

Access to Justice for Children and Youth in counter-terrorism contexts.

An analytical and practical guide to foster the development and implementation of specialised, child rights-based and accountable justice systems.

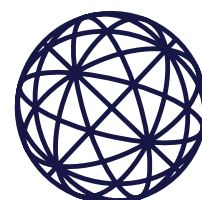
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Table of contents

Introduction	1
Terminology matters: Evolving language and semantic debates	4
Chapter 1. The international environment of Child Justice in counter-terrorism contexts: Analysis of the most recent legal frameworks and standards	8
<i>1.1 Child Justice</i>	9
<i>1.2 Counter-terrorism</i>	13
<i>1.3 International Humanitarian Law</i>	15
<i>1.4 Administrative Measures</i>	16
Chapter 2. The social categorisation of children associated with armed, terrorist and violent extremist groups and their treatment in Child Justice systems	18
Chapter 3. The gender dimension of Child Justice in counter-terrorism contexts	22
Chapter 4. National advancements in counter-terrorism frameworks regarding Child Justice systems	28
Chapter 5. Protection responses in Child Justice systems for children and young people in conflict with the law for terrorism-related offences	35
<i>5.1 Deprivation of liberty</i>	36
<i>5.2 Diversion and alternatives to detention</i>	39
Chapter 6. Reintegration strategies for children and young people in contact and in conflict with the law in counter-terrorism contexts, including tertiary prevention focused on combatting recidivism	42
<i>6.1. Key standards of reintegration within Child Justice systems and applicability to children and young people involved in terrorism-related offences</i>	43
<i>6.2. Rehabilitation approaches for children and young people associated with armed groups, including those designated as terrorist groups: general trends of evidence-based mental health interventions and psychosocial interventions</i>	46
<i>6.3. Innovative approaches: "Desistance from crime" within effective reintegration strategies, including tertiary prevention</i>	50
Chapter 7. Recommendations for action	55
Bibliography	60

Acronyms

A2J	Access to Justice
BIC	Best Interest of the Child
CAAC	Children Affected by Armed Conflict / Children and Armed Conflict
CAAFAG	Children Associated with Armed Forces or Armed Groups
CRC	Convention on the Rights of the Child
CPMS	Minimum Standards for Child Protection in Humanitarian Action
DDR	Disarmament, Demobilisation and Reintegration
FTF	Foreign Terrorist Fighter
GC	General Comment
IASC	Inter-Agency Standing Committee
ICCPR	International Covenant on Civil and Political Rights
ISIS	Islamic State of Iraq and Syria
MARC	Minimum Age of Criminal Responsibility
MHPSS	Mental Health and Psychosocial Interventions
NCM	Non-custodial measures
PTSD	Post Traumatic Stress Disorder
Tdh	Terre des hommes – Lausanne Foundation
UNGSCDL	United Nations Global Study of Children Deprived of Liberty
WFD	Westminster Foundation for Democracy

INTRODUCTION



The past decade has witnessed a progressive broadening of the criminalisation of offences related to terrorism. This is not a new phenomenon but entails contemporary emerging elements which remain incompletely addressed. Indeed, it can be argued that there is a *concerning trend of children and youth¹ involvement in terrorism in a way that has not been seen before*. Its geographical dispersion, affecting children and young people in armed conflict-settings, protracted and/or fragile settings, or in developing and developed countries alike, and hence encompassing children and young people with different backgrounds, opportunities and lives posing unique vulnerabilities and a complex myriad of risks and consequences. These require specialised responses with justice at the forefront, consensus on the approaches to follow and innovative ways to deal appropriately with this new trend.

Counter-terrorism efforts have been rapidly adopted by governments around the world in response to threats of terrorism, passing legislation that negatively and disproportionately impacts children and youth in numerous ways, the more prevalent being: the failure to fully follow internationally recognized Child Justice standards, the erosion of the “*principle of distinction*”² distinguishing combatants and civilians, and the application of exceptional legal powers, for instance in relation to “*foreign fighters*.”³ Children and young people have been tortured, subjected to ill-treatment, and unlawfully and/or arbitrarily detained on national security-related charges for their actual or alleged association with designated terrorist or non-State armed groups.⁴

These issues are critical, because while the phenomenon of terrorism is complex and multifaceted, *the justice system plays a pivotal role with regards to children and young people involved in terrorism:*

either successfully, safely rehabilitating and reintegrating the child/young person or, if this fails, there is a very high likelihood of returning to patterns of violence or criminality.

There are a number of crucial elements in the justice sector that relate to its central role. Actors within the system are normally the first to have contact with children and young people in terrorism-related situations, at a moment when the few remaining inner resources of a child/young person could be lost if subjected to inappropriate behaviour or abuse in the justice apparatus. Due process adapted to their age, development and to the extreme violence situations children and young people could have suffered is a sine qua non for their safe and effective reintegration, which is the ultimate goal of Child Justice, as are ending impunity of perpetrators, preventing secondary victimisation and ensuring accountability mechanisms (including those pertaining to the justice sector itself). The justice system is also instrumental to ensuring that other systems (health, education, child protection, etc.) provide tailored and suitable responses before, during or after a judicial or non-judicial process has taken place.

But perhaps *the most critical points to be addressed are the still-emerging legal and justice gaps and challenges:*

- Clarification of the offences related to terrorism (including its precise definition in domestic and international legal systems) and their corresponding legal pathways, as well as the differentiation from other types of offences related to national security, such as recruitment and exploitation of children in armed conflict situations, etc.;

¹ The Section “Terminology matters: Evolving language and semantic debates” below reflects on the concept of children and the concept of young people, as included in this Guide, adding insightful elements on their age and development stage and the consequences vis-a-vis their involvement on criminal justice proceedings within child justice and counter-terrorism frameworks.

² Distinction is a principle under international humanitarian law governing the legal use of force in an armed conflict, whereby belligerents must distinguish between combatants and civilians.

³ Non-citizens of conflict states who join insurgencies during civil conflict. See “The Radicalisation Awareness Network Declaration of Good Practices for Engagement with Foreign Fighters for Prevention, Outreach, Rehabilitation and Reintegration. Available at <https://www.icct.nl/download/file/RAN-Declaration-Good-Practices-for-Engagement-with-Foreign-Fighters.pdf>.

⁴ WATCHLIST, Countering Terrorism and Violent Extremism: The Erosion of Children’s Rights in Armed Conflict, January 2020. Available at https://watchlist.org/wp-content/uploads/watchlist-policy-note_jan2020_lr.pdf.

- How to strengthen Child Justice frameworks to ensure children and young people facing terrorism-related charges will be provided with adapted and gender responsive justice safeguards;
- How justice should deal in particular with the double status of children and young people involved in terrorism-related offences as victims and perpetrators;
- How to effectively tackle a security threat without victimising children and young people and/or breaching their freedoms, considering also the innovative methods used in some of the offences at stake (e.g. online);
- How to draw up reintegration processes within the justice response for convicted children and young people that are not fragmented, too short, or lacking proper planning, follow-up and community and family context-related analysis.

This Guide provides *practical and detailed analysis* of the up-to-date regulatory and policy frameworks on Child Justice and counter-terrorism at both domestic and international levels, alongside evidence on some of *the most advanced and promising practices in the Middle East region but also globally*, including lessons learnt with a view to foster knowledge and adapted replication when effective.

Following a general discussion of terminological issues and semantic debates, this Guide focuses comprehensively on Child Justice, studying the most *recent legal conceptualisations* around terrorism and related themes, such as trafficking (Chapter 1), the *social categorisation* of the binary victim-perpetrator that can severely impact and hinder judicial pathways of children and young people involved in terrorism-related offences (Chapter 2), in addition to the *gender dimension* of Child Justice in counter-terrorism contexts, which is so far largely unexplored (Chapter 3).

An overview is presented of the national advancements in counter-terrorism with regards to dealing with children and young people (Chapter 4) and the specific *justice responses from deprivation of liberty to non-custodial measures*, diversion

formal judicial proceedings and alternatives to detention (Chapter 5). The Guide proposes a holistic process for the *reintegration* of children and young people affected by terrorism (victims, witnesses, and/or perpetrators), clarifying some misconceptions, and providing specific standards for its operationalisation, including a review of the *mental health and psychosocial interventions* proven to be most successful in the field. Moreover, *innovative approaches*, such as desistance from crime (Chapter 6) are explored and proposed as relevant for justice systems dealing with children and young people engaged in terrorism-related offences. Finally, the Guide ends with *specific recommendations for action* (Chapter 7) directed at key policy-makers and practitioners working on the Rule of Law and Justice Systems aiming at supporting their efforts in the development and implementation of grounded, protective and specialised justice constituencies for children and young people affected by terrorism in their multiple forms, that safeguard the rights and freedoms of children and young people and facilitate an effective way for them to assume a constructive role in society.

Commissioned by Westminster Foundation for Democracy, this Guide has been developed in technical partnership with Terre des hommes Foundation – Lausanne and reviewed by several internal and external experts in the specific field of practice.

Terre des hommes Foundation - Lausanne is a leading reference in access to justice (A2J) for children and youth, operating a specialised justice programme in 46 countries around the world. Tdh's A2J Programme combines axes on operations, advocacy, action-research, and quality and accountability, with a view to creating lasting and meaningful change in the lives of all children and young people in conflict and in contact with the law, by having their rights upheld in judicial and non-judicial proceedings. Tdh has developed a specialised justice approach to operate and support stakeholders, children, young people and their families in counter-terrorism contexts around the world.

Westminster Foundation for Democracy (WFD) is the United Kingdom (UK) public body dedicating to supporting democracy around the world. Operating directly in 40 countries, WFD works with parliaments, political parties and civil society groups towards building more inclusive, accountable, transparent and fairer systems, including the justice sector.

Terminology matters: *Evolving language and semantic debates*

Child Justice and counter-terrorism both touch upon challenging and sensitive political issues. While there is, in general, little incorporation of Child Justice principles in counter-terrorism legislation and practice, this varies given the inextricable links the two fields have with the governmental, social and economic situations of countries pursuing measures pertaining to children and young people involved in terrorism-related offences.

Hence, in order to lay the groundwork for the analysis and recommendations provided in this Guide, a discussion of the semantic debate on several conceptual elements is necessary.

- Both the terms “*child*” and “*young person*” are used in this Guide. Hence, the age range is extended to 24, while specific considerations for children below 18 years old are made where necessary, as well as annotations concerning the different age ranges that States may use for the two terms, which in some instances overlap.

It is important to remark several points here:

- At the international level, the United Nations Convention on the Rights of the Child (CRC) sets the age of 18 years old for children. The national child regulatory frameworks in most cases follow this age marker. There is no internationally agreed upon definition of youth. The United Nations, for statistical purposes and based on psychological and behavioral characteristics, defines youth, as persons between the ages of 15 and 24 years, without prejudice to other definitions by Member States.⁵

- Children who are below the minimum age of criminal responsibility (MARC) at the time of the commission of an offence cannot be held responsible in criminal law proceedings. Documented evidence in the fields of child development and neuroscience indicates that maturity and the capacity for abstract reasoning is still evolving in children aged 12 to 13 years due to the fact that their frontal cortex is still developing. During this period, rapid brain development affects risk-taking, certain kinds of decision-making and the ability to control impulses. Therefore, they are unlikely to understand the impact of their actions or to comprehend criminal proceedings. The CRC Committee recommends raising the MARC to at least 14 years of age, and ideally to 15 or 16 years old.⁶ Despite this, the Committee has again pointed out in their comment published in 2019 that some States retain an unacceptably low minimum age of criminal responsibility (*country examples in the list accessible in the footnote*⁷).

