping in mind the additional challenges of making the excluded groups part of the system and able to access services.

At a country level, UNICEF must consider if it is a realistic option to start the development of a system from the most challenging circumstances; for example, reaching the children and their families who are also not reached by other systems. While those children who are excluded and most in need should still be the focus of child protection programmes, where the system is not functioning, most of the child protection violations across all sectors will still be unattended. These considerations are particularly relevant in deciding where a country opts to model/pilot a system: Choosing the most disadvantaged communities or regions might undermine the test of the system model's validity; resources are more likely to be scarce, the entire governance system much weaker and social conditions are probably very complex.

Strategies that support systems building will necessarily be incremental and phased. Improving, developing or building a social welfare system for children and families is an important endeavour and will take time. Structural and systemic changes should not be expected to occur within a country programme period.

Strategies will involve:

1	Social welfare system in need of improvement: Mainly work at the national level on advocacy, policy development and reforms.
2	Social welfare system in an embryonic stage: A mixture of work at the national and local levels simultaneously. Improved service provision on the ground supports and reinforces the development of the system at other levels and helps initiate structural changes.
3	Absence of a social welfare system: Work needed with more emphasis on the local level and which is service delivery and process oriented. There is high value in these strategies provided that there is a guiding vision and overall system plan. Comprehensive strategies at this level can be sustainable provided they include planning for expansion along systematic lines, for example to a regional system.



The model must not be the result of all the constraints, thus only created as a kind of 'patch' or a make-do system. It should reflect the vision of what it needs to be, although at the same time it needs to be realistic on what it can do right now. It needs to look at the minimum set-up that will allow the country to have a positive system.

Although scenarios are artificial constructs and the reality is more complex, it is evident that for a successful and sustainable systems-building approach in child protection that a combination of national and local strategies is effective and decisive.



## ii) Make programme strategies setting specific

A fundamental step in strategy development for a social welfare system for children and families is to design a model of the system,<sup>8</sup> based on the results of an assessment. The model should take account of the social, economic and cultural features of a country and the local forms of governance. The model needs a long-term, ideal vision of the system's components and functions after investment over time.

While system models will have many commonalities (for example, the components of the checklist in this technical guide), systems also have unique features that depend on the setting, the ways structures are set up, the leadership assigned, the governance system and the practice of social welfare services with clients. The model design would include a common aim, steps to be taken and realistic milestones marking points of achievement.

A detailed model or a clear vision of the social welfare system for children and families is critical preparation for UNICEF to respond to rapidly changing circumstances or opportunities. Major changes can occur for a range of reasons that are not always predictable. Evidence-based planning is important, but on its own it will not bring systemic changes; for example, where major changes are mostly politically motivated and can happen only if a vision and a model is readily available when needed<sup>9</sup> (such as in response to a high profile case in the media and consequent public outcry).

A model is also the foundation for consistent technical support to government counterparts who are encouraged to see the big picture of a system to understand how all the elements work together in a continuum.

The model is fundamental to:

inform the strategies, plans and intervention selections;
build strategic alliances (based on a vision and not a project);
inform the advocacy strategy and contents;
be ready to seize opportunities for systemic change when they present themselves.

Having a model is essential for UNICEF and any child protection agency in order to be proactive, concrete, strategic and offer sustainable technical advice and support to national counterparts.

## iii) Identify allies

The introduction of systems building is a major shift in child protection programming. The changes in approach are both conceptual and practical and will have an effect on the way programmes work with a variety of agencies. The use of partnerships and broader alliances for child protection is important in promoting understanding of the different systems and the approaches to systems building and child protection. The wide range of 'usual' partners (a plethora of civil society organizations and sections in the government) might be in need of a revision and change in the nature of collaboration. When the programme is set to support the building of a social welfare system, the relationship with partners should be reassessed according to relevance in the strategy.

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<sup>8</sup> See guides 5.1 and 5.2.

<sup>9</sup> Tomison, A.T. (presentation) *Social Welfare System Building: Entry Points*, UNICEF EAPRO workshop on social welfare system building, Bangkok, March 2008.

## Government agencies and officials

Working with ministries and government structures (including CRC commissions and supervisory bodies) remains very relevant in systems building. Collaboration with government counterparts has been long-lasting. In many instances it has involved the middle and lower layers of the ministries, particularly the technical sections dealing with specific issues, such as street-based children, institutions or adoption. Systems building also requires engagement with higher levels of the governance system.

Collaboration with technical levels will be needed; for example, in piloting system models. These departments need to understand the concept, models and strategies of systems building. Change can be a difficult process because of moving from familiar to unknown patterns of work. Technical departments of government might oppose the systems-building approach for fear of losing support and control over specific projects or concern about different structures. Building and maintaining relationships with technical and other government staff, explaining systems building, providing evidence and support, mentoring and encouragement, is important. These partnerships and alliances can decide whether or not pilot experiences and models will be replicated or scaled up.

It may be difficult to develop real alliances with government counterparts with a limited understanding of child protection and who oppose any change to the status quo or who do not see the need for a 'system'. In circumstances in which the relationship with the relevant ministry is weak, there may be allies in other ministries or higher up who can be the main agents to lobby, advocate with and put pressure on other sister agencies.<sup>10</sup>

## Civil society

Alliances with civil society organizations will be important. Many are providing services and are, in practice, part of the existing system. Some civil society organizations are also moving towards a systems-building approach; for example, some child rights organizations that are also accustomed to working at the policy level.

Some civil society organizations, even long-term partners of child protection programmes, might want to remain focused on their work rather than participate in a new direction of systems building. For example, this might be the case of some service delivery organizations. They can continue to maintain their independence but will still have a role in the overall system if the service provided is important and contributes to child protection.

Civil society organizations are often implementing partners and should be supported to be part of a much bigger picture, understand the system they operate in, their role and responsibilities and the way they contribute to the overall goal.

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<sup>10</sup> For example, in Thailand the alliance with the Ministry of Public Health and Ministry of Justice is beneficial in advocating for the improvement of the social welfare system for children and families with the Ministry of Social Development and Human Security.

## **Academic institutions and professional bodies**

Academic institutions, where they exist, are a formidable ally for building a social welfare system for children and families. Beyond their research capacity, academic institutions often play an advisory role within government and have a role in shaping public opinion. A strategic alliance with academic institutions can promote training and education of a new set of professionals and leaders with an understanding and skills necessary to manage systems and provide good quality social welfare services.

Professional bodies play a role in influencing professional ideologies, practice and policy. Paediatricians, lawyers, social workers and teachers are part of influential professional bodies that could be considered for involvement in strategies for systems building.

All these alliances are important and necessary. But this does not mean that all of them should be child protection programme partners or that they should receive economic support from UNICEF.

## **Building alliances**

Strategic alliances can be developed through visits, meetings, lobbying and convening large meetings. UNICEF cannot and should not promote or support the development of a social welfare system in isolation or with a small group of partners: It requires an expanding collaboration of allies across stakeholders and civil society.

In countries where a system is absent or minimal, UNICEF might find itself the only advocate for a social welfare system for children and families. In these circumstances it is important to have a coherent vision to share. The vision and model can be developed in partnership with other stakeholders as a process of creating strategic alliances. Developing a common understanding of child protection, visions and system models among a broad group of partners and allies is important in promoting the systems-building approach from different perspectives. This may require some technical assistance to be strategically provided to organizations that are not UNICEF partners. Building alliances is essential, but takes time and capacity and must be included in planning child protection programmes.

## Step 3: Intervention selection

### i) Select priorities and actions

Understanding the root causes of the absence of a system or of its malfunctioning stimulates a new way of looking at strategies and intervention selection. Potential interventions will not be aimed at the most visible shortcomings of the system (for example, 'social welfare services are poorly provided') and will not attempt to provide quick fixes (for example, training 'para' and professional service providers). The assessment will identify normative-, structural- and process-related challenges; for example, providing skills is not likely to solve the problem of poor social welfare service provision if the processes, structures and sometimes norms are not aligned and revisited.

An assessment should point towards the real priorities for building the system, derived from the underlying causes. For example, if social workers do not act effectively, it may not be a problem of professional skills but structural and systemic impediments that need to be addressed in order to ensure those professionals can function.

The country situation will determine the identification of priorities. But general activities can be outlined, following the three categories of status of a social welfare system for children and families (as previously described):

#### 1. Social welfare system for children and families in need of improvement

**Strategy: Mainly national-level work**

**Priorities:** When the normative framework, the processes and the structures are present, the priorities are most likely to focus on improving the normative framework and the processes. It may be possible to support the simplification of some structures and the improvement of agreed processes.

In advocating and technically supporting the fine-tuning of the national system, emphasis might be given to the capacity building of the professionals involved in the system. This capacity building for staff would focus on the provision of contemporary theories and practice in child and family welfare work and on understanding the functioning of the system and their role in it.

Improvement of the system and upgrading capacities of service providers could be approached nationally or locally, depending on the commitment of mandated authorities. A national focus would have a nationwide impact where central authorities have an oversight and normative function down to the local level. Where the governance system is highly decentralized and the influence of central authorities is relative at local levels, then it might be more effective to use one geographical area (region/province/division) as an example system to be replicated in other administrative units.

Working on policies, structures and processes centrally and occasionally at the mid (regional, provincial, state) level does not exclude supporting responses to pressing child protection issues. Resources can still be partially dedicated to the service delivery, provided that this is done in compliance with the model framework.