- Policy documents in the area of prevention of violent extremism and counter-terrorism often deal with “youth”. The existing statistics on counter-terrorism tell about an average age between 15-24 years old⁸, while there is existing evidence than minors below the age of 15 are also recruited, exploited and involved in terrorist-related offences.⁹

⁵ UNITED NATIONS, Definition of Youth - Fact Sheets, Available at <https://www.un.org/esa/socdev/documents/youth-fact-sheets/youth-definition.pdf>

⁶ COMMITTEE ON THE RIGHTS OF THE CHILD, “General Comment No.24 – Child’s Rights in Child Justice Systems,” CRC/C/GC/24, 18 September 2019. Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/GC/24&Lang=en

⁷ CHILD RIGHTS INTERNATIONAL NETWORK - CRIN, Minimum ages of criminal responsibility around the world, Available at <https://archive.crin.org/en/home/ages.html>

⁸ THE NORTH ATLANTIC TREATY ORGANIZATION - NATO, “Understanding and responding to terrorism,” 2007, Security through Social Science, Human and Societal Dynamics. Vol 19.

⁹ UNODC, “Handbook on Children Recruited and Exploited by Terrorist and Violent Extremist Groups”, 2017. Available at https://www.unodc.org/documents/justice-and-prison-reform/Child-Victims/Handbook_on_Children_Recruited_and_Exploited_by_Terrorist_and_Violent_Extremist_Groups_the_Role_of_the_Justice_System.E.pdf.

For all of the above-mentioned elements, this Guide refers to children and youth, stating the required differences when needed.

■ There is no universally accepted definition of “*terrorism*.” It is therefore a contested term involving a range of conceptual elements to be found in international instruments, national counter-terrorism laws, government statements and academic publications.¹⁰

- Internationally, the most complete guidance defining “terrorism” is the definition provided in Security Council Resolution 1566 (2004) and supported by the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism.¹¹

According to this definition, “terrorism” refers to an act or attempted act where:

1. The act: (a) constitutes the intentional taking of hostages; or (b) is intended to cause death or serious bodily injury to one or more members of the general population or segments of it; or (c) involves lethal or serious physical violence against one or more members of the general population or segments of it; and
2. The act is committed or attempted with the purpose of: (a) provoking a state of terror in the general public or a segment of it; or (b) compelling a Government or international organisation to do or abstain from any act; and
3. The act corresponds to: (a) the definition of a serious offence in national law passed for the purpose of complying with international conventions and protocols, including resolutions of the Security Council, relating to terrorism; or (b) all

elements of a serious crime defined by national law.

- According to the “Academic Consensus Definition,” the term “terrorism” refers to: “on the one hand a doctrine about the presumed effectiveness of a special form or tactic of fear-generating, coercive political violence and, on the other hand, a conspiratorial practice of calculated, demonstrative, direct violent action without legal or moral restraints, targeting mainly civilians and noncombatants, performed for its propagandistic and psychological effects on various audiences and conflict parties.”¹²

This definition was constructed in an attempt to provide a conceptualisation broad enough to capture a range of potential types of terrorism, including (non-exhaustively): regime terrorism, vigilante terrorism, insurgent terrorism, left-wing terrorism, right-wing terrorism, ethno-nationalist terrorism, religiously motivated terrorism, ‘lone-wolf’ terrorism, single-issue terrorism, as well as cyber-terrorism.

Based on the aforementioned definitions, terrorism-related offences would include: conspiracy, solicitation, and acts in preparation for an act of terrorism, such as facilitating the commission of a terrorist offence, credit card fraud to fund travel to an area of conflict for terrorist purposes, or support of a terrorist group; attempts to commit and aid or abet terrorist acts; and terrorist financing.¹³

The 9/11 attacks in the United States in 2001 were without doubt a key turning point prompting a wave of national legislative measures. States have typically approached the subject of terrorism by defining and prohibiting specific actions. This approach, rooted in the absence of a universal definition of terrorism for legal purposes in international law, has

¹⁰ L. WEINBERG, ET AL., “The Challenges of Conceptualizing Terrorism,” *Terrorism and Political Violence* Vol. 16, No.4, 2004, See also C. BERRIEW Q.C., “The Definition of Terrorism,” March 2007. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228856/7052.pdf.

¹¹ HRC, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, M. Scheinin: Ten areas of best practices in countering terrorism,” A/HRC/16/51, 22 December 2010. Available at <https://undocs.org/A/HRC/16/51>.

¹² A. SCHMID, “Radicalisation, De-Radicalisation, Counter-Radicalisation: A Conceptual Discussion and Literature Review,” ICCT Research Paper, March 2013. Available at <https://www.icct.nl/download/file/ICCT-Schmid-Radicalisation-De-Radicalisation-Counter-Radicalisation-March-2013.pdf>, p.16.

¹³ GCTF, Rabat Memorandum on Good Practices for Effective Counterterrorism Practice in the Criminal Justice Sector, 2012. Available at <https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/2016%20and%20before/GCTF-Rabat-Memorandum-ENG.pdf?ver=2016-09-01-115828-653>.

facilitated the politicisation and misuse of the term to curb non-terrorist (or sometimes even non-criminal) activities. This, in turn, has the potential to result in States violating internationally recognised human rights in the course of their counter-terrorism efforts, based on the prerogative of “exceptional legal powers” enshrined in terrorism legislation. For instance, while several States have established Juvenile Justice/Child Justice systems, counter-terrorism laws and policies have created ambiguity and gaps in terms of the treatment of children and young people who are accused of and/or victims of terrorism-related offences.

Where States have attempted an “incorporation approach,” integrating international legislation, the result has been definitional confusion. This is because several international instruments approach the term differently (international human rights law, international humanitarian law, specific conventions such as those regulating trafficking, etc.), and none provide elements sufficiently specific to form the basis for formulating criminal charges and operational judicial pathways.

Moreover, different definitions of “terrorism” have been issued by various judicial bodies as well as within military justice systems, governed by military rules.

Finally, a remark on “*terrorist groups*”: The term in this Guide encompasses at least the entities designated by the UN Security Council, while acknowledging other groups that commit acts proscribed by universal counter-terrorism conventions and protocols, as well as groups designated as such at regional or national levels.

■ Given that “*terrorism*” is a contested concept, by implication, there are as many definitions of “counter-terrorism” as there are of terrorism. For the purpose of the Guide, a broad concept in line with the UN’s Global Counter-Terrorism Strategy will be followed. This Strategy does not define the term, but

rather includes a wide array of practical measures (widely understood as practices, tactics, techniques, actions that are preventative and responsive) structured along the following four pillars: (i) measures to address the conditions conducive to the spread of terrorism; (ii) measures to prevent and combat terrorism; (iii) measures to build States’ capacity to prevent and combat terrorism; (iv) measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism.¹⁴

■ Another important semantic debate concerns the terms “radicalisation” and “extremism” in relation to terrorism, and how their use impacts criminal justice, and more specifically Child Justice.

For the purpose of this Guide, the terms “violent radicalisation” and “violent extremism” will be used in order to be able to distinguish radicalisation (the process of developing extremist ideologist and beliefs) from action pathways (the process of engaging in violent extremist behaviours). This approach supports the idea that radical and extreme thinking can manifest as positive forces, including during adolescence.

This is also in line with the UN’s Global Counter-Terrorism Strategy, which highlights the importance of the careful use of terminology. Accordingly, the terms in this Guide “*violent radicalisation*” and/or “*violent extremism*” should always be regarded as referring to “*when conducive to terrorism*.”

■ There has been an important and recent evolution in the terminology concerning justice systems for children and young people. The GC 24/2019 on Children’s Rights in the Child Justice Systems issued by the Committee on the Convention on the Rights of the Child strongly encourages States and practitioners alike to shift in the understanding of some key concepts by applying contemporary considerations based on the latest knowledge on child and adolescent development, evidence-based practices and non-stigmatising terminology.

¹⁴ UNGA, “The United Nations Global Counter-Terrorism Strategy,” A/RES/60/288, 20 September 2006. Available at <https://undocs.org/A/RES/60/288>.

To that end, it recommends a terminological shift from “Juvenile Justice” to “*Child Justice*,” from “juveniles in conflict and in contact with the law,” to “children in conflict and in contact with the law,” as well as extending the definition of this specific sector of justice to children and young people often seen as not having the right to access specialised justice, such as those recruited and exploited by non-State armed groups (including those designated as terrorist groups) and children in customary, indigenous or other non-State justice systems.

This Guide aligns with these recommendations, although it may refer to Juvenile Justice when capturing specific elements in national instruments that are yet to shift their terminology.

■ Given the broadened scope of terrorism-related criminalisation, this Guide encompasses different **counter-terrorism contexts** in which children and young people may be severely impacted and which should fall within the sphere of Child Justice.

- Children and young people recruited and/or exploited to directly or indirectly participate in armed domestic or international conflicts (the so-called “child soldiers” or “CAAC” including “foreign terrorist fighters.”)

Depending on the specific context, recruitment and exploitation may be carried out by State (particularly in military legal systems) and non-State armed forces or groups.

Should child soldiers face criminal proceedings?

A fundamental question concerns whether child soldiers and CAAC should be tried for war crimes and other acts. The Sierra Leone Special Court ruled that no soldier who was under 18 years of age at the time of the commission of the offence should face criminal proceedings. The Sierra Leone situation helped draw international attention to the issue. The United Nations Commission

on Human Rights Resolution 2002/47, “Human rights in the Administration of Justice, in particular Juvenile Justice,” calls for the rebuilding and strengthening of the administration of justice (including “Juvenile Justice”), with special attention to post-conflict situations, so that children under 18 years old can be better protected.

- Children and young people who surrender, are demobilised or captured during an armed domestic or international conflict.

- Children and young people caught up in terrorism-related offences, including those facing judicial proceedings on national security grounds.

■ It is crucial to use child and youth protection-related terminology that is as neutral as possible, particularly when addressing such sensitive themes as terrorism, violent radicalisation and/or violent extremism. This is even more relevant when dealing with the justice sector because appropriate safeguards in this regard are a precondition to ensuring effective Child Justice for children and young people affected by terrorism as perpetrators, witnesses and/or victims and, hence, essential to ensuring their safe reintegration into society.

The Minimum Standards Child Protection and terminology

In the Minimum Standards for Child Protection in Humanitarian Action (CPMS) updated version of 2019, Standard 11 refers to Children Associated with Armed Forces or Armed Groups (CAAFAG).¹⁵ It stresses the importance of using neutral terminology, as do other standards, and emphasises that publicly identifying children and young people may increase stigma or place them at higher risk.

¹⁵ The Alliance for Child Protection in Humanitarian Action, “Child Protection Minimum Standards in Humanitarian Action,” updated in 2019. Available at <https://emergency.unhcr.org/entry/80339/minimum-standards-for-child-protection-in-humanitarian-action>.

CHAPTER 1.