#### 2. Social welfare system for children and families in an embryonic stage

**Strategy: National and local levels**

**Priorities:** Where the social welfare system for children and families is still in an embryonic stage, prioritization might be more complex. Action will be needed on the norms (mainly policies),<sup>11</sup> on improving and developing structures and to support the enhancement of processes. This is a challenging situation in which the programme needs to deal with the entire range of elements in a system and thus requires a multi-pronged approach:

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<sup>11</sup> We refer here at a policy level and not the entire normative framework because in most countries, policy review and changes are the first possible change compared to a much lengthier legal reform process.

- a. Piloting<sup>12</sup> improved mechanisms and services at the local and mid levels. (Because piloting requires close attention, technical and resources support, monitoring and documentation, it is difficult or impossible to be undertaken on a large scale in a context in which authorities are unlikely to be supportive). Priorities at the local level might include:

sensitization, awareness-raising campaigns and behaviour change (focused primary prevention activities); <sup>13</sup>
a child protection monitoring system (see box) managed by local authorities or service providers (as part of primary prevention);
case management at the local level (with part of the structure introducing or improving the function of child protective services);
introducing or enhancing family support services (secondary prevention).

Whatever activities or projects are supported at the local level must contribute to the realization of the long-term social welfare system for children and families model.

<b>A child protection monitoring or surveillance system can be used at the local level:</b>
as a tool for local authorities and service providers;
to collect regular information on incidence as well as households conditions;
to identify at-risk families and children and to monitor social conditions over time;
for prevention and response;
to fill the gap of data at the local level, thus making it strategically powerful.

Local-level actions are interconnected with mid-level actions as part of the system structures and processes. Where governance is decentralized, local powers may allow the development of local policies, rules and regulations. The main aim of the work at the local level could be clarification and formalization of the roles, responsibilities and accountabilities of all agencies that are part of the social welfare system for children and families within that administrative area. This should include interagency guidelines (roles, responsibilities and processes for primary and secondary levels and at the tertiary level for the provision of child protective services).

The model of the social welfare system for children and families piloted at the local level should be a replica of the national system model but in a smaller scale. Although it might be less developed in the normative aspect, the local system does need to include all the mechanics and complexities of a fully functioning system. The pilot is the experimental demonstration of how the system is supposed to work, including all the innovations, adjustments and approaches needed at the national level. This is the main reason why the pilot should be tested first on favourable grounds (for example, where there are interested authorities, where there is a minimum commitment and understanding of the issues and where there are available resources).

<sup>12</sup> Start piloting a model of the social welfare system in small scale; begin with addressing the major gaps in the system that might bring an evident strategic difference or demonstrable change (introducing case managers at the local level, child protection monitoring systems, etc.); possibly pilot in collaboration with government agencies. From the local to the mid level, intervention should be always in the form of a pilot; use this unit for showcasing, advocacy or demonstrating with mid- and central-level authorities.

<sup>13</sup> Primary prevention could and should be promoted using the existing institutional structures, such as schools, early childhood development centres or health posts but also through the mobilization and promotion of community networks, volunteers and youth groups. Community involvement is crucial for the functioning of a system and needs to have clear responsibilities (and limits to avoid putting non-professionals in difficult situations and creating further problems) as well as clear interaction points and mechanisms with the institutional social welfare system.

While investing in action at the local level, advocacy and technical support is needed with the national authorities. Ideally, the pilot and modelling experience should be carried out in partnership with the leading agencies. While this seldom happens, it is fundamental that central authorities are fully aware of the aims and features of the pilot model of a social welfare system.

The creation of a functioning model is one of the few ways to demonstrate that a system is a changed but effective way for dealing with family problems and child protection concerns – and is possible. The model also provides evidence-based practice (including data) for promoting the national system. The agencies in charge of social welfare for children and families will be more likely to work on their own structures, processes and norms if they have a functioning model for reference.

### 3. Absence of a social welfare system

#### Strategy: Local level

**Priorities:** Actions at the local and mid levels will be greatly prioritized in this scenario. Whenever the central level can be involved, it should be.

Actions at the mid (regional, provincial, state) and local levels might target service delivery and processes. Guidance on a model social welfare system framework is crucial even in contexts where a fully functioning system might not appear to be realistic. In a country where the State is extremely weak in all governance sectors, it will be very difficult to make an impact at the central level or nationwide. A simplified pilot model could be the most strategic option. The objective should be to create the main functions of a social welfare system for children and families (norms, structures and processes that support primary, secondary and tertiary services) but with less depth and professionalism. Once the backbone of the system is established, it will be easier to build upon, expand in complexity and improve the professionalism of services. This strategy means trying to build all the main components of the system at the same time (in a less complex version) rather than focusing only on one aspect and making that part disproportionately complex in comparison with the rest of the system.



#### **The risk of unbalanced prioritization:**

An example of unbalanced prioritization is the focus on alternative care reform in many programmes that focus on great detail and complexity. The impact and sustainability of the change proposed is frail because the rest of the social welfare system for children and families is often underdeveloped and unable to sustain the expected result.

These actions should put in place the grounding for structures and processes that support simple forms of primary, secondary and tertiary levels of prevention and interventions. A local focus provides an opportunity for creating an area model of the most essential components of a social welfare system, in a context in which the concept of 'system' is missing.

In this scenario, emergencies should be considered as opportunities to instil the systems-building approach in UNICEF programmes, even though the emergency might be part of the reason for the absence of a social welfare system. During post-emergency periods when there is an effort of nation building, priority actions should be conducive to the development of a social welfare system. Part of the preparedness for emergencies is to know the status of protection systems – not just the gaps but the opportunities. Being ready means having a vision of the model of an appropriate social welfare system for children and families always available.

Any child protection emergency response should build on the emergency assessment and on the basis of what the social welfare system was able to do previously. (Emergency responses too often exclude and undermine existing government structures and authorities.) Responding to separated and unaccompanied children, setting up child-friendly spaces, organizing social messaging to communities could all be done in collaboration with government structures that have the mandate and are available to provide services and coordination. Setting up an emergency child protection response programme while having a long-term vision of the features of the social welfare system enables the organization of services in such a way that they constitute embryonic elements of the future system.

For example, consider the following elements of an emergency response and how they link to components of a social welfare system:

- Social communication for sensitization on child protection concerns and family unity
  - ➔ constitutes the basis for the primary prevention of a traditional system;
- Identification of vulnerable families, single-headed and child-headed households, monitoring and reporting mechanisms
  - ➔ constitutes the beginning of monitoring, surveillance systems and reporting procedures;
- Support services to avoid secondary separation and family disintegration
  - ➔ constitutes a good basis for the secondary prevention services of a functioning system;
- Case management for unaccompanied and separated children (including a database) and interim care arrangements, generally family-based
  - ➔ constitute the core of child protective services and out-of-home care services in a functioning system;
- Coordinating structures and referral agreements
  - ➔ constitute the embryonic, simplified version of interagency guidelines and protocols.

An emergency response or the piloting of a model where the social welfare system for children and families is absent, should always promote a common long-term vision among all stakeholders that informs decisions and the way response and other mechanisms are put in place.

In principle in any of the previously discussed scenarios, the prioritization of the child protection programme should respond to questions such as:

What is the essential stepping-stone that would allow further changes in building the system?
What contributes to the system building now and what could wait?
What is going to have a snowball effect?
What is most urgent?
What is possible?

However, probably the most difficult question is the last: What is possible? This query needs to be addressed in combination with what is necessary for a functioning system. Failing to do so, in most circumstances, would mean being placed in the same position of government counterparts who suggest that change is not possible (because of scarce resources, scarce commitment and weak leadership). It is important to be prepared to see beyond current limitations and envisage what could be put in place for a system that is able to prevent and respond to family and child protection concerns: to identify areas where it is worth investing.

## ii) Summary of the steps for developing a child and family social welfare system

These steps recognize that building up a social welfare system is a long-term endeavour and requires incremental approach in well-defined phases:

1	Initial system analysis of opportunities and challenges;
2	Draft and define a long-term model or vision of the social welfare system for children and families with as much detail as possible;
3	Build alliances around the model;
4	Set milestones for the intermediate stages of transforming the current situation towards the established model;
5	Design actions that incrementally support the convergence and mutual reinforcement of the model, according to the context or in a combination of:
a	local-level integrated service improvements and innovation,
b	mid-level structural and process innovations,
c	national structural and policy reform (long-term legal reform);
6	Pilot and demonstrate basic mechanisms at the local or mid levels:
a	sensitization, awareness raising, mobilization of communities, campaigns and behaviour change,
b	case management,
c	child protection monitoring system;
7	Address the system's processes and structures at the mid level;
8	Provide intensive technical support, rigorous monitoring, <sup>14</sup> adjustment of solutions, and evaluation and documentation of the pilot results in partnership with the national relevant agencies;
9	Widely advocate for system change and child protection sensitization;
10	Incrementally expand the pilot to embrace more complexity and expand professionalism within the system; consolidate results achieved, continue advocacy and lobbying;
11	Incrementally engage with central authorities towards the review of the national normative framework.

<sup>14</sup> Pilot review and monitoring should also constantly investigate who is left out of the developing social welfare system.



## Mapping and network analysis

Gaining an understanding of the organization and functioning of child and family services is one of the initial steps in a comprehensive assessment for building a social welfare system. Information on these services is often available but seldom organized or analysed systematically.

This mapping and network analysis exercise entails three steps:

i	mapping of child protective and family support services;
ii	network analysis; and
iii	data analysis.

The mapping exercise should identify the stakeholders at the national level, service providers and what services are actually provided. Once the actors and stakeholders playing a role in the social welfare system are identified, the network analysis can show the relationships and connections among them. The mapping of service providers will also reveal the type and extent of data that they have readily available, which also suggests the degree of effectiveness of these services.

In the process, it is important to capture the differences between stakeholders (active and inactive), the agencies that directly work with clients (service providers), the mandated agencies that provide services and the mandated agencies that do not provide services.



### Mapping of child and family welfare stakeholders

This mapping is mainly focused on identifying central and mid-level structures (committees, commissions, departments, bureaus and divisions) and authorities within the governance system that play a role in child and family welfare. The objective is to map stakeholders and functions that support and make the system operate – but not the delivery of services (addressed below). The mapping should identify:

- who promotes the child and family welfare normative framework (laws, policies, guidelines, norms, standards);
- who decides and allocates resources (budget, human resources, physical infrastructures);
- who has the responsibility for and manages the processes of the system (inter-agency guidelines, coordination);
- who develops, manages and supports child and family welfare services;
- who defines the priorities of each specific child and family programme;
- who supervises the quality of services;
- who supervises the entire system;
- where do the different accountabilities reside.

This part of the mapping can produce a visual diagram of the main stakeholders at the central level and the different lines of accountability. The map would show inconsistencies, gaps, confusion of accountability and overlap in the structures and mandates; similarly, it will highlight positive organizational aspects and strengths of the system.

This stakeholder mapping should not be considered in isolation but in connection with a mapping of child and family welfare services in order to identify potential disconnections in accountability and lack of balance between supporting/management structures and the delivery structures.

## Mapping of child protective and family support services



Child and family welfare services are the point of interaction between the State and citizens (families and children in this case). Delivery of services makes the child protection laws and the social welfare normative framework meaningful and relevant to children and families.

To best capture the reality of social welfare services, it is useful to conduct the mapping from the client's perspective – from the bottom up – by asking what is there (and what is known to be there), what is accessible, what is the range of services provided, are they connected and how?

It is important to progressively add relevant information while carrying out the mapping in order to gain an increasingly detailed understanding. For example, seek to identify:

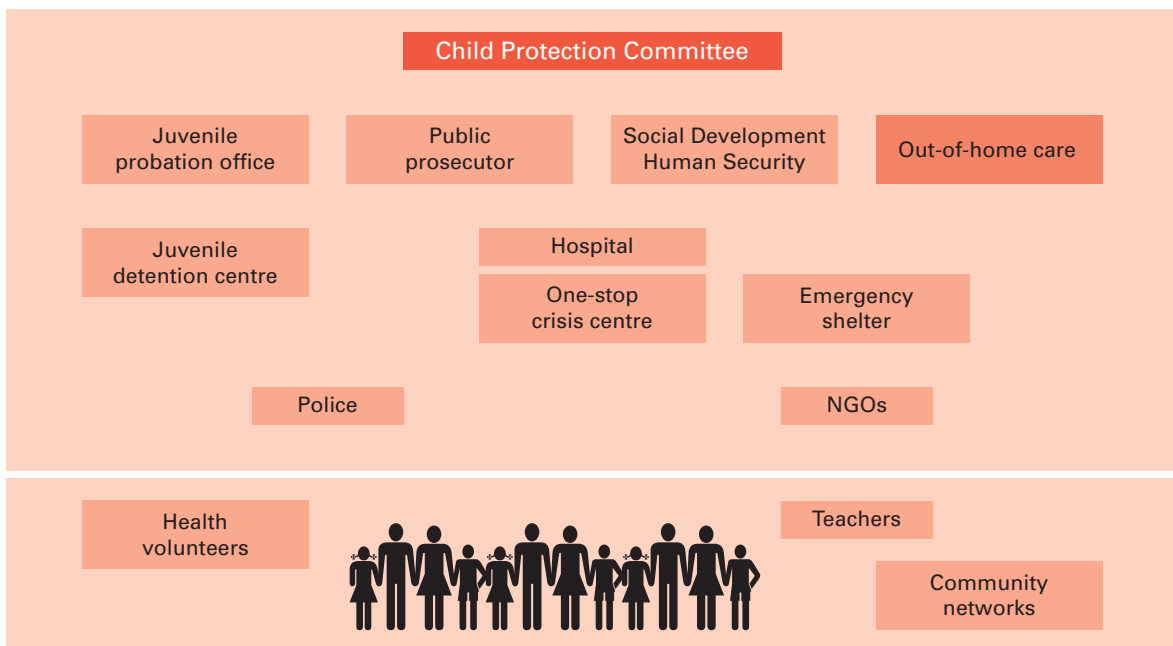
- Service providers at the mid/local levels (some services are provided only at the regional level for the entire area, but there are also provincial/state and local levels);
- The role and responsibility of various agencies providing services (best broken down by service) and their 'place' within the child protection system;
- The effectiveness, strengths and weaknesses of each service provider:
  - structural (limited resources, lack of accessibility, no recognition);
  - procedural (no official procedures in place, no protocols, poor practice);
  - staffing, roles and responsibilities;
  - what are their needs to improve the way they work for the best interests of children;
  - what are the main obstacles that prevent them from improving;
- The kind of services provided by each agency (a list that is as precise as possible);
- Overlapping, duplication and gaps of specific services.

Where some services are in place, it is equally important to note the distinction between social welfare services (defined here as the development of a helping relationship that is working towards a change) and cash transfers (which may be compensation, assistance in cash or kind, or cash transfer schemes).

The mapping exercise will identify different realities according to different geographical and administrative areas in a country. To create a national picture, the services that are commonly present and active throughout the country should be identified. Identifying what services are available everywhere is the strongest point in determining the status of a system because the social welfare system for children and families should be universal. In countries where there are significant discrepancies in service availability and capacity, then it would be useful to present the national picture along with an example of the best scenario.

A visual representation of the mapping exercise should diagrammatically depict services. The example below (mapping of service delivery in Thailand, 2005) shows local services at the bottom as the closest to the community and those at the top as those services that are more remote – generally those at the provincial or regional levels.

## Mapping services



Example: Average service delivery in Thailand, 2005<sup>15</sup>

## Child protective and family support services network analysis

A network analysis reveals the relationship among all stakeholders and service providers. In a multidisciplinary field such as child protection, the quantity and quality of interactions among different agencies (government and NGOs) makes the difference between having positive and negative outcome of interventions. The more relationships are codified and regulated, the greater the extent to which the system can be considered effective.



The guiding questions for this exercise then:

- How do stakeholders network or work with other agencies, both government organizations and NGOs?
- Is there a clear framework of collaboration or formal agreement among agencies? (Is it regulated, institutional or formalized in any way or is it based on personal connections?)
- Is there a flowchart for dealing with child protection concerns or cases?
- Are there common and shared tools for the referral of cases?

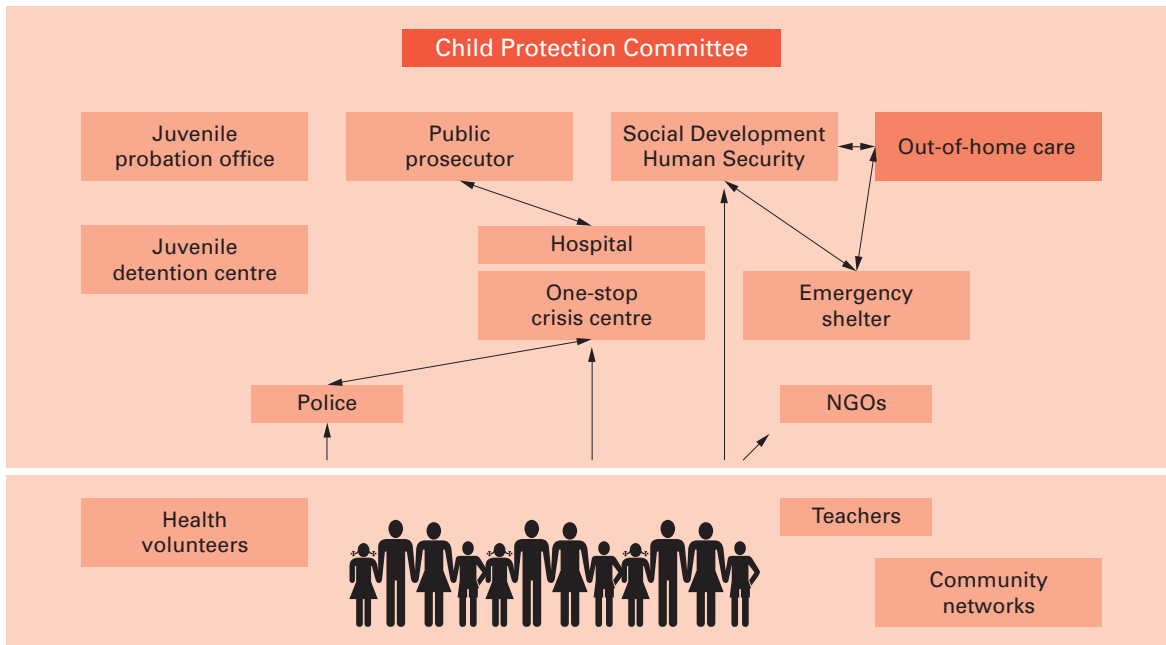
A network analysis helps to identify the status of system processes: Do the processes constitute a system or not? For example, which agencies are working in isolation or in separate networks. This is also a way to understand the existence of subsystems and/or self-contained systems.

The network analysis identifies the most proactive and recognized agencies, those already playing a crucial role and those in the shadows. The leadership identified by a network analysis might be very different from what the normative framework suggests.

<sup>15</sup> Adapted from Alexander Krueger. 'Child Protection Monitoring and Response System Project'. Presentation at partners training, Bangkok, July 2005.