The international environment of Child Justice in counter-terrorism contexts: Analysis of the most recent legal frameworks and standards



The international legal framework guarantees children broad protection from serious forms of violence, including recruitment and exploitation by terrorist and violent extremist groups. There is a wide range of largely unconnected legal instruments and standards available in relation to justice and children/youth who are perpetrators and/or victims in terrorism-related crimes, which can be divided into three broad spheres: (i) child rights and Child Justice, recently updated in 2019, (ii) counter-terrorism legislation, often rapidly enacted and without specific protections for children, and (iii) international humanitarian law in relation to armed domestic and international conflicts, where some standards have been developed to specifically cover the situations in which children and young people find themselves in the crossfire.

However, in addition to the above, from a legal standpoint, administrative detention as a widely used mechanism for national security cases as well as the legal common elements with the crime of trafficking are to be highlighted.

This section will briefly analyse the most relevant and recent legal frameworks and standards that have established bridges between Child Justice and counter-terrorism and/or can serve for enlarging them further with regards to justice for children and young people within counter-terrorism frameworks. It also touches upon some critical legal points and proposes guidance to address them.

1.1 Child Justice

■ The key human rights treaty-based standards for children in conflict and in contact with the law are set out in the *UN Convention on the Rights of the Child (CRC)* which has been in existence for over a quarter of a century and is legally binding upon its State parties. It has been ratified by all States apart from the United States of America. Articles 37 to 40 of the CRC encompass the main regulations applicable to children facing justice proceedings:

- Torture or other cruel, inhuman or degrading treatment or punishment, capital punishment and life imprisonment are strictly forbidden. Deprivation of liberty should be a measure of last resort and for the shortest time possible. (Article 37)

- States undertake to ensure respect for rules of international humanitarian law applicable to them in armed conflicts that are relevant to the child. (Article 38)

Optional Protocol to CRC expands regulation on CAAC

In 2002 the Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict¹⁶ entered into force, increasing the regulation in this area. (See Section 1.3 International Humanitarian Law)

- Reintegration is central to any justice process for child victims, where appropriate measures are taken to promote their physical and psychological recovery in an environment which fosters the health, self-respect and dignity of the child. (Article 39)

- The overarching principle of the CRC regarding children in conflict and in contact with the law is that they must be “treated in a manner consistent with the promotion of the child’s sense of dignity and worth [...] which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society.” The international standards are clear that justice systems for children should promote the well-being of the child and react proportionately to the nature of the offence taking into account the individual characteristics of the child. Justice and welfare systems should aim to prevent crime, take decisions which are in a child’s best interests, treat children fairly and in a manner which is

¹⁶ OHCHR, “Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict,” 2002. Available at <https://www.ohchr.org/en/professionalinterest/pages/opaccrc.aspx>.

appropriate to their development, address the root causes of offending and rehabilitate and reintegrate children so they can play a constructive role in society in the future. (Article 40)

The access to justice fundamental rights granted to all children are the following:

- **Right to be informed**, that shall be strictly applied in all judicial stages, including the provision of language-appropriate information about outcomes, appeals and complaint mechanisms, and support services for children, youth and their families.
- **Right to be heard directly and to express views at all stages of the proceedings** meaning that a child should not be precluded from being heard solely based on their age. Duly reasoned judgments and court rulings are to be provided, particularly if the child's views have not been followed.
- **Right to free assistance of an interpreter** in order to make sure that the child/young person has understood all the information required to fully exercise their rights.
- **Right to access free professional legal advice and representation**, from legal professionals that are specialised.
- **Right to protection of private and family life**, following strict rules of confidentiality, including legal protection of personal data.
- **Right to a speedy judicial process**, linked with protections for children and young people and the application of their best interest. Time has a different significance for children and young people as at this stage crucial decisions must be taken about their lives. For this, there exist exceptional competencies granted to judges: provisional decisions, preliminary judgments and immediate enforceable decisions.

The range of rights granted to children and young people highlighted above should be complemented by those enshrined in the International Covenant on Civil and Political Rights (ICCPR).

The CRC adds key principles to be followed when applying justice to children and young people:

Principle 1: Best interest of the child (BIC) entails a legal obligation for justice operators to consider the elements of "maximum efficiency" (maximum number of child rights) and of "minimum restriction" (children's rights that are being limited or restricted based on the BIC are the minimum possible). The BIC shall be used as an interpretative, yet binding, guide to reconcile conflicting rights. It shall entail individualised child assessments.

Principle 2: Meaningful participation of children, comprises the right to information and the right to be heard and express opinions (linked with the access to justice fundamental rights highlighted above). Hence, appropriate ways to exercise these rights effectively should be put in place, centralising respect for their views and opinions.

Principle 3: Dignity and dignified treatment, which comprises care, sensitivity, fairness and respect. All children have equal rights, regardless of the offence committed.

Principle 4: Non-discrimination, which requires ensuring equal and dignified treatment of all children when accessing justice.

Principle 5: Specialisation, involving inter- and multi-disciplinarily approaches and knowledgeable professionals, including a comprehensive understanding of child and youth development. Specialisation is a cornerstone of Child Justice.

■ The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, supplementing the United Nations Convention against Transnational Organised Crime links the exploitation of children directly to their recruitment. The Special Rapporteur on Trafficking in Persons, especially Women and Children, has stated that trafficking is a key feature of armed conflict, both directly and indirectly.¹⁷ When committed against adults, the legal definition of trafficking requires the “means” element — the threat or use of: force or other form of coercion, abduction, fraud, deception, the abuse of power or of a position of vulnerability, the giving or receiving of payments or benefits to achieve the consent of the person having control over another person. While these are the means usually employed by armed and terrorist groups to bring children under their control, the “means” element is not relevant in the case of children where the question of their consent is irrelevant in any judicial process.¹⁸

Security Council Resolution 2331 (2016) highlighted the close legal relationship between trafficking in persons, child recruitment by armed forces and child exploitation by terrorist groups in terms of there being several legal offences with elements in common. The resolution affirmed that victims of trafficking in persons in all its forms, and of sexual violence, committed by terrorist groups should be classified as victims of terrorism, with the purpose of rendering them eligible for official support, recognition and redress available to victims of terrorism. Providing them with access to national relief and reparation programmes should contribute to shifting the sociocultural stigma attached to this category of crime and facilitate rehabilitation and reintegration efforts. Thus, the Security Council extended the

benefits provided to victims of terrorism to victims of trafficking and sexual violence committed by terrorist groups.

An important element of the victim protection framework is the non-punishment of victims of trafficking for offences they have committed as a result of their trafficking. This would be a good practice to be applied to children and youth accused of terrorism-related offences, following the standard to be primarily treated as victims and not only as perpetrators. Reintegration programmes for victims of terrorism (and/or of trafficking) might consider this dimension, carefully considering the importance of individual and collective accountability in the process of rehabilitation and reintegration.

Uganda’s amnesty law and the peace/justice dilemma¹⁹

Between 1986 and 2006, the Lord Resistance Army (LRA) kidnapped tens of thousands of boys and girls, to be used as combatants and sex slaves. To weaken the LRA, the Ugandan government adopted a general amnesty law in 2000, which stated that “An amnesty is declared in respect of any Ugandan who at any time since the 26th day of January, 1986, engaged in or was engaging in war or armed rebellion against the Government of the Republic of Uganda by: actual participation in combat; collaborating with the perpetrators of the war or armed rebellion; committing any other crime in the furtherance of the war or armed rebellion; or assisting or aiding the conduct or prosecution of the war or armed rebellion [and who renounces and abandons war].” This was linked to a Disarmament, Demobilisation and Reintegration (DDR) process for combatants, limiting the rights of the victims to

¹⁷ HRC, “Report of the Special Rapporteur on trafficking in persons, especially women and children, Maria Grazia Giammarinaro,” A/HRC/29/38, 31 March 2015. Available at <https://undocs.org/A/HRC/29/38>, para. 25.

¹⁸ UNODC, “Handbook on Children Recruited and Exploited by Terrorist and Violent Extremist Groups”, 2017. Available at https://www.unodc.org/documents/justice-and-prison-reform/Child-Victims/Handbook_on_Children_Recruited_and_Exploited_by_Terrorist_and_Violent_Extremist_Groups_the_Role_of_the_Justice_System.E.pdf, p. 28.

¹⁹ P. HAZAN, “Uganda’s amnesty law and the peace/justice dilemma,” 10 July 2017.

Available at <https://www.justiceinfo.net/en/tribunals/national-tribunals/33820-uganda-s-amnesty-law-and-the-peace-justice-dilemma.html>.

truth and reparation, which contributed to tensions within communities where these groups cohabited. Girls forced into LRA marriages, were excluded from the benefits, such as access to a small sum for reintegration, whilst perpetrators, including adults, were able to access these benefits. This case highlights the importance of addressing victims in parallel with perpetrators, within the practice of Child Justice, in order to achieve sustainable cohesive solutions for children in counter-terrorism contexts.

- **CRC GC 24/2019**²⁰ is the first child rights specific international instrument that asserts the need to apply Child Justice Standards to children and young people engaged in terrorism-related offences.

It incorporates as “specific issues” of Child Justice the following points related to counter-terrorism contexts:

- **Military Courts and State Security Courts** — Given the emerging evidence that these systems usually contravene the non-derogable right to a fair trial by a competent, independent and impartial court, as well as breach the rights of children and young people, no child or young person should be tried by these types of judicial bodies, regardless of the seriousness of the offence committed (including terrorism-related acts).
- **Children recruited and used by non-State armed groups, including those designated as terrorist groups, and children charged in counter-terrorism contexts** — The GC explicitly states that Child Justice should be applied in these cases in conflict areas but also in non-conflict areas, including children’s countries of origin and countries of transit or return.

It acknowledges that a punitive approach is generally applied and calls for a shift away from such an approach, including facilitating the application of non-judicial measures as alternatives to prosecution and detention (See Chapter 5). States shall refrain from charging and prosecuting children and young people for expressions of opinion or for mere association with a non-State armed group, including those designated as terrorist groups.

For those recruited and exploited in violation of international law, in all cases, they should be “treated primarily as victims of violations of international law” and there is an urgent need to establish Standard Operating Procedures (SOPs) for the rapid handover of children associated or allegedly associated with non-State armed groups (including those who committed acts of terrorism) to relevant civilian child protection actors.

More generally, the GC 24/2019 emphasises the need to strengthen in Child Justice in the areas of diversion away from formal judicial proceedings, prioritisation of the cases at pre-trial stage and the relevance of applying a systemic approach to prevention (primary, secondary and tertiary) that is embedded in family and community-based programs, as well as within the justice sector. This applies directly to children and young people engaged in terrorism-related offences.

- **The United Nations Global Study on Children Deprived of Liberty**²¹ released in the summer of 2019, gathered the voices of many children and young people in custody with whom Tdh works. It stresses the importance of different practices in non-custodial solutions in relation to concrete situations, among them detention in the context of armed conflict and detention on national security grounds.

²⁰ The CRC Committee, composed of high level experts, elaborates its General Comments (GC) with a view to clarifying the normative contents of specific rights provided for under the Convention on the Rights of the Child (CRC) or particular themes of relevance to the Convention, as well as offer guidance about practical measures of implementation. GCs provide interpretation and analysis of specific articles of the CRC or deal with thematic issues related to the rights of the child. General Comments constitute an authoritative interpretation as to what is expected of State parties as they implement the obligations contained in the CRC.

²¹ UNGA, “Global study on children deprived of liberty,” A/74/136, 11 July 2019. Available at <https://undocs.org/en/A/74/136>.