The example diagram below represents the relationships between the various agencies in the service mapping. A solid two-way arrow indicates a regulated formal and functioning relationship among stakeholders; a dashed line is a relationship based on personal contacts and is rather weak; no links mean that even though a relationship should be there, the agencies do not work together.

### Mapping relationships



Example: Average service delivery in Thailand, 2005<sup>16</sup>

Once the mapping and network analysis are complete, it will be possible to identify the connections of service providers and agencies at the local and mid levels to the national mapping. This will demonstrate the complexities in the system, conflicting interests, agendas or objectives of stakeholders and their impact throughout the governance system.

<sup>16</sup> *ibid.*

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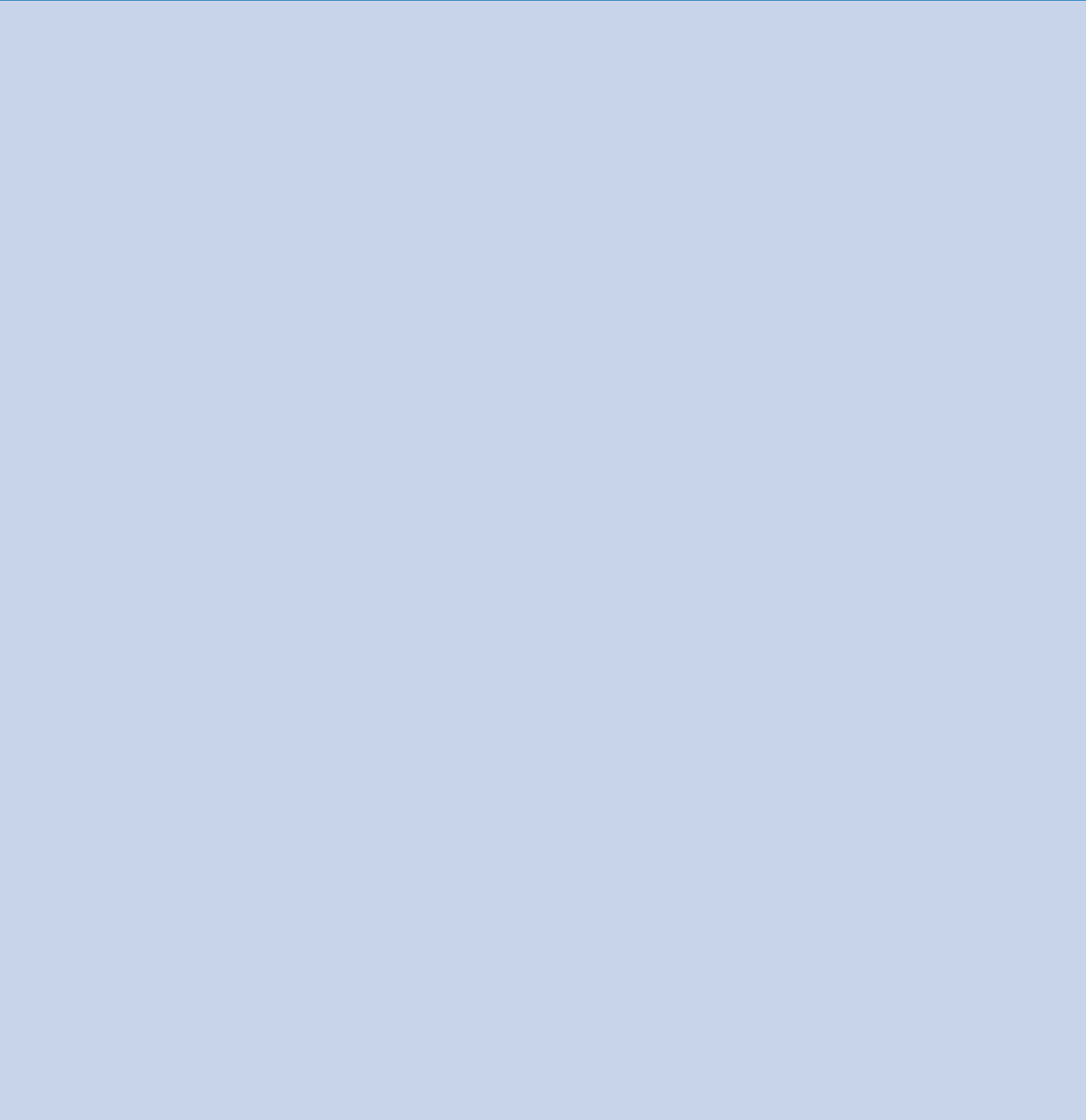
# **Part Six**

## **REFERENCES, RESOURCES AND GLOSSARY**

**6.1 References**

**6.2 Resources**

**6.3 Glossary and Acronyms**



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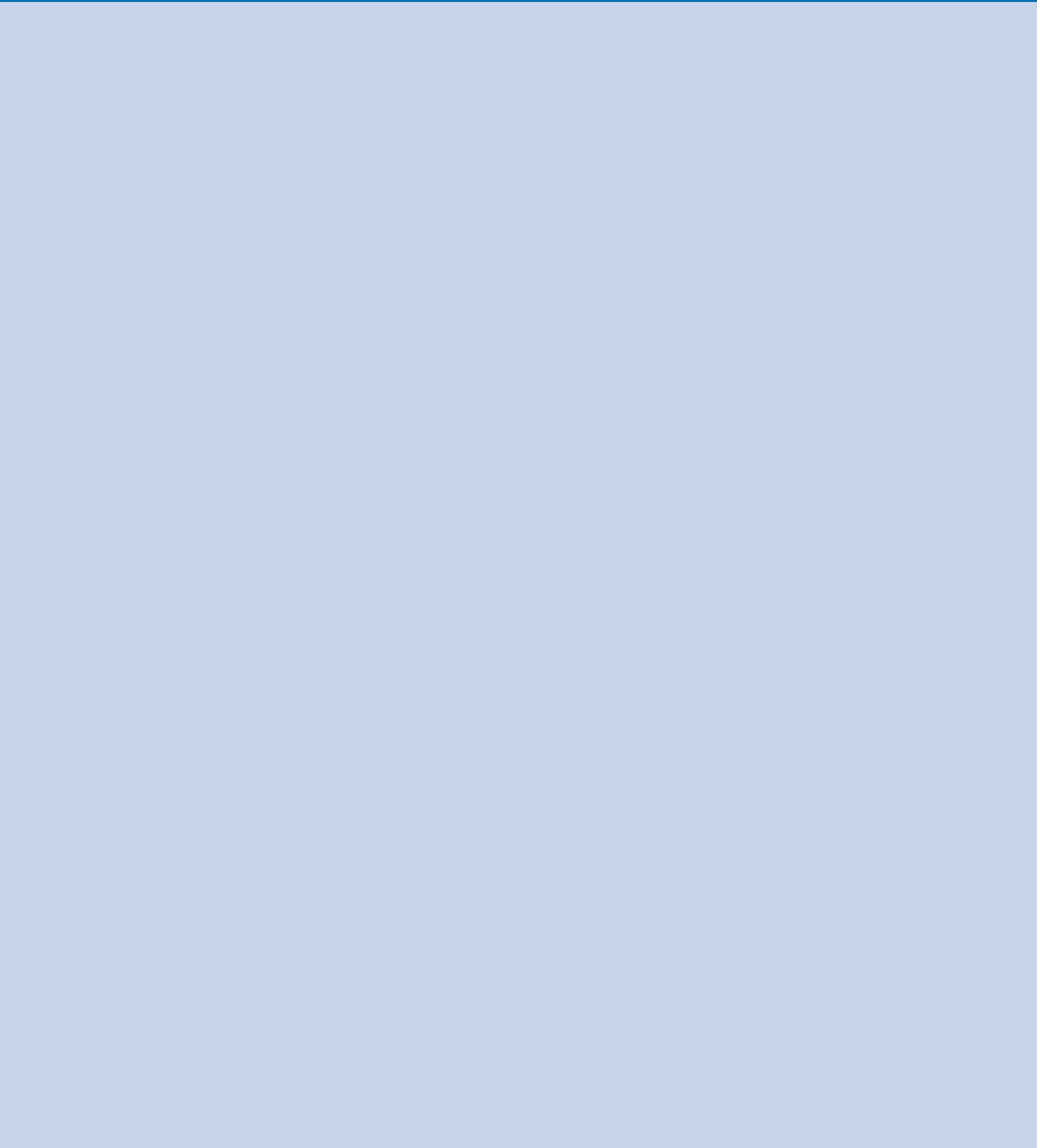
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**Part Six: REFERENCES, RESOURCES AND GLOSSARY**

## **6.3 GLOSSARY AND ACRONYMS**



## 6.3 GLOSSARY AND ACRONYMS

### Glossary

<b>Accede/ accession*</b>	<p>'Accession' is an act by which a State signifies its agreement to be legally bound by the terms of a particular treaty. It has the same legal effect as ratification but is not preceded by an act of signature. The formal procedure for accession varies according to the national legislative requirements of the State. To accede to a human rights treaty, the appropriate national organ of a State – parliament, senate, the crown, head of state or government, or a combination of these – follows its domestic approval procedures and makes a formal decision to be a party to the treaty. Then, the instrument of accession, a formal sealed letter referring to the decision and signed by the State's responsible authority, is prepared and deposited with the United Nations Secretary-General in New York.</p>
<b>Administrative law</b>	<p>Refers to a body of laws governing the activities of government administrative agencies. Administrative law is considered a part of public law and applies specifically to the executive branch. Administrative law deals with the decision-making of administrative units of Government (such as tribunals, boards and commissions) in areas such as policing, immigration, human rights, housing, labour and broadcasting as well as the mechanisms enabling persons to challenge these decisions.</p>
<b>Adoption*</b>	<p>The formal act by which the form and content of a proposed treaty text are established. Treaties negotiated within an international organization like the United Nations are usually adopted by a resolution of a representative organ of the organization whose membership more or less corresponds to the potential participation in the treaty in question (such as the United Nations General Assembly).</p>
<b>Alternative care</b>	<p>Also known as 'out-of-home care'. This refers to the care provided to children outside of their family. This may be achieved using a variety of models including kinship care, foster care and institutionalized care (group homes, shelters and safe houses). In the context of a social welfare system for children and families, out-of-home or alternative care relates to children who are placed in care outside of their family. They should be either under the monitoring of a welfare agency or under supervision in connection with child protective services. These forms of care are not related to decisions that parents may make independently regarding the care of their children.</p>
<b>Alternatives to detention and non-custodial options</b>	<p>Refers to measures that may be imposed on children who are being formally processed through the criminal justice system that do not involve deprivation of liberty. 'Deprivation of liberty' is defined as the placement of a child in any institutional setting where she/he is not permitted to leave at will (and therefore encompasses placement in specialized juvenile rehabilitation homes as well). Alternatives to detention commonly include measures such as probation, community supervision orders or community service work.</p>

\* These definitions are adapted from *The Concise Oxford Dictionary of Current English* (8th edition), Clarendon Press, Oxford, 1990 and United Nations Treaty Collection, Treaty Reference Guide, 1999, available at <http://untreaty.un.org/English/guide.asp>.

<b>Article*</b>	International legal instruments generally include a Preamble (stating the reasons for and underlying understandings of the drafters and adopters of the instrument) and a series of ‘articles’, which lay out the obligations of those States choosing to be bound by it and procedural matters involving the treaty. The term ‘provision’ is often used as an alternative when referring to the content of particular articles.
<b>Beijing Rules</b>	Formally known as the UN Standard Minimum Rules for the Administration of Juvenile Justice (1985), the Beijing Rules provide guidance to States for the development of specialized systems of juvenile justice from a child rights and development perspective. The Beijing Rules encourage the use of diversion and that proceedings are to be conducted in the best interests of a child. Careful consideration is to be applied before depriving a juvenile of liberty and in releasing a when apprehended and at the earliest possible occasion thereafter. And all personnel dealing with juvenile cases must have specialized training and considerable importance is placed on research as a basis for effective planning and policy formation. According to the Beijing Rules, a juvenile justice system should be fair and humane, emphasize the well-being of a child and ensure that the reaction of authorities is proportionate to the circumstances of the offender as well as the offence.
<b>Best interests of the child</b>	All decisions should be based upon the needs of individual children, taking into account children’s development and evolving capacities, so that their welfare is of paramount importance. This necessitates careful consideration of the child’s physical, emotional, psychological, developmental and spiritual needs. Unfortunately, the best interests of a child are frequently and wrongly based solely upon physical or education needs.
<b>Birth registration</b>	<p>Legally acknowledges a child’s existence and also provides proof of age. Universal, compulsory, free, non-discriminatory, permanent, continuous, accessible and practically expedient birth registration and certification are important for a number of reasons:</p> <ul style="list-style-type: none"> <li>enforces laws relating to minimum age for employment, thereby reducing child labour;</li> <li>counters early marriage of girls;</li> <li>ensures children in conflict with the law are given special protections, including minimum age of criminal responsibility;</li> <li>protects children from under-age military service or conscription;</li> <li>Provides official recognition of the child’s birth parents and can thus help to protect against illegal adoption;</li> <li>secures a child’s right to a nationality, at the time of birth or at a later stage;</li> <li>protects children who are trafficked and who are eventually repatriated and reunited with family members.</li> </ul>

\* These definitions are adapted from *The Concise Oxford Dictionary of Current English* (8th edition), Clarendon Press, Oxford, 1990 and United Nations Treaty Collection, Treaty Reference Guide, 1999, available at <http://untreaty.un.org/English/guide.asp>.

<b>Care and protection plans</b>	A comprehensive programme and schedule to identify in a holistic manner all areas of a child's care and protection (and related services) to ensure that their best interests are met. The plan is based on a comprehensive child-family-community assessment and the consultation of all relevant people. The care and protection plan includes the identification of key activities and timescales and the date and time of the next case review.
<b>Case management</b>	A process for systematically planning for a child's future and which includes regular review and monitoring of the plan. It is a collaborative process of assessment, planning, advocacy and facilitation of options of services to meet an individual's needs through a process of communication and evaluation of available resources to promote cost effective, quality outcomes. Case management is based on individualized service delivery, drawing from the comprehensive assessment that is used to develop a care or case plan.
<b>Case plan review/care plan review</b>	A process of regularly reviewing the child and family welfare plan for children at risk of or who have been victims of abuse, exploitation, neglect or violence to establish if it is still relevant to the needs of the child and to ensure that timescales for successful achievement of particular service arrangements are being realized. If a child's needs are not being met or will not be met under the plan, then the plan should be altered and new activities and timescales planned, in consultation with the child, family and relevant persons involved.
<b>Census</b>	A survey of all individuals or households in a specified area. Many countries carry out a national household census once every ten years.
<b>Charter*</b>	The term 'charter' is used for particularly formal and solemn instruments, such as the treaty founding an international organization like the United Nations ('The Charter of the United Nations').
<b>Child protection†</b>	Child protection is a term that refers to strategies and activities to prevent and respond to the abuse, exploitation, neglect and violence towards all boys and girls younger than 18. Any such abuse represents a serious violation of a child's right to develop in a dignified and healthy way and may put his or her actual survival at risk.

\* These definitions are adapted from *The Concise Oxford Dictionary of Current English* (8th edition), Clarendon Press, Oxford, 1990 and United Nations Treaty Collection, Treaty Reference Guide, 1999, available at <http://untreaty.un.org/English/guide.asp>.

† Definitions provided here were compiled by Guy Thompstone and taken from a variety of sources. Please refer to [www.ecpat.org](http://www.ecpat.org) and [www.who.int](http://www.who.int) for further detail and other definitions.

<p><b>Child emotional and psychological abuse†±</b></p>	<p>Child emotional abuse involves isolated incidents as well as a pattern of failure to provide a developmentally appropriate, supportive and caring environment. Such acts have a high probability of damaging the child’s physical or mental health or the child’s physical, mental, spiritual or social development. Such acts are:</p> <ul style="list-style-type: none"> <li>reasonably within the control of a parent or person in a position of responsibility, power or trust;</li> <li>cause or have a high probability of causing significant harm to the child’s psychological or emotional development and well-being.</li> </ul> <p><i>Examples of emotional and psychological abuse</i></p> <ul style="list-style-type: none"> <li>making a child feel unloved, unworthy, inadequate or frightened;</li> <li>humiliating, belittling, blaming or ridiculing a child;</li> <li>discrimination, rejection, exclusion or targeting of particular children;</li> <li>setting developmentally unrealistic and inappropriate expectations on a child;</li> <li>threatening, corrupting and acting hostile toward a child;</li> <li>restriction of movement.</li> </ul> <p><i>Indicators</i></p> <ul style="list-style-type: none"> <li>a child is withdrawn, afraid, untrusting and has low self-esteem;</li> <li>a child is treated differently to other children in the household;</li> <li>a child demands much attention and can be violent</li> </ul>
<p><b>Child exploitation†</b></p>	<p>Child exploitation refers to the use of a child in activities from which other people derive a benefit, whether financial, sexual or political. In these circumstances, the activities are detrimental to the physical and psychological wellbeing, even the survival, of the child. Such activities include child trafficking, child labour, child prostitution, child pornography, forced marriage and children forced into soldiering.</p> <p><i>Examples of exploitation</i></p> <ul style="list-style-type: none"> <li>child domestic servitude or indentured labour;</li> <li>children who work on/in fishing boats, plantations, factories, construction sites;</li> <li>children who are sent to beg on the streets or forced to deliver illicit drugs;</li> <li>children who are trafficked into bars and brothels;</li> <li>children who are sold for profit.</li> </ul> <p><i>Indicators</i></p> <ul style="list-style-type: none"> <li>child is sold to a syndicate or tricked into leaving the village to find ‘work’ in the city;</li> <li>child is found in places inappropriate for his/her age (such as bars, factories);</li> <li>children do not have caregivers with them, only a boss or business owner.</li> </ul>

† Definitions provided here were compiled by Guy Thompstone and taken from a variety of sources. Please refer to [www.ecpat.org](http://www.ecpat.org) and [www.who.int](http://www.who.int) for further detail and other definitions.

± Part of this definition is adapted from: WHO. 2006. *Preventing Child Maltreatment: A guide to Taking Action and Generating Evidence*. Geneva. WHO Press.