- With regards to **detention in the context of armed conflict**: data collected for the Global Study indicate that a minimum of 35,000 children are deprived of liberty in the context of armed conflict. Since its inception in 2009, more than 41,000 foreign citizens joined ISIS in Iraq and Syria, including 4,640 children. Upwards of 7,400 have returned home or are in the process of returning. This estimate includes 1,180 children, leaving 75 percent of the total foreign contingent unaccounted for, in addition to the 730 infants born to foreign parents.²² This is likely to be a gross underestimation, as it does not include the tens of thousands of Iraqi and Syrian children who fell under the group's control, 29,000 of which were being held in detention in camps in Iraq and the north-east of the Syrian Arab Republic as at 2019, indicated by the UNGSDCL. Moreover, while ISIS has been at the forefront of the media's attention, there are many other groups that exploit children in pursuit of their goals (Boko Haram in Nigeria, Al-Shabaab in Kenya and Somalia, the Movement for Unity and Jihad in West Africa, and the Abu Sayyaf Group in the Philippines). In conflicts involving non-State armed groups designated as terrorist, States are more likely to detain children than to provide rehabilitation services as part of reintegration programmes, despite their obligations as per ratified international instruments. The Global Study reinforces the importance of complying with explicit protocols mandating the handover of children associated with armed forces or groups to civilian child protection actors, as well as the requirement to make available specific and tailored mental health and psychosocial support services, given the trauma and extreme violence to which they have been subjected in the majority of cases (See Chapter 6).

- Given the growing number of children and youth **detained on national security** grounds, the Global Study highlights this particular context of deprivation of liberty, which is closely linked with the new wave of counter-terrorism legislation at the national level, (although the Global Study data includes only those detained on national security grounds not terrorism-related offences): Child Justice safeguards are barely applied or considered within regulations and policies, long periods of detention without trial are common and ill-treatment and torture have been reported in a large number of cases. When convicted (including by military trials), life imprisonment has been applied. Diversion away from formal judicial proceedings and non-custodial measures are often unavailable.

- The 2019 updated version of *the Minimum Standards for Child Protection in Humanitarian Action (CPMS)* contains two relevant standards: Standards 11: Children Associated with Armed Forces or Armed Groups (CAAFAG) and Standard 20: Justice for Children. Justice-related treatment, including minimising the use of detention is highlighted as a priority to be addressed, including with regards to terrorism-related offences.

1.2 Counter-terrorism

While there are a range of UN instruments pertaining to terrorism and counter-terrorism,²³ none of them has specifically addressed the question of a specialised Child Justice approach to be organised institutionally and be provided to children and young people involved in terrorism-related offences. Although a joint understanding and application of the several existing international instruments can be applied, its sectorisation and the rush to enact counter-terrorism legislation has often forgotten this aspect, leading to serious violations of the rights of children and young people in the justice sector.

²² J Cook and G Vale, 'From Daesh to 'Disaspora': Tracing the Women and Minors of the Islamic State', International Centre for the Study of Radicalization 2018, 3.

²³ UNOCT, "International Legal Instruments," (UN Office of Counter-Terrorism). Available at <https://www.un.org/counterterrorism/international-legal-instruments>.

Some recent international instruments address, to some extent, the issue of children and young people engaged in terrorist offences and how the justice sector should interact with them, but fail to do so in a comprehensive way.

■ ***The UN Global Counter-Terrorism Strategy***, which was most recently reviewed in 2018²⁴ (Sixth Review), condemns the systematic recruitment and use of children to perpetrate terrorist attacks, as well as the violations and abuses committed by terrorist groups against children, including killing and maiming, abduction and rape and other forms of sexual violence, noting that such violations and abuses may amount to war crimes or crimes against humanity. It also emphasises the importance of the development and maintenance of effective, fair, humane, transparent and accountable criminal justice systems that take into account the rights and needs of children. It refers to the importance of embracing the CRC precepts when dealing with children specifically those accused of or recognised as having infringed the law, given their “potential status as victims.” It highlights the urgent need of States to effectively reintegrate children formerly associated with armed groups, including terrorist groups.

■ The ***2018 Addendum to the 2015 Madrid Guiding Principles***, a practical tool for Member States to stem the flow of foreign terrorist fighters (FTF), acknowledges that children associated with FTFs returning and relocating from conflict may require special focus and assistance, as they may have served in many different roles, including as supporters, facilitators, or perpetrators of terrorists acts, and may be victims of terrorism. States should pay particular attention to ensuring that their national legislation respects international law with regards to children, where the principle of their best interest should be of primary consideration.

At a regional level, no instrument has been compiled that comprehensively addresses or provides guidance on how States can address specialised Child Justice for children and young people involved in terrorism-related offences. It was not until 2017 that the EU Directive on Combatting Terrorism (2017/541) was approved. However, it does not align with Child Justice, only mandating judges to take into account the child status of the defendant if they consider it appropriate to do so.

Guidance on good practices for Juvenile Justice in a counter-terrorism context

The Neuchâtel Memorandum on Good Practices for Juvenile Justice in a Counter-terrorism Context (2015)²⁵ from the Global Counterterrorism Forum (GCTF) contains brief guidance for governments and justice professionals in the development of policies, programmes and approaches in terrorism cases involving children:

- Address children alleged to be involved in terrorism-related activities in accordance with international law and in line with international Juvenile Justice standards.
- Assess and address the situation of children in a terrorism-related context from a child rights and child development perspective.
- Address children’s vulnerability to recruitment and/or radicalisation to violence through preventative measures.
- Develop targeted prevention strategies with a strong focus on the creation of networks to support children at risk.
- Address children prosecuted for terrorism-related offences primarily through the Juvenile Justice system.
- Apply the appropriate international Juvenile Justice standards to terrorism cases involving children even in cases that are tried in adult courts.

²⁴ The next Review will take place in June/July 2020.

²⁵ GCTF, Neuchâtel Memorandum on Good Practices for Juvenile Justice in a Counterterrorism Context, 2015. Available at <https://theijj.org/wp-content/uploads/English-Neucha--tel-Memorandum-on-Juvenile-Justice.pdf>.

- Consider and design mechanisms for diversion away from formal judicial proceedings for children charged with terrorism-related offences.
- Consider, and apply where appropriate, alternatives to arrest, detention, and imprisonment, including during the pre-trial stage and always give preference to the least restrictive means to achieve the aim of the judicial process.
- Apply the principle of individualisation and proportionality in sentencing.
- Hold children deprived of their liberty in appropriate facilities; support, protect and prepare them for reintegration.
- Develop rehabilitation and reintegration programmes for children involved in terrorism-related activities to aid their successful return to society.
- Design and implement specialised programmes for terrorism cases to enhance the capacity of all professionals involved in the Juvenile Justice system.
- Design and implement monitoring and evaluation programmes to ensure the effective implementation of international Juvenile Justice standards.

While the recommendations are valuable and direct, they do not contain detailed guidance or technical support to enable governments to effectively put them into practice through regulations and law enforcement mechanisms.

1.3 International Humanitarian Law

Many children who are victims, witnesses and/or are suspected/accused of terrorism-related offences are living in areas in which armed conflicts are taking or

have taken place. CRC rights are non-derogable and therefore provisions relating to Child Justice continue to apply during and after an armed conflict.

They apply complementarily to relevant International humanitarian law provisions and standards pertaining to children and youth recruited and exploited by armed groups to take part directly or indirectly in hostilities, including in support roles.

The four Geneva Conventions (1949) and the two Additional Protocols (1977) encompass the main legal framework of international humanitarian law. Both the CRC and the two first Additional Protocols to the Geneva Conventions prohibit the recruitment of children under the age of 15 in armed conflict, either as part of State forces or non-State armed groups, while the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict provides that armed groups should not, under any circumstances, recruit or use in hostilities persons under the age of 18. In spite of the prohibition on the recruitment and use of children by armed forces and groups, thousands of children are currently involved in armed conflicts around the world.²⁶ When these children surrender or are captured, they face criminal charges, including terrorism-related charges, or are placed in administrative detention (See Section 1.4 Administrative Measures) by the State without any Child Justice safeguarding, despite the fact that many are below the minimum age of recruitment or even below the age of criminal responsibility as regulated by the State in question.

It is worth noting that legal and judicial protections for children and young people under international humanitarian law differ depending on whether the armed conflict is an international armed conflict or a non-international/domestic one. There is not an established minimum age for the prosecution of children and young people recruited and/or exploited in either case, although the minimum age for recruitment is usually the age that serves as a reference in judicial proceedings.

²⁶ Coalition to Stop the Use of Child Soldiers.

The Paris Principles - A soft law instrument

A key “soft law” instrument is the Paris Principles and Guidelines on Children Associated with Armed Forces and Armed Groups,²⁷ approved in 2007, which specifically provides that: (i) children accused of crimes under international law allegedly committed while they were associated with armed forces or armed groups should be considered primarily as victims of offences against international law; not only as perpetrators; (ii) their treatment should at all times be in accordance with international law in a framework of restorative justice and social reintegration, applying the special protection they have been granted; (iii) including wherever possible, fostering the application of alternatives to judicial proceedings, in line with the CRC and the Child Justice standards. (See Chapter 5).

The criminalisation of the recruitment of children by armed groups

Recruitment of children by any non-State criminal or armed group should be prohibited and prosecuted, whether the group is designated as a terrorist group or not. It is crucial that domestic regulations criminalise child and youth recruitment, as a necessary step to ensure accountability of perpetrators, and as a way to activate the victim-centred approaches. Specific forms of criminalisation will depend on the domestic legal framework. While in certain cases recruitment of children will constitute the offence, in others it may be considered an aggravating circumstance to the existing offence of recruitment. In any case, what is essential is that domestic regulatory frameworks follow the guidance offered by

international instruments, including those pertaining to Child Justice in particular.

The *Belgian Criminal Code* (Article 140) has criminalised recruitment of individuals to commit terrorist offences. It specifies that the criminal sentence is increased when children are the target of recruitment. The recruitment of children is taken very seriously by the Courts when examining the cases of those on recruitment charges. It is also taken into account when children recruited are prosecuted.

1.4 Administrative measures

While threats to national security, particularly terrorism-related activities, are generally regarded as matters to be dealt with under the State’s criminal justice laws, some States have chosen to use administrative detention rather than the judicial system, citing the “*unprecedented nature of the contemporary terrorist threat*” to justify their departure from previously accepted legal norms,²⁸ exercising exceptional self-granted powers that rarely or never consider Child Justice safeguards. This is where the narrative of security interacts dangerously with the legal limits that counter-terrorism measures should observe, including adherence to child and youth rights when accessing justice. The International Commission of Jurists has also noted a further expansion of States’ recourse to emergency legislation diluting the right of habeas corpus or amparo, among others, and limiting the fundamental rights of children and young people detained in the context of the war against terrorism.²⁹ The United Nations Security Council, among other bodies, has declared that States must ensure that any measures taken to combat terrorism must comply with their obligations under international law, international human rights, refugee and humanitarian law, and more precisely child rights international regulations.³⁰ There is no minimum age at which a child can be administratively detained in international law.

²⁷ UNICEF, The Paris Principles – Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, February 2007. Available at <https://www.unicef.org/mali/media/1561/file/ParisPrinciples.pdf>.

²⁸ INTERNATIONAL COMMISSION OF JURISTS, Assessing Damage, Urging Action: Report of the Eminent Jurists Panel on Terrorism, Counter-Terrorism and Human Rights, 2009. Available at <https://www.icj.org/wp-content/uploads/2012/04/Report-on-Terrorism-Counter-terrorism-and-Human-Rights-Eminent-Jurists-Panel-on-Terrorism-series-2009.pdf>, p.12.

²⁹ ECOSOC, “Civil and Political Rights, Including the Question of Torture and Detention, Report of the Working group on Arbitrary Detention,” E/CN.4/2005/6, 1 December 2004. Available at <https://undocs.org/E/CN.4/2005/6>, para. 61.

³⁰ UNSC, “Resolution 1456,” S/Res./1456, 20 January 2003. Available at <http://unscr.com/en/resolutions/doc/1456>.

Administrative detention is a form of deprivation of liberty ordered by an executive branch of government rather than the judiciary. As such, it does not require any sort of evidence: There is no investigation and it can be applied simply based on suspicions that have not been proven and in the absence of official criminal charges. When administrative detention is applied to children and young people accused of terrorism-related offences, more often than not, they are placed in the same premises as adults, in the sections for dangerous criminals, and are usually transferred to military and/or high security prisons,³¹ and no rights associated with Child Justice are granted in the majority of cases.

While some States may use administrative detention of children and young people engaged in terrorism-related offences as a way to avoid Child Justice procedural safeguards and strict evidentiary standards afforded to children and young people within criminal justice systems,³² it is not to be forgotten that even in administrative detention children and young people remain entitled to the rights contained in the CRC and the ICCPR.

Administrative detention of children declared unconstitutional in France

In 2015, the French Conseil d'État³³ stated that the placement in administrative detention of individuals (including in particular children and young people) suspected of "being radicalised" would constitute a flagrant violation of fundamental rights guaranteed by the Constitution and by international human rights law. Hence, the proposal did not pass the legislative stage.

³¹ On the use of administrative detention for security purposes, see C. HAMILTON ET AL, Administrative Detention of Children: A Global Report, February 2011. Available at <https://coraminternational.org/wp-content/uploads/Administrative-detention-of-children-a-global-report.pdf>.

³² T. DAVIDSON AND K. GIBSON, 'Experts Meeting on Security Detention Report,' Case Western Reserve Journal of International Law Vol. 40, No. 3, 2009.

³³ CONSEIL D'ÉTAT, "Avis sur la constitutionnalité et la compatibilité avec les engagements internationaux de la France de certaines mesures de prévention du risque de terrorisme," No. 390867, 17 December 2015. Available at https://www.gouvernement.fr/sites/default/files/content/piece-jointe/2015/12/avis_du_conseil_detat_sur_certaines_mesures_de_prevention_du_risque_de_terrorisme.pdf.

CHAPTER 2.

The social categorisation of children associated with armed, terrorist and violent extremist groups and their treatment in Child Justice Systems

After having considered the importance of the terminology employed and the most recent legal frameworks and standards pertaining to Child Justice and counter-terrorism above, it is important to understand the situation of children and young people within the justice system from a sociological perspective.

Social categorisation, which is “the natural cognitive process by which we place individuals into social groups,”³⁴ can partially explain the behaviour and attitudes of actors in the judicial system towards children and young people accused of terrorism-related offences, and vice versa. It explains why access to justice for children and young people might be hindered in terrorism-related contexts. Social categorisation influences not only the behaviour of those doing the stereotyping, but the behaviour of the stereotyped individual(s) as well. It influences beliefs the individual may have about themselves and their ability to perform on critical tasks,³⁵ and as such is of utmost importance when dealing with children and young people. Understanding and addressing the question of social categorisation can enable changes to ensure respect and protection of the rights of children and young people in terrorism-related contexts.

Social categorisation is an automatic, spontaneous and unconscious process,³⁶ creating the “in-group” and the “out-group,” according to particular characteristics. As such, it leads to a situation where the world is divided between an “us” (in-group) and a “them” (out-group).

Social categorisation is closely linked to stereotyping, as individuals tend to assign the same characteristics to all members of out-groups. Individuals usually have more contact with those they consider to be in the in-group,³⁷ adding to a lack of knowledge on the out-group and the development of negative feelings, such as fear. The perception of threat from the out-group influences the attitudes and behaviours towards members of the out-group. It does not matter whether the threat remains hypothetical because the threat is perceived as real.³⁸ Stereotypes are influenced by important major events, such as terrorist attacks, as they are short, traumatic, of negative nature, unambiguous and often in line with the held stereotype of the terrorist group. Terrorist attacks negatively affect the perception of out-groups. As terrorist attacks elicit emotions of threat and anxiety, the most negative feelings will be directed towards the group considered as responsible, which in cases that concern us are children and young people associated with violent and extremist groups.

The conditions of specific interactions between members of the in- and out-group influence the perceptions held about members of the out-group, from the setting and the goal of the interaction to the relative power of the actors and the actual power of one group to harm the other.³⁹ As such, the more conflictual the interaction, the more that differences are highlighted and the harder it is to feel empathy for the out-group.⁴⁰ By way of contrast, the regularity of positive interactions between both groups increases knowledge of the out-group and reduces perceived differences.

³⁴ C. STANGOR, “Social Categorisation and Stereotyping,” in *Principles of Social Psychology*, (1st edition). Available at <https://opentextbc.ca/social-psychology/chapter/social-categorisation-and-stereotyping/>. Accessed on 18 June 2019.

³⁵ C. STANGOR, “Social Categorisation and Stereotyping,” in *Principles of Social Psychology*, (1st edition). Available at <https://opentextbc.ca/social-psychology/chapter/social-categorisation-and-stereotyping/>. Accessed on 18 June 2019.

³⁶ C. STANGOR, “Social Categorisation and Stereotyping,” in *Principles of Social Psychology*, (1st edition). Available at <https://opentextbc.ca/social-psychology/chapter/social-categorisation-and-stereotyping/>. Accessed on 18 June 2019.

³⁷ C. STANGOR, “Social Categorisation and Stereotyping,” in *Principles of Social Psychology*, (1st edition). Available at <https://opentextbc.ca/social-psychology/chapter/social-categorisation-and-stereotyping/>. Accessed on 18 June 2019.

³⁸ W.G. STEPHAN, O. YBARRA, K.R. MORRISON, “Intergroup threat theory,” in D.D. FRANK AND J.H. TURNER (Eds), *Handbook of Neurosociology and Social Research*, Netherlands: Springer, 2013: p. 45.

³⁹ W.G. STEPHAN, O. YBARRA, K.R. MORRISON, “Intergroup threat theory,” in D.D. FRANK AND J.H. TURNER (Eds), *Handbook of Neurosociology and Social Research*, Netherlands: Springer, 2013: p. 48.

⁴⁰ A. M. MIRON AND N.R. BRANSCOMBE, “Social Categorisation, Standards of Justice, and Collective Guilt” in A. NADLER, T. MALLOY AND J.D. FISHER (Eds.), *The Social Psychology of Intergroup Reconciliation*, Oxford: Oxford University Press, 2008: p. 86.

This explains why actors in the judicial system might behave differently with children and young people compared to law enforcement authorities who mostly encounter children and young people associated with violent extremist groups in the context of conflict and field operations where they are seen to constitute a symbolic and real threat. There is a real potential threat to physical integrity when law enforcement authorities face children during field operations, while there is a symbolic threat in that the ideology of terrorist groups fundamentally challenges the organisational structure and the values of the State which law enforcement authorities work to protect. This feeling of threat triggers a dehumanisation process which can translate into decreased levels of empathy and an increase of behaviours such as aggression and degrading treatment.

Conversely, lawyers, judges, social workers and penitentiary staff usually interact with the children and young people in a safe and controlled environment (interdisciplinarity and specialisation of Child Justice professionals vs. military justice system for instance). As the child/young person is not considered a direct threat, they can potentially be categorised in a more positive way. The process is conditioned by past experiences, background, training, knowledge and the environment of relevant actors in this type of situation. Thanks to regular interactions between judges, lawyers, social workers, penitentiary staff, and children and young people, the differences perceived between these children and society are less prominent. This enables fairer treatment in the justice sector and subsequently a safer and more sustainable reintegration.

Finally, “re-categorisation” of the child/young person as part of a broader in-group can occur. This happens, for example, when they are perceived as victims, even if partially.

When individuals are re-categorised into a group that falls within the broader in-group, there is more attention to rights, fair treatment, fair legal procedures and so on.⁴¹

Children suspected and charged for terrorism-related offences legally hold the dual status of victim and perpetrator

Several international legal documents and guidelines mandate that children associated with armed and violent extremist groups should be considered primarily as victims of offences of international law,⁴² including human trafficking, organised crime and terrorism.⁴³ Victim status, however, does not preclude the activation of channels within the criminal justice system provided that the child/young person is above the age of criminal responsibility but rather points to the application of a dual status. This dual status should be acknowledged by judicial authorities.

Belgium⁴⁴ has initiated various ongoing reforms following recent terrorist attacks and the departure of Belgians to fight in Syria and Iraq. Specific measures were adopted for children suspected of or charged with terrorism-related offences. The College of the Principal Public Prosecutor acknowledged the dual status of young foreign terrorist fighters. Children can be considered victims — being in a situation of danger and requiring protective measures — even if they have allegedly committed an offence.

Despite social categorisation being a natural process, as explained above, awareness of the real and practical impact it has on access to justice for children and young people in terrorism-related contexts is of significant importance. Increasing knowledge and positive interactions between the different actors in the judicial system and children and young people associated with violent extremist

⁴¹ A. M. MIRON AND N.R. BRANSCOMBE, “Social Categorisation, Standards of Justice, and Collective Guilt” in A. NADLER, T. MALLOY AND J.D. FISHER (Eds.), *The Social Psychology of Intergroup Reconciliation*, Oxford: Oxford University Press, 2008: p. 84.

⁴² UNICEF, *The Paris Principles – Principles and Guidelines on Children Associated with Armed Forces or Armed Groups*, February 2007. Available at <https://www.unicef.org/mali/media/1561/file/ParisPrinciples.pdf>, para. 3.6.

⁴³ UNSC, “Resolution 2331”, S/Res./2331, 20 December 2016. Available at <http://unscr.com/en/resolutions/doc/2331>.

⁴⁴ INTERNATIONAL JUVENILE JUSTICE OBSERVATORY, *Children, the Justice System, Violent Extremism and Terrorism: Annex National reports*. Available at https://www.ojjj.org/sites/default/files/annex_national_reports.pdf, p.131.

groups can lead to better acknowledgment of their dual status as victims/perpetrators and enhance respect and protection of their rights.

A child is a child – Approach of the Roumieh juvenile’s wing in Lebanon

As part of the Reconciliation with Life pilot project⁴⁵ with Roumieh’s juvenile wing (2013-2018) aimed at safe and comprehensive reintegration of detainees, those juveniles sentenced for terrorism-related charges did not receive special treatment, and requests for example to avoid contact with female staff (mandated by the group’s rules they have while recruited/exploited by the armed groups) were not fulfilled, to avoid differentiation/stigma/labelling among the detainees. Positive discourse was held about the child or young person, considered a victim with the characteristic of being able to change. Minimising stereotyping by the institution also contributes to shifting the beliefs the individual has about themselves and their ability to take control over their lives, increasing their chances for successful reintegration.

⁴⁵ The description and analysis of the objectives and main activities of the Reconciliation with Life pilot project can be found on Chapter 4 of this Guide.