<p><b>Child labour</b></p>	<p>The forcing or deceiving of children into industries or work sectors that pose a significant risk to their development and well-being, or even their survival. Exploitation through labour means that children are unable to fulfil their rights to good health, education and protection. Child labour does not include regular chores that children do around the house or farm or the occasional support that children give to increase the family income.</p>
<p><b>Child neglect†</b></p>	<p>Neglect is the persistent failure to provide for the basic physical, emotional and developmental needs of a child, in areas such as health, education, emotional development, nutrition, shelter and safe living conditions, in the context of:</p> <ul style="list-style-type: none"> <li>resources reasonably available to the family or caretakers;</li> <li>causing, or having a high probability of causing, serious impairment to a child’s health or physical, mental, spiritual, moral or social development. This includes the failure or omission to properly supervise and protect children from harm as much as is feasible.</li> </ul> <p>‘Abandonment’ may be an extreme form of neglect, especially when a baby/child is left in a condition that threatens his/her life. For example, when a child is left outside and exposed, even if the intention is for another person to find the child. Abandonment is usually a result of the parent’s inability to cope with a new baby. Neglected children may come to the attention of other people because they either become invisible (such as disabled children hidden away in the home) or highly visible (such as children on the streets).</p> <p><i>Examples of neglect</i></p> <ul style="list-style-type: none"> <li>a child does not have enough to eat, is not clothed and/or has no safe place to stay;</li> <li>a child has to look after him/herself or care for other siblings at an inappropriately early age;</li> <li>child is not supervised, leading to physical danger;</li> <li>parents or caregivers migrate, leaving a child with people who are unable to care for him/her;</li> <li>a child’s medical, educational or social needs are disregarded;</li> <li>a child is deliberately not included in the social life of the family or community.</li> </ul> <p><i>Indicators</i></p> <ul style="list-style-type: none"> <li>children are malnourished, unclothed, dirty and often sick;</li> <li>children have no primary caregivers and are unsupervised, notably children who do not attend school, do small jobs (selling, begging), and/or use drugs;<sup>1</sup></li> <li>children have to take care of other siblings for much of the time;</li> <li>parents and caregivers pay no attention to the emotional needs of the child, providing no love, stimulation or attention.</li> </ul>

† Definitions provided here were compiled by Guy Thompstone and taken from a variety of sources. Please refer to [www.ecpat.org](http://www.ecpat.org) and [www.who.int](http://www.who.int) for further detail and other definitions.

<sup>1</sup> Many neglected children resort to survival tactics in order to eat and get shelter. The use of drugs is associated with mental and physical pain relief. Many of these most severely neglected children come into contact with law enforcement agencies because their survival tactics may be illegal or a nuisance.

<p><b>Child physical abuse†</b></p>	<p>Physical abuse is violence or assault intended to cause pain, injury or harm by a person who is in a position of power or trust in relation to the child. This may include severe corporal punishment.</p> <p><i>Examples of child physical abuse</i></p> <ul style="list-style-type: none"> <li>punching or kicking;</li> <li>shaking or throwing;</li> <li>hitting children with instruments, such as a stick or a belt;</li> <li>burning or scalding;</li> <li>drowning, suffocating or poisoning.</li> </ul> <p><i>Indicators</i></p> <ul style="list-style-type: none"> <li>burn marks from fire or hot water without reasonable cause;</li> <li>old/new scars or bruises that do not appear 'normal' or cannot have occurred from normal children's play;</li> <li>cigarette burns, iron burns, teeth marks;</li> <li>broken bones and skull fracture</li> <li>behavioural symptoms, such as aggression and bullying; withdrawn and frightened;</li> <li>unnatural internal/external bleeding and swelling of the head.</li> </ul>
<p><b>Child pornography</b></p>	<p>The use of a child in the production of sexually explicit materials, depicting children in degrading activities for a sexual purpose. The medium of transmission can be through video, Internet (or other modern telecommunication mode), photos or magazines.</p>
<p><b>Child prostitution</b></p>	<p>The use of a child for sexual services for remuneration in cash or in kind.</p>
<p><b>Child protective services</b></p>	<p>Part of the tertiary level of the social welfare system for children and families. These services are concerned specifically with the protection of children who are suffering harm or at high risk of suffering abuse, exploitation, neglect or violence. As part of the tertiary intervention services, they are carried out by a statutory agency (designated national child protection agency).</p>

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<b>Child sexual abuse†</b>	<p>Child sexual abuse is the involvement of a child in sexual activity that he or she does not understand fully, is unable to give informed consent to or that violates the laws or social taboos of a society. Child sexual abuse is evidenced by activity between a child and an adult (or possibly another child) that by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person. The abuse may be initiated through force, trickery, bribery or threat.</p> <p><i>Examples of sexual abuse:</i></p> <ul style="list-style-type: none"> <li>Rape (including penetrative vaginal, anal or oral sex);</li> <li>Masturbation and fondling;</li> <li>Exposure and enticement of children to behave in sexually provocative ways, including watching pornography, or taking part in its production.</li> </ul> <p><i>Indicators</i></p> <ul style="list-style-type: none"> <li>Child has sexually transmitted infections or is pregnant;</li> <li>Precocious knowledge of sexual behaviours, either spoken or displayed, including compulsive masturbation;</li> <li>Incitement of other children to engage in sexual activities;</li> <li>Fear of men in general, or individuals in particular (such as father, brother);</li> <li>Running away from home, bedwetting, depression and aggression.</li> </ul>
<b>Child trafficking</b>	<p>The recruitment, transportation and maintenance of children by means of the threat, coercion, deception or the abuse of power for the purpose of exploitation, including sexual and labour exploitation as well as for slavery-like practices.</p>
<b>Child work</b>	<p>Any work performed by persons younger than 18, whether paid or unpaid, in the family, self-employed or for a third party, whether or not harmful to development. Many researchers (and authorities) contrast child work (beneficial) with child labour (harmful).</p>
<b>Civil law</b>	<p>Also known as private law. This refers to a body of laws that governs relationships between individuals. This includes family law (marriage, divorce, child custody, child abuse, child neglect, and alternative care including adoption), property law, inheritance law, labour law, torts and contract law.</p>
<b>Committee on the Rights of the Child</b>	<p>The body of independent experts charged with monitoring State parties' implementation of the Convention on the Rights of the Child. The Committee also monitors implementation of two optional protocols to the Convention, one on involvement of children in armed conflict, and the other on the sale of children, child prostitution and child pornography.</p>
<b>Continuum of services</b>	<p>The range of services and support to families that are holistic and delivered in a seamless way, ranging from low-level work to highly intensive interventions. All personnel working with a social welfare system must understand their role and its connection to the system and policy objectives. Services should exist along a continuum, from prevention to crisis response intervention, but all with the same objective.</p>

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<b>Constitution</b>	The framework for governance. Among other key functions, a constitution governs the relationships, hierarchies and balance of powers between the judiciary, the legislature and the executive with the bodies under its authority. Constitutional recognition of child rights provides a solid foundation for the protection of children. Provisions on the rights of children to be protected against abuse, exploitation, neglect and violence can be incorporated into a constitution.
<b>Convention*</b>	A 'convention' is a formal agreement between States. The generic term 'convention' is thus synonymous with the generic term 'treaty'. Conventions are typically open for participation by the international community as a whole or by a large number of States. Usually the instruments negotiated under the auspices of an international organization are entitled conventions (such as the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations in 1989).
<b>Corporal punishment</b>	Physical, verbal, emotional and/or humiliating punishment used as a form of discipline for children.
<b>Criminal law</b>	Also known as 'penal law'. Criminal law regulates behaviour by defining and penalizing specific offenses that violate ethical rules defined by society. In many countries, criminal laws prohibit various forms of abuse, exploitation, and violence directed against children, including: sexual abuse, child pornography, child prostitution, sale of children, trafficking, assault, child labour, recruitment of children into armed forces and corporal punishment.
<b>Criminal procedures</b>	The process of investigating, charging and trying alleged offenders is regulated by criminal procedures. Among other areas, criminal procedures generally govern child-sensitive investigative and adjudication procedures for child victims and witnesses as well as the administration of juvenile justice concerning alleged offenders.
<b>Data</b>	Information collected by research. Baseline data is the collection and analysis of data about a population before a programme or project is planned and established. In monitoring and evaluation baseline data are compared with data after the programme is completed or at set stages during its development. Primary data is original data collected by a specific research process. Secondary data is information already collected and analysed. Secondary data includes books, published and unpublished reports, theses, laws, statistics, Internet-based information, media articles, sound, visual and video archives.
<b>Declaration*</b>	The term 'declaration' is used for various international instruments. International human rights declarations are not legally binding; the term is often deliberately chosen to indicate that the parties do not intend to create binding obligations but merely want to declare certain aspirations. However, while the 1948 Universal Declaration of Human Rights, for example, was not originally intended to have binding force, its provisions have since gained binding character as customary law.
<b>Deposit*</b>	After a treaty has been concluded, the written instruments that provide formal evidence of a State's consent to be bound are placed in the custody of a depository. The texts of the Convention on the Rights of the Child and its Optional Protocols designated the Secretary-General of the United Nations as their depository. The depository must accept all notifications and documents related to the treaty, examine to check if all formal requirements are met, deposit them, register the treaty and notify all relevant acts to the parties concerned.

\* These definitions are adapted from *The Concise Oxford Dictionary of Current English* (8th edition), Clarendon Press, Oxford, 1990 and United Nations Treaty Collection, Treaty Reference Guide, 1999, available at <http://untreaty.un.org/English/guide.asp>.