CHAPTER 3.

The gender dimension of Child Justice in counter-terrorism contexts

The scale of the involvement of girls and female youth in the contemporary context of terrorism has become a matter of particular concern although there remain several important gaps that need to be urgently addressed. These gaps directly affect boys and young men, as well as girls and young women.

In general, regulatory instruments (binding and soft law, international and national/sub-national) related to the protection of children and young people and more specifically to Child Justice, have shyly incorporated the gender approach, although partially and in a very non-specific way. An analytical overview of the main regulatory frameworks reflects the continuing invisibility of gender issues, as well as the absence of a holistic treatment of gender. As such, the normative focus has been placed on the situation of deprivation of liberty of women (e.g. Bangkok Rules⁴⁶), with some provisions regarding girls and female youth. Nevertheless, important legal and policy work is necessary for each of the phases of the judicial process, with special attention paid to non-custodial measures, given their greater impact on processes of reintegration. The wave of international and national regulations and justice-related practices pertaining to counter-terrorism are far from being gender responsive.

Various and complex challenges arise in addressing the incorporation of a gender perspective in the Child Justice sector, particularly in counter-terrorism contexts. For instance, one key challenge is the development of multifactorial methodologies and specific analysis of female involvement in terrorism-related offences (as victims, witnesses and as perpetrators, considering the possibility of having a dual victim-perpetrator lens) that allows light to be shed on the risk and protection factors that are particular and differentiated by gender, from a social rather than biological perspective. This implies considering criminological theories that pose different perspectives on the relationship between crime and gender. In this regard, it is essential that within the criminological sector, research and attention is paid to this segment of the population in counter-terrorism

contexts (girls and female youth) despite their lower representation in global figures. Relatedly, it is also essential to examine criminological factors without the use of male models: neither in opposition to these models nor with their same logic, but based on a consideration of gender specificities that come from the social constructs associated with the conditions of being a child/young person and being female.

Indeed, the male-dominated approach applied when building the criminological models in use has an additional counterproductive effect: boys and male youth involved in terrorism-related offences are criminalised and prosecuted far more than their female counterparts. Traditional gender stereotypes, for instance that girls are thought of as less dangerous, remain present in the justice sector and impact negatively on boys and male youth. At the same time, this indirectly gives more latitude to terrorist groups that focus efforts on recruiting and exploiting girls and female youth to perpetrate attacks.

It is essential to work on the development of analytical tools jointly with the (I)NGO and academic community and with the various professionals in the sector. Central to this is a consideration of how to appropriately mainstream an intersectional approach that responds to the ways in which gender intersects with other identifying characteristics and status (e.g. ethnicity, race, nationality, disability, class, wealth) and impacts on antisocial and criminal behaviour of children and youth.

Considering the gender dimension in connection with the recruitment and exploitation of girls and female youth for terrorism-related purposes in more detail, the following elements should be highlighted in the interest of advancing this specific agenda:

- The paths leading girls and young women to violent and violent extremist groups remain largely invisible and unexplored, and thus require further and more specific focus. Recruitment patterns, forms

⁴⁶ ECOSOC, "United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules)," R.2010/16. Available at: https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf.

of exploitation and roles in the offence/s committed are varied and different from those of boys and young men. There are several reasons why girls and female youth are targeted: attacks by females have greater propaganda value, and they are traditionally seen as less of a threat than males increasing the likelihood of successfully carrying out attacks or support roles for these attacks.⁴⁷ Groups such as ISIL (Islamic State of Iraq and the Levant) appear to be aiming propaganda directly at girls and young women (the so-called “sisters of the Islamic State”). Girls and young women who are sexually abused by terrorists may have no other choice except to work with these groups, as they are usually unable to go back to their communities even if they leave their babies behind (often by force).⁴⁸ Sexual violence as a terrorist tactic has been explicitly evidenced as being an instrument to increase the power of terrorist groups through supporting financing, recruitment and the destruction of communities.⁴⁹ Sexual violence is not exclusively perpetrated against females — boys and young men are also subjected to sexual crimes, and usually do not receive adequate means of support.

Girls and young women play roles that are active (combat, leading the planning of attacks, as FTF, etc.) and supportive (logistics, messengers, spies, etc.).⁵⁰ Even when playing similar roles as males, the configuration, exercise and conditions of these roles are different. Child Justice systems must develop a nuanced understanding and consequent response to this essential issue.

- Although further exploration regarding female-specific criminal methodologies is required as mentioned above, it is problematic that the work and

attention of criminal justice have so far been dedicated to examining the roles of females in terrorism-related offences, while overlooking gender-responsive treatment in the justice sector.

- Provisions of criminal law under which terrorism-related conduct is punishable are usually formulated in gender-neutral terms, without distinguishing between the gender of the alleged perpetrators or the different impacts that such recruitment and criminalisation may have according to gender.

- While applying to all criminal investigations, there are key gender dimensions in specific procedures that are of particular relevance in terrorism-related offences, with an extra layer in the case of victims, witnesses or suspects who have experienced sexual and gender-based violence.

- Entrenched gender bias and stereotyping (in some occasions unconscious) relating to the roles of male and female children and young people in terrorist activities play a role in the investigation techniques and methods employed. This can be seen in profiling practices based on attire to establish religious affiliation, instead of on behavioural characteristics, and the choice of surveillance measures or even search procedures.

⁴⁷ M. BLOOM, “Bombshells: Women and terror,” *Gender Issues* Vol.28, Nos.1 and 2, 2011: pp. 1-21.

⁴⁸ For example, many of the “Chibok girls” who were kidnapped by Boko Haram were stigmatised following their return either because they were carrying the fighters’ children or because of the fear the women may turn against their own communities. INTERNATIONAL ALERT AND UNICEF, *Bad Blood: Perceptions of children born in conflict-related sexual violence and women and girls associated with Boko Haram in Northeast Nigeria*, Research Summary, 2016. Available at https://www.international-alert.org/sites/default/files/Nigeria_BadBlood_EN_2016.pdf, p. 18.

⁴⁹ The tactical use of this type of violence by terrorist groups such as ISIL, Boko Haram, Al-Shabaab, Ansar Eddine, the Taliban and Al-Qaida is documented in various United Nations reports.

⁵⁰ In the 2016 global survey on the implementation of UNSC Resolution 1373 (2001), the Counter-Terrorism Committee Executive Directorate noted that the participation of females in acts of political violence and terrorism was not a new phenomenon. However, a noticeable escalation in the activities of prominent female members of terrorist groups and the number of female foreign terrorist fighters necessitated further exploration of the topic.

Taking gender into account in criminal investigations in Nigeria

Nigeria's Administration of Criminal Justice Act, passed in 2015, contains a number of provisions taking into account the gender aspects of criminal investigations. Those aspects include the practice of purda in parts of the country, which involves the seclusion of women from public observation by means of concealing clothing and the use of high-walled enclosures, screens and curtains within the home.

- Special investigative and interview techniques must be regulated and carefully supervised and should include a gender analysis to inform their design and application in order to assess their impact, not only on the primary target but looking at the collateral effects on others (e.g. children of the suspect).

As the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has observed, the use of illegal interviewing tactics is in part based on the erroneous assumption that mistreatment and coercion are necessary to obtain confessions or elicit information. The Special Rapporteur has also noted that in many countries, detainees are mistreated during the investigation of common crimes as the result of pressure from politicians, supervisors, judges and prosecutors to solve high volumes of cases, alongside inadequate measures of police performance, often creating perverse incentives for arrests and mistreatment.⁵¹ In cases that cause the greatest alarm in society, such as those involving terrorism, these incentives can be enormous. As a result, witnesses, victims, or those facing allegations who are perceived by investigators to be uncooperative may be subjected to mistreatment.

In addition to avoiding coercive interviewing methods, investigators must avoid secondary victimisation of the persons they deal with in the course of an investigation. The questioning of the victims and witnesses of violence, including sexual violence, caused by terrorist groups brings with it a high risk of secondary victimisation.

What is Secondary Victimization?⁵²

Secondary victimisation is not a direct result of the violence, but rather a result of how institutions and individuals engage with the victim. It may occur when those responsible for criminal justice procedures act without taking into account the perspective of the victim (e.g., intrusive or inappropriate conduct by police or other criminal justice personnel). Indeed, the whole process of a criminal investigation and trial may cause secondary victimisation: the investigation, the decision whether or not to prosecute, the trial itself and the possible sentencing of the offender and their eventual release. These risks are compounded by characteristics of the victim or witness, including gender.

- Observing gender-sensitive witness protection frameworks within justice proceedings has the added benefit of encouraging witnesses to come forward and to provide information and cooperation throughout the processes of investigation and prosecution. Operationalising the fundamental principle of "do no harm" means recognising that many witnesses in terrorism cases are testifying about events that had a significantly negative and often traumatic impact on their lives and their communities. A girl or young female witness is likely to experience greater stress when the roles of girls and women are restricted in the public sphere, or in environments in which females are disadvantaged in

⁵¹ UNGA, "Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment," A/71/298, 5 August 2016. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/250/31/PDF/N1625031.pdf?OpenElement>, paras. 9–10.

⁵² UNODC, Handbook on Justice for Victims: On the Use and Application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1999. Available at https://www.unodc.org/pdf/criminal_justice/UNODC_Handbook_on_Justice_for_victims.pdf, p. 9.

terms of education and legal and economic status. In addition, it must be noted that testifying may expose them or their families and loved ones to threats or actual violence, so extra protections, both physical and mental, should be put in place before any testimony is taken.

It is essential to build expertise on gender-sensitive interviewing practices to be shared within and between authorities addressing terrorism-related crimes, including those that include a gender-based element (applicable to both female and male children and young people).

- If, in many cases, children and young people are already lacking appropriate detention facilities and related prison management policies that are age-appropriate, there is an additional layer of concern for girls and young women given that the majority of prison systems are male-designed as males make up the greater part of the prison population (e.g. design, security procedures, health-care facilities, training and rehabilitation opportunities or arrangements for family contact). There is a further layer of complexity when it comes to dealing with violent extremist prisoners.

Vulnerabilities of female children and youth deprived of their liberty

The [United Nations Committee against Torture](#) has stated that gender intersects with other identifying characteristics or status of the person, such as race, nationality, religion, sexual orientation, age and immigrant status, to determine the ways that women and girls are subject to or at risk of torture or ill-treatment.⁵³ When deprived of liberty this risk is exponentially higher.

One of the gravest forms of violence to which females deprived of their liberty are subject is sexual and gender-based violence. It is widely recognised, including in the jurisprudence of human rights bodies, that rape amounts to torture when public officials carry out, instigate, consent or acquiesce to such acts.

The [European Court of Human Rights](#)⁵⁴ held, in connection with a case concerning custodial rape of a young female terrorism suspect, that rape of a detainee by an official of the State had to be considered an especially grave and abhorrent form of ill-treatment given the ease with which the perpetrator could exploit the vulnerability and weakened resistance of the victim. The perpetrator was prosecuted for the crimes of torture including aggravated circumstances, invoking a specific gender approach that the case brought about.

Additionally, gender-sensitive procedures and considerations should be pursued in relation to non-custodial measures and reintegration pathways. Both, in addition to deprivation of liberty, are dealt with in Chapters 5 and 6 respectively.