<b>Deprivation of liberty</b>	The placement of a child in any institutional setting where she/he is not permitted to leave at will (and thus encompasses placement in specialized juvenile rehabilitation homes as well).
<b>Discipline</b>	With respect to child-rearing, discipline is training expected to produce a specific character or pattern of social behaviour. In English-language usage, discipline is distinct from punishment and may not include any forms of sanction.
<b>Diversion</b>	An alternative process for dealing with juvenile offences in an informal way, outside of the formal justice system. It refers literally to diverting or sending a child away from the formal justice system to some alternative means of resolving the offence. This can take the form of a simple caution or warning, or may involve referral to a structured diversion programme (life skills or competency development programme) or to a restorative justice process (mediation, family group conference).
<b>Early intervention services</b>	Services that are targeted at particular families and communities in a focused way to address specific, identified problems. The goal with early intervention services is both to improve the situation and to prevent any deterioration. These services are voluntary for families and have no statutory implications.
<b>Emotional abuse</b>	(see child emotional abuse)
<b>Entry into force*</b>	A treaty does not enter into force when it is adopted. Typically, the provisions of the treaty determine the date on which the treaty enters into force, often at a specified time following its ratification or accession by a fixed number of States. For example, the Convention on the Rights of the Child entered into force on 2 September 1990 – the 30th day following the deposit of the 20th State's instrument of ratification or accession. A treaty enters into force for those States that gave the required consent.
<b>Ethics</b>	Moral principles or rules of conduct.
<b>Ethical research</b>	Research with human subjects that: <ul style="list-style-type: none"> <li>protects the research population against harm that might be caused by the research process or by dissemination of results;</li> <li>preserves confidentiality of individuals and communities;</li> <li>is entered into voluntarily by individual subjects in full understanding of the aims and methods.</li> </ul>
<b>Exploitation</b>	(see child exploitation)
<b>Follow-up</b>	Specifically targeted support that is either maintaining beneficial change and/or preventing relapse. Follow-up work is usually done according to goals that were set clearly in, for example, the care and protection plans and/or family support plans.
<b>Informal justice</b>	Dispute resolution outside the scope of the formal justice system. It encompasses non-state justice mechanisms as complementary to or surrogates of the formal justice sector, meaning the whole range of traditional, customary, religious and informal mechanisms that deal with disputes at community levels.
<b>Institution</b>	An organization established and run for a specific group of children in need of protection, including orphanages, homes for children with disabilities, boarding schools and juvenile detention centres.

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<b>International humanitarian law</b>	Refers to the laws and customs of war or the law of armed conflict, as set forth in the Geneva Conventions and its protocols as well as the Hague Conventions. International humanitarian law defines the conduct and responsibilities of conflicting and neutral nations as well as individuals engaged in warfare with respect to each other and to protected persons. This covers civilians, including children, in both international and internal armed conflicts. It also provides the legal basis for humanitarian assistance carried out by an impartial and neutral organization, usually the International Committee of the Red Cross.
<b>JDL Rules</b>	Formally known as the UN Rules for the Protection of Juveniles Deprived of their Liberty (1990), the JDL Rules set out standards regarding children who are confined to any institution or facility, whether penal, correctional, educational or protective. The JDL Rules include principles that universally define the specific circumstances under which children can be deprived of their liberty, emphasizing that deprivation of liberty must be a last resort, for the shortest possible period of time and limited to exceptional cases. In the context where deprivation of liberty is unavoidable, detailed minimum standards of conditions are set out.
<b>Justice system</b>	The justice system may be understood as a subsystem of the entire legal and regulatory system. The justice system entails the same three parts: <ul style="list-style-type: none"> <li><i>legal and policy frameworks</i> (governing or influencing the Justice system);</li> <li><i>law enforcing structures</i> across criminal, civil, administrative and informal justice sectors;</li> <li><i>processes</i> governing every level of the system.</li> </ul>
<b>Labour</b>	(see child labour)
<b>Ladder of responsibilities</b>	Corresponds to a clear division of responsibilities connecting the lower level of the formal child and family welfare services and the informal community-level mechanisms. The identification of responsibilities is meant to clarify how community networks, volunteers' groups, forums and traditional mechanisms interact with formal social welfare system services. A ladder of responsibilities clarifies to which extent the informal sectors and agencies can handle child protection cases or concerns and when those cases must be referred to the formal services and a designated child protection agency.
<b>Law</b>	Laws set out the ideal for <i>what</i> and <i>how</i> – that is, standards and principles governing different spheres of public and private life.
<b>Law reform</b>	Law reform refers to the process of changing laws. It may involve drafting a new law or amending existing law(s).
<b>Legal empowerment</b>	'The use of legal services and related development activities to increase disadvantaged populations' control over their lives'. <sup>2</sup> Legal empowerment: <ul style="list-style-type: none"> <li>is a necessary complement to law and institutional reform;</li> <li>generally strengthens civil society and the legal capacities and power of people who are poor, excluded and marginalized to address their priorities;</li> <li>is a component of access to justice and also has wider implications (in terms of increasing control over one's life);</li> <li>raises attention to the needs of those most in need, especially children;</li> <li>community-level legal empowerment can inform and influence legal reform at the national level.</li> </ul>

<sup>2</sup> Golub, Stephen. 2003. *Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative*. Carnegie Endowment for International Peace.

<b>Legal tradition</b>	The cultural perspective under which the legal system is created. It provides the philosophy for how the legal system should be organized and how law is created and implemented. Legal traditions are based on historic perceptions about the role of law in society.
<b>Legislature</b>	Refers to an assembly with the power to create, amend and ratify laws. In addition to enacting laws, legislatures are generally charged with adopting the national budget. The legislature is known by various names in different countries, such as: parliament, congress, national assembly and the national people's congress.
<b>Policy</b>	Policies outline the principles, strategies, methods, and other factors necessary to advance the goals of the government on a particular matter.
<b>Legal code</b>	Refers to a single piece of legislation, generally covering an entire subject or area of the law.
<b>Legal framework</b>	A core part of the legal system, referring to 'things on paper' – the broad range of laws, regulations, resolutions, rules, proclamations, orders and other instruments carrying the force of law.
<b>Legal system</b>	A living and constantly evolving entity that develops and enforces rules with the purpose of regulating behaviour. It is generally composed of three parts: i) legal and policy frameworks; ii) law-making and law-enforcing structures; and iii) processes.
<b>Mapping</b>	Systematic collection of information on a specific theme or topic.
<b>Migration</b>	The movement of people from one country or locality to another, typically for purposes of work, education and/or residence.
<b>Multidisciplinary approach</b>	A way of working that includes the views and skills of professionals from a variety of backgrounds when making decisions. Within a multidisciplinary approach, one agency must retain overall responsibility for decisions made.
<b>National database</b>	An information management system for children and families receiving child protective services. The purpose of the database is to ensure that children are not 'lost' within the system and also to assist with monitoring and tracking of trends. This can be set up at different governance levels but should be an important feature of a national child protection agency.
<b>Neglect</b>	(see child neglect)
<b>Optional Protocol*</b>	The term 'protocol' is used for an additional legal instrument that complements and adds to a treaty. A protocol may be on any topic relevant to the original treaty and is used to further address something in the original treaty, address a new or emerging concern or add a procedure for the operation and enforcement of the treaty – such as adding an individual complaints procedure. A protocol is 'optional' because it is not automatically binding on States that have already ratified the original treaty; States must independently ratify or accede to a protocol. The Optional Protocols to the Convention on the Rights of the Child concern the involvement of children in armed conflict and the sale of children, child prostitution and child pornography.
<b>Permanency planning</b>	Making plans that will provide a secure and stable solution for a child, over the long term (that is, until adulthood), preferably within a family. Long-term solutions should be sought for children, not just immediate short-term answers or a quick fix and with the emphasis on providing long-term security and stability.

\* These definitions are adapted from *The Concise Oxford Dictionary of Current English* (8th edition), Clarendon Press, Oxford, 1990 and United Nations Treaty Collection, Treaty Reference Guide, 1999, available at <http://untreaty.un.org/English/guide.asp>.

<b>Physical abuse</b>	(see child physical abuse)
<b>Pornography</b>	(see child pornography)
<b>Prevention services</b>	The activities that are specifically aimed at limiting or removing the conditions and situations that put children at risk of maltreatment before they occur.
<b>Primary interventions (universal)</b>	Within a social welfare system, the activities and programmes targeted at populations in general, often called 'universal prevention.' At this level, services aim at promoting knowledge and skills, strengthening the overall capacity of the community and society at large for caring and keeping children safe and protected. Typical activities include awareness-raising campaigns and information giving.
<b>Proportionality principle</b>	While the sentences imposed on children should promote recovery and reintegration, the proportionality principle requires that the measures used should not be more intrusive than the offence warrants and should not result in punishment more serious than would have been imposed on an adult. In other words, rehabilitation cannot be used as a justification for imposing measures on the child that are not warranted by the nature of the crime.
<b>Prostitution</b>	(see child prostitution)
<b>Psychological abuse</b>	(see child emotional and psychological abuse)
<b>Punishment</b>	Sanction for behaviour that is regarded as inappropriate for children and often associated with physical punishment. (see discipline)
<b>Rapid assessment</b>	A process of data collection using a variety of methods to obtain a quick overview of a population, research topic or a specific situation.
<b>Ratify/ ratification*</b>	'Ratification' is an act by which a State signifies an agreement to be legally bound by the terms of a particular treaty. To ratify a treaty, the State first signs it and then fulfils its own national legislative requirements. Once the appropriate national organ of the country – parliament, senate, the crown, head of state or government, or a combination of these – follows domestic constitutional procedures, it then makes a formal decision to be a party to the treaty. The instrument of ratification, a formal sealed letter referring to the decision and signed by the State's responsible authority, is then prepared and deposited with the United Nations Secretary-General in New York.
<b>Restorative justice</b>	A way of responding to criminal behaviour that emphasizes repairing the harm caused by the crime rather than merely punishing the offender. It is a process in which the victim and the offender and, where appropriate, any other individuals or community members affected by an offence, come together to decide collectively how to resolve the offense, generally with the help of a facilitator. The most common restorative justice processes are: victim/offender mediation, family group conferencing and community justice committees. Restorative justice processes are most commonly used as part of a diversion programme, although they may be incorporated into the formal criminal justice process.
<b>Riyadh Guidelines</b>	Formally known as the UN Guidelines for the Prevention of Juvenile Delinquency (1990), the Riyadh Guidelines represent a comprehensive and proactive approach to prevention and social reintegration, detailing social and economic strategies that involve almost every social area: family, school and community, the media, social policy, legislation and juvenile justice administration. The Riyadh Guidelines also call for the decriminalization of status offences and recommend that prevention programmes should give priority to children who are at risk of being abused, exploited or neglected.