- Access to justice also encompasses the availability and accessibility of legal counsel for those suspected, accused or convicted of terrorism-related offences, and the ability of justice mechanisms to adjudicate cases in a fair and impartial manner and to enforce decisions.

Girls and young women face several, often interconnected, barriers in accessing justice that are the result of social, economic and cultural practices that entrench structural gender inequality. Some of these barriers are not gender-specific but they disproportionately affect females because of their subordinated position in society. This is compounded when gender-specific factors come into play such as gender stereotyping and discrimination by criminal justice practitioners, discriminatory laws or stigma surrounding certain types of offences.

In its General Recommendation 33 on women's access to justice, the Committee on the Elimination of Discrimination against Women, identified several elements necessary to ensure access to

⁵³ UN COMMITTEE AGAINST TORTURE, "General Comment 2," CAT/C/GC/2, 24 January 2008. Available at <https://undocs.org/CAT/C/GC/2>, para. 22.

⁵⁴ ECHR, *Aydin v. Turkey*, Case No. 57/1996/676/866, Judgment of 25 September 1997, paras. 83–86.

justice, particularly with respect to females: justiciability, availability, accessibility, good quality, accountability and the provision of remedies.⁵⁵

Girls and women in post-armed conflict reparation processes

Nairobi Declaration on Women's and Girls' Rights to a Remedy and Reparation (2007)⁵⁶ highlights in paragraph 4 that in order to effectively incorporate the perspectives of victims and their advocates in reparation processes post-armed conflict, the notion of "victim" must be broadly defined within the context of the experiences of girls and women, and their right to reparation.

⁵⁵ COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, "General recommendation No. 33 on women's access to justice," CEDAW/C/GC/33, 3 August 2015. Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en, para. 14.

⁵⁶ Nairobi Declaration on Women's and Girls' Rights to a Remedy and Reparation, 2007. Available at https://www.fidh.org/IMG/pdf/NAIROBI_DECLARATIONeng.pdf.

CHAPTER 4.

National advancements in counter-terrorism frameworks regarding Child Justice Systems

The fight against terrorism, and against violent radicalisation and extremism that is conducive to terrorism, has led to the adoption of very strict legal regimes that restrict human rights in general, and in particular the rights of children and young people. Whereas some human rights are relative, and it is accepted that counter-terrorism requires proportionate and legal restrictions, children's rights are absolute. It might be difficult in reality for practitioners to find the balance between these two types of regimes and legitimately weigh between public safety and children's rights within a democratic approach that does not obstruct fundamental freedoms.

It is a primary duty of States to protect society from the severe threats and dangers that are associated with the activities of terrorist or violent extremist groups. At the same time as maintaining public safety, States have a duty to respect, protect and fulfil the rights of children who are suspected of, accused of, or recognised as having committed a terrorist offence. A climate of heightened panic brought about by fears of terrorist activity can lead to these children and young people being treated primarily as exceptionally problematic offenders rather than as children, including being treated exclusively as perpetrators and their status as victims disregarded. Within this complex scenario, the consequence is an incremental chipping away of the use of specialised Child Justice systems, for example through the use of special investigative powers over children and young people, using lower minimum ages of criminal responsibility for terrorism-related offences, extending the periods of time children and young people can be held in pre-charge and pre-trial detention for terrorism-related offences and using adult jurisdiction for trial proceedings and sentencing. There is a growing acceptance that a

heavy-handed state drives feelings of anger and marginalisation among young people, and has counterproductive effects on recidivism and social cohesion from the perspective of public safety.

This section aims at examining national advancements on this issue in Lebanon in particular, as well as other countries.

Lebanon

The number of children and young people prosecuted for terrorism-related offences in Lebanon increased significantly in 2012 with the spillover of the Syrian conflict into the country. Consequently, there was an increase in terrorist attacks in the suburbs of Beirut and at the Syrian border.⁵⁷ Many children⁵⁸ have been prosecuted in Lebanon for being associated with violent extremist and terrorist groups in Syria: between 2012 and 2018, this included 60 Syrian children (44%), 58 Lebanese children (42%), 17 Palestinian children (12%) and 4 children of other nationalities (2%).

Lebanon does not have a specific counter-terrorism law, and instead the Criminal Code has been modified to adapt to the terrorist threat (Articles 314-316) with Chapter IV now dealing with terrorism-related offences. Article 314 can be considered as providing the Lebanese definition of terrorism, which includes "[...] all acts intended to cause a state of terror and committed by means liable to create a public danger such as explosive devices, inflammable materials, toxic or corrosive products and infectious or microbial agents." Conspiracy⁵⁹ to commit such acts and the financing⁶⁰ by (in)direct means of terrorism, terrorist acts or terrorist organisations are also punishable.

⁵⁷ LEBANON MINISTRY OF JUSTICE — DEPARTMENT OF PRISONS, "The Rehabilitation of Children in Detention with Offences Related to Violent Extremism or Terrorism in Lebanon: First National Report," 2019. Available in Arabic and English at: https://www.unodc.org/documents/middleeastandnorthafrica/2019/First_National_Report_on_The_Rehabilitation_of_Children_in_detention_with_Offences_Related_to_Violent_Extremism_or_Terrorism_in_Lebanon.pdf, p. 17.

⁵⁸ C. BOCKSTAEL, "Mirror, mirror on the wall, am I only a terrorist after all? The impact of social categorisation of children associated with terrorist groups on their legal treatment in the Lebanese judicial process," MA thesis, Global Campus Europe: EMA, 2019, p. 79.

⁵⁹ Lebanese Criminal Code, Article 315.

⁶⁰ Lebanese Criminal Code, Article 316bis.

The present section addresses national measures taken by Lebanon to prevent violent extremism, alongside the attempt to ensure respect for human rights, including those of children, within the judicial system in this context.

National Strategy for Preventing Violent Extremism

— In 2018, the Lebanese government adopted a National Strategy for Preventing Violent Extremism. It defines violent extremism as:

1. *The spread of individual and collective hatred that may lead to structural violence.*
2. *The rejection of diversity and non-acceptance of others, and the use of violence as a means of expression and influence.*
3. *A behaviour that threatens values that ensure social stability.*⁶¹

It defines prevention as “the development of policies that can be transformed into a societal culture that will enhance the community’s abilities to protect itself against violent extremism.”

The strategy lays out four general objectives — regaining social trust, promoting citizenship, achieving social justice and monitoring social transformation — which are to be achieved through actions in nine pillars⁶² (related to the economy, development, education, good governance, etc.). In relation to children in conflict with the law, the strategy sets several goals for the Ministry of Justice, the Ministry of Social Affairs and the Ministry of State for Human Rights Affairs.

First, the Ministry of Justice must provide specific trainings to the judicial police, social workers, juvenile courts and judges regarding best practices on dealing with children and young people accused of violent extremism-related offences. It should also train the actors in the judicial system on human rights and the rule of law in the context of preventing violent extremism.⁶³ The Ministry should also expand and support alternative measures for children detainees which would help their reintegration and keep them away from violent extremism, for example through community work.⁶⁴

Second, the Ministry of Social Affairs, in cooperation with the Ministry of Justice, should study the social situation of children detainees in order to provide them with the most relevant awareness activities with regards to violent extremism and the most appropriate reintegration strategy.⁶⁵

Finally, the National Strategy refers to the independence of the judiciary to be ensured by the Ministry of State for Human Rights Affairs which does not exist anymore in country. This was in order to improve the protective mechanisms to assist and protect children and youth at risk, preserve human rights and activate the rehabilitative role of prisons⁶⁶; which in the absence of a formal ministry, it is attributed to human rights institutions operating in country, mainly to the Lebanon’s National Human Rights Institution (NHRI).

⁶¹ PRESIDENCY OF THE COUNCIL OF MINISTERS (LEBANON), “National Strategy for Preventing Violent Extremism, 2018. Available at http://pvelebanon.org/Resources/PVE_English.pdf, p. 14.

⁶² The pillars are: (1) Dialogue and conflict prevention; (2) Promotion of good governance; (3) Justice, human rights and the rule of law; (4) Urban/rural development and engaging with local communities; (5) Gender equality and empowering women; (6) Education, training and skills development; (7) Economic development and job creation; (8) Strategic communications, informatics and social media; (9) Empowering youth.

⁶³ PRESIDENCY OF THE COUNCIL OF MINISTERS (LEBANON), “National Strategy for Preventing Violent Extremism, 2018. Available at http://pvelebanon.org/Resources/PVE_English.pdf, p. 33.

⁶⁴ PRESIDENCY OF THE COUNCIL OF MINISTERS (LEBANON), “National Strategy for Preventing Violent Extremism, 2018. Available at http://pvelebanon.org/Resources/PVE_English.pdf, p. 34.

⁶⁵ PRESIDENCY OF THE COUNCIL OF MINISTERS (LEBANON), “National Strategy for Preventing Violent Extremism, 2018. Available at http://pvelebanon.org/Resources/PVE_English.pdf, p. 32.

⁶⁶ PRESIDENCY OF THE COUNCIL OF MINISTERS (LEBANON), “National Strategy for Preventing Violent Extremism, 2018. Available at http://pvelebanon.org/Resources/PVE_English.pdf, p. 35.

The Strategy acknowledges the importance of preventing violent extremism particularly among children and young people, and emphasises that a human rights-based approach in the judicial process is essential. It does not, however, incorporate specific Child Justice standards, and this is a gap that must be addressed urgently. It also recognises that reintegration programmes should be tailored to each individual. Some of the recommendations to the Ministry of Justice were operationalised in the Reconciliation with Life pilot project.

Reconciliation with Life pilot project

Any male juvenile facing a prison sentence spends his imprisonment in the juvenile wing of Roumieh Prison. From 2013 the Lebanese Juvenile and Prison Department of the Ministry of Justice, in collaboration with UNODC launched the "Reconciliation with Life" pilot project, and it ran until 2018. In total, 96 children benefited from the pilot and it included young people up to 25 years of age.

The project focused specifically on children and young people in detention for offences related to violent extremism or terrorism, while it was mandatory for all children and young people regardless of the offence for which they were sentenced. The project pursued an integrative approach to try to ensure a safe and comprehensive reintegration pathway. The integration approach provided several advantages, most notably interaction between the children coming from different cultures and backgrounds and non-discrimination among them.

Being the first project of its kind, the strategy was adapted step by step to the Lebanese context, taking into account the specific needs of children in detention for offences related to terrorism and violent extremism. The programme was established around three axes:

1. Non-discriminatory application of the rules.

Children convicted on terrorism grounds often requested different treatment from the other prisoners related to the beliefs with which they

they were indoctrinated by the terrorist or violent group of which they were a part. In an attempt to maintain their "lifestyle" in detention following the rules prevailed while recruited/exploited by the armed groups, they requested avoiding contact with female staff, avoiding watching television or listening to the radio, organisation of collective prayer, etc. The juvenile wing refused all these requests in order to avoid differentiation among the detainees and the labelling of these children as "terrorists." It was usually a short period of time before these children started to integrate with the other children.

2. Exposure to diversity of beliefs and points of views.

Lebanon is a multi-confessional state and so children were put in contact with many different cultures and religious beliefs through multicultural activities. These group activities helped increase their knowledge of other world views and to question the one they had been taught. Deconstruction of religious misconceptions was left out of the programme because it seems that children did not have deeply rooted religious beliefs and therefore it did not seem necessary, but there were also concerns about finding the most appropriate religious figures deliver the teaching.

3. The convergence of reintegration-related activities towards the reconciliation with life process.

All activities in the juvenile wing aimed at educating and transforming the children and young people, and encouraging their disengagement from extremism. They were provided with educational or vocational activities (sewing, mechanics, electricity, informatics, etc.). The objective was for them to learn to be children again and to recover progressively from their traumas.

The programme also targeted staff and workers working day-to-day with children and young people sentenced for terrorism- and violent extremism-related offences. Staff and workers have been trained with specific tools in order to be able to adequately interact with the children,

taking into consideration their vulnerabilities and specific needs.

In 2019, the first national report “From Suspect of Terrorism...to Faith in Life” on the implementation and results of the programme was released. Using the Risk Assessment and Progress Measurement Tool (RAPMT), the report shows that the majority of children show a high potential for disengagement from terrorism and extremism within three months.⁶⁷

Beirut Bar Association (BBA) Guidelines for lawyers

There is no specific guidance available for lawyers on how to treat children and young individuals accused of offences related to terrorism and violent extremism. Very few lawyers have dealt with such cases and most of the time they do not have the adequate knowledge on children’s rights and procedures related to national security (e.g. military courts). In order to address this gap, the Human Rights Institute of the Beirut Bar Association (BBA) has started to develop a guide dedicated to lawyers, to ensure respect for children’s rights within the judicial process for terrorism-related offences.

Other countries

Austria — Pre-trial detention: Policy responses to counter terrorism and violent extremism have focused on deradicalisation and prevention for children and young people usually already in conflict with the law. Austria has seen an increase in convictions for terrorism-related offences and consequently an increase in the number of children and young people prosecuted 2014 to 2016.⁶⁸ Addressing this trend, the state made legislative changes in 2016, which included the reduction of the pre-trial detention period. Where a child or young person is sentenced for terrorism-related offences and is subject to pre-trial detention, s/he has to take part in the Social Network Conference (SoNeKos) organised by the Austrian Probation Service, which is itself run by NEUSTART (a private NGO). The conference brings together the child/young person, the probation officer, the family, friends, teachers and others with the goal of establishing a tailored programme. This programme might include for example, going to school, engaging in therapy or starting an apprenticeship. Once the judge approves the plan, the programme starts. Consequently, in cases where the child/young person was in pre-trial detention, the time period spent in detention is shortened.⁶⁹

Belgium — Extended youth court: The number of children (below the age of 18) prosecuted for terrorism-related offences increased between 2014 and 2016: a total of 123 children were prosecuted (22 in 2014; 35 in 2015; and 66 in 2016).⁷⁰ According to the

⁶⁷ LEBANON MINISTRY OF JUSTICE — DEPARTMENT OF PRISONS, “The Rehabilitation of Children in Detention with Offences Related to Violent Extremism or Terrorism in Lebanon: First National Report,” 2019. Available in Arabic and English at https://www.unodc.org/documents/middleeastandnorthafrica/2019/First_National_Report_on_The_Rehabilitation_of_Children_in_detention_with_Offences_Related_to_Violent_Extremism_or_Terrorism_in_Lebanon.pdf, p. 77.

⁶⁸ S. MANDL AND N. KATONA, Strengthening Juvenile Justice Systems in the counter-terrorism context: Capacity-building and peer-learning among stakeholders, National Report Austria, 2018. Available at https://bim.lbg.ac.at/sites/files/bim/attachments/strengthening_juvenile_justice_system_counter_terrorism_national_report_austria_0.pdf, pp.17, 20, 49.

⁶⁹ INTERNATIONAL JUVENILE JUSTICE OBSERVATORY, Children, the Justice System, Violent Extremism and Terrorism: An Overview of Law, Policy and Practice in Six European Countries, October 2018. Available at http://www.oijj.org/sites/default/files/en_regional_report.pdf, p.36

⁷⁰ INTERNATIONAL JUVENILE JUSTICE OBSERVATORY, Children, the Justice System, Violent Extremism and Terrorism: An Overview of Law, Policy and Practice in Six European Countries, October 2018. Available at http://www.oijj.org/sites/default/files/en_regional_report.pdf, p.117.

Youth Protection Act (Article 57bis), children over 16 can be tried before adult courts in certain circumstances (when the juvenile court concludes that protection measures are not necessary). Nevertheless, the sentences are limited, for example, the child/young person cannot be sentenced to life imprisonment. Indeed, the child/young person will spend his/her imprisonment in a youth detention centre until reaching the age of 18, before being transferred to an adult facility.⁷¹

Colombia — Victims status: Children engaged with the FARC (Fuerzas Armadas Revolucionarias de Colombia; in English: Revolutionary Armed Forces of Colombia-People's Army; designated an illegal armed group) are automatically considered as victims following the Victims Law (2011) and the Peace and Justice Law (2005). Children benefit from specific reintegration programmes and receive victims' assistance. They are also immune from prosecution for any acts committed while they were involved with the FARC. However, the 2016 Peace Agreement provides for the establishment of transitional justice mechanisms to deal with the crimes committed during that period, including by children and young people.⁷²

Iraq — Rehabilitation: In Iraq, the recent conflicts have led to large scale recruitment of children by ISIS (Islamic State), and consequently 1,500 children were being held in detention by the relevant authorities in 2019. This includes children in pre-trial detention centres pre-sentencing and those in reformatory schools located in Baghdad for children sentenced by a Juvenile Court across the country. Children accused of terrorism-related offences are sentenced for periods ranging from 5 to 15 years and are placed in facilities that already host children detained on other grounds, although they constitute, in some of

schools located in Baghdad for children sentenced by a Juvenile Court across the country.

In Iraq, the Juvenile Law No. 76/1983 highlights reintegration as the main goal of aftercare (post-release) which is defined as follows (Article 99): "Taking care of the juvenile after completion of his/her sentence at the reformatory schools to ensure his/her reintegration within his community and to prevent him/her from repeating the unlawful act." The reformatory schools in Iraq integrate several services directed at the reintegration of children such as education, vocational training, skills course, etc. A comprehensive range of services within these centres is crucial for the reintegration of children in conflict with the law, given the interdependent and complex dimensions it entails, requiring a multidisciplinary process and staff to make it possible. The access to these services, in combination with being mixed with children from other backgrounds, contributes to providing the children with the possibility of seeing the world from a different perspective. Tdh is supporting this process in-country through staff capacity-building and direct provision of services that favour effective reintegration (See Chapter 6).

Jordan — Prosecution through Juvenile Courts: Whereas the Prevention of Terrorism Law (2014) applies to children suspected of terrorism-related offences, according to the Jordanian Juvenile Law (2014, Article 15(a)), children are to be dealt with by child courts.⁷³ Although Jordan is one of the few countries in the Middle East that has relative stability, it has the highest number of foreign fighters comparative to its population in neighbouring Syria and Iraq (mostly aged between 13 and 25 years old).⁷⁴

⁷¹ INTERNATIONAL JUVENILE JUSTICE OBSERVATORY, Children, the Justice System, Violent Extremism and Terrorism: An Overview of Law, Policy and Practice in Six European Countries, October 2018. Available at http://www.oijj.org/sites/default/files/en_regional_report.pdf, p.35.

⁷² THE INTERNATIONAL INSTITUTE FOR JUSTICE AND THE RULE OF LAW, Toolkit on Juvenile Justice in a Counter-Terrorism Context, (1st edition), October 2017. Available at <https://theijj.org/wp-content/uploads/IIJ-TOOLKIT-JUVENILE-JUSTICE.pdf>, p. 17.

⁷³ UNICEF, Situation Analysis of Juvenile Justice, 2018. Available at <https://www.unicef.org/jordan/media/361/file/Situation%20Analysis%20of%20Juvenile%20Justice%20System%20in%20Jordan.pdf>, p. 31.

⁷⁴ US CONGRESSIONAL RESEARCH SERVICE, Jordan: Background and U.S. Relations, Updated 4 December 2019. Available at <https://crsreports.congress.gov/product/pdf/RL/RL33546>.

Pakistan — Rehabilitation: With the assistance of UNICEF and Hum Pakistan Foundation, Pakistan launched Project Sabaoon in 2017. The project created a rehabilitation centre (College) for boys aged between 12 and 18 formerly involved with the Taliban. Children were provided with primary and secondary education, psychological and religious support, as well as technical and vocational training. The same type of college was also opened for girls in 2010. Children formerly associated with the Taliban usually spend two years in the school before going back to their communities. They are not sent to the College following criminal proceedings but join voluntarily, are sent by their parents or taken by the military during operations. As such, children avoid the stigma of criminal proceedings.⁷⁵ As of 2017, 192 children graduated from the project.⁷⁶ Even if, in Pakistan, children do not go through judicial proceedings, the schooling system may be seen as an alternative measure to detention for judges confronted with children prosecuted for terrorism- and violent extremism-related charges.

West Africa: Mali & Niger — Handover of children associated with armed groups, including terrorist groups, to child protection centres as an alternative to criminal processes: Following international recommendations (UNGSCDL, CRC GC 24/2019, several Security Council Resolutions on counter-terrorism, etc), since 2013, the governments of Mali and Niger have signed specific handover protocols with the UN system in each country for the handover of children associated with armed forces and groups (including terrorist groups) to child protection civilian actors. These must be accredited and with sufficient networks and means to manage appropriate rehabilitation within a safe reintegration pathway for the children. Niger, following the commitments established in the handover protocol,

has put in place transit and observation centres (centres de transit et observation) for children recruited by terrorist groups, with the aim of avoiding detention given the risk of violent radicalisation this often entails. They are placed in open child protection institutions with due safeguards and supervision.

⁷⁵ GLOBAL CENTER ON COOPERATIVE SECURITY, "Strengthening the Case: Good Criminal Justice Practices to Counter Terrorism," September 2015, Available at: <https://www.globalcenter.org/wp-content/uploads/2015/09/Strengthening-the-case-high-res.pdf>, p. 17, and THE INTERNATIONAL INSTITUTE FOR JUSTICE AND THE RULE OF LAW, Toolkit on Juvenile Justice in a Counter-Terrorism Context, (1st edition), October 2017. Available at <https://theij.org/wp-content/uploads/IJ-TOOLKIT-JUVENILE-JUSTICE.pdf>, p. 43.

⁷⁶ J. MOORE, "How Pakistan Deradicalises Taliban Fighters," 11 October 2017. Available at <https://www.usip.org/publications/2017/10/how-pakistan-deradicalises-taliban-fighters>.

CHAPTER 5.

Protection responses in Child Justice systems for children and young people in conflict with the law for terrorism-related offences



The present chapter deals specifically with the role of the justice sector with regards to children and young people who are suspected of, accused of or recognised as having committed terrorism-related offences, considering the existing justice responses and what could be provided to these children and young people.

As discussed in previous sections, the question of the judicial treatment of children and young people involved in terrorism-related offences requires two angles of analysis: on the one hand, a profound knowledge and application of Child Justice frameworks and standards, providing a children's rights lens, and on the other hand, a counter-terrorism angle. This dual perspective is currently lacking in many national regulatory and law enforcement schemes. These two dimensions must be strongly connected on both the levels of law and practice as the only way to guarantee fair and child and youth-oriented responses.

5.1 Deprivation of liberty

According to the Havana Rules,⁷⁷ deprivation of liberty refers to *"any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority."*⁷⁸ In the context of this chapter, it mainly relates but is not limited to administrative detention/detention without formal charges