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<b>Secondary interventions (targeted)</b>	Within a social welfare system, the activities and programmes targeted at specific communities or individual families that are identified through assessment and research evidence as being vulnerable to particular issue and problems. Early intervention services target families that are already at risk of engaging in abusive behaviours in order to reduce or remove those circumstances before they create actual harm to children. For example, families might seek help for separation, disputes, alcohol and drugs problems, domestic violence, mental health problems and child care difficulties. Typical activities include family mediation and other family support programmes, specialized outreach services for children who are street based or working and other early intervention programmes.
<b>Sexual abuse</b>	(see child sexual abuse)
<b>Signature*</b>	‘Signature’ of a treaty is an act by which a State provides a preliminary endorsement of the instrument. Signing does not create a binding legal obligation but does demonstrate the State’s intent to examine the treaty domestically and consider ratifying it. While signing does not commit a State to ratification, it does oblige the State to refrain from acts that would defeat or undermine the treaty’s objective and purpose.
<b>Social inquiry reports</b>	Reports that assess the home background and the current and past social circumstances of a child in conflict with the law as well as the need for services and alternative forms of non-custodial care if he or she is convicted. These pre-trial reports are generally prepared by a social worker or probation officer to help the judge determine appropriate sentencing.
<b>Solution-focused and strength-based approaches</b>	Interventions designed to be outcome focused and build upon strengths. These approaches have been found to be particularly successful as part of prevention and treatment programmes, effecting positive change over short timescales. Strength-based approaches aim at maximizing the involvement of children, families and communities, focusing mainly on the strengths they have to overcome the crisis. These approaches aim to make children and families the main actors of change instead of being passive victims or service recipients. This is regarded as the most advanced rights-based approach in social work.
<b>State party*</b>	A ‘State party’ to a treaty is a country that has ratified or acceded to that particular treaty and is therefore legally bound by the provisions in the instrument.
<b>Statutory services</b>	Within a social welfare system, all services that are mandated by law, for example, police, health, education, and usually at least tertiary interventions of social welfare systems for children and families. The term does not typically include NGOs and charities, although they may have a role in protecting children (by reporting concerns and providing services). But the primary responsibility at the tertiary level should be a statutory agency to ensure that cases are investigated, risks assessed, decisions made (including referral to other agencies or recommendations to the court) and that necessary planning and reviews take place.
<b>Street-based children</b>	Generally referring to children who spent the majority of their time unsupervised by adults in city-centre streets and public places.
<b>Subsidiary legislation</b>	Law made by an executive authority under powers given to them by primary legislation (passed through the legislative branch). Subsidiary legislation takes a variety of forms with different purposes. It includes rules, regulations, proclamations, orders, resolutions, by-laws or other instruments made pursuant to an enabling act and with legislative effect.

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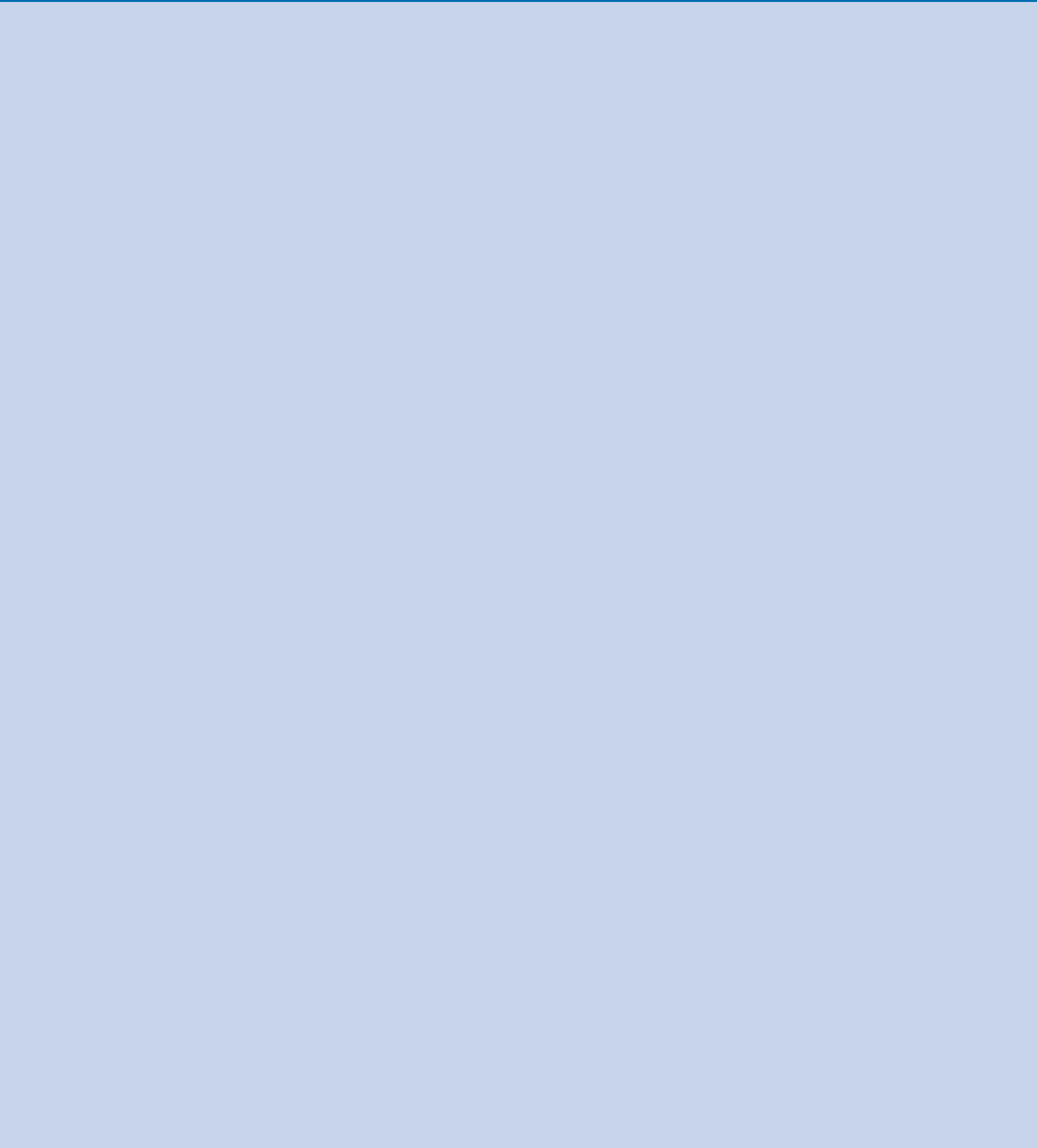
<b>Tertiary interventions (individual)</b>	Within a social welfare system, the specialist services directed at individual children and families when a child is suffering, has suffered or is highly likely to suffer from abuse, exploitation, neglect or violence. Tertiary services include child protective services (also referred to as statutory services), as well as intensive family support services, and alternative care services that could be provided by either State or NGOs.
<b>Tokyo Rules</b>	Formally known as the UN Standard Minimum Rules for Non-Custodial Measures (1990), the Tokyo Rules are intended to promote greater community involvement in the management of criminal justice, especially in the treatment of offenders, as well as to promote among offenders a sense of responsibility towards society. When implementing the Tokyo Rules, governments should ensure a proper balance between the rights of individual offenders, victims and the concern of society for public safety and crime prevention.
<b>Trafficking</b>	(see child trafficking)
<b>Treaty*</b>	A 'treaty' is a formally concluded and ratified agreement between States. The term is used generically to refer to instruments binding at international law, concluded between international entities (States or organizations). Under the Vienna Conventions on the Law of Treaties, a treaty must be: i) a binding instrument, which means that the contracting parties intended to create legal rights and duties; ii) concluded by states or international organizations with treaty-making power; iii) governed by international law; and iv) in writing.
<b>Worst forms of child labour</b>	According to ILO Convention No. 182, the worst forms of child labour are: <ul style="list-style-type: none"> <li>all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;</li> <li>the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;</li> <li>the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;</li> <li>work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.</li> </ul>

\* These definitions are adapted from *The Concise Oxford Dictionary of Current English* (8th edition), Clarendon Press, Oxford, 1990 and United Nations Treaty Collection, Treaty Reference Guide, 1999, available at <http://untreaty.un.org/English/guide.asp>.

## Acronyms

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
COMMIT	Coordinated Mekong Ministerial Initiative Against Trafficking
CRC	Convention on the Rights of the Child
CSEC	commercial sexual exploitation of children
DFID	Department for International Development
EAPRO	East Asia and the Pacific Regional Office
ECOSOC	UN Economic and Social Council
GMS	Greater Mekong Subregion
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRBP	human rights-based programming
IASC	Inter-Agency Standing Committee
ILO	International Labour Organization
IOM	International Organization for Migration
IPEC	International Programme on the Elimination of Child Labour (ILO)
ISPCAN	International Society for Prevention of Child Abuse and Neglect
Lao PDR	Lao People's Democratic Republic
M&E	monitoring and evaluation
MDGs	Millennium Development Goals
MTR	mid-term review
NGO	non-government organization
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
WHO	World Health Organization

## Notes



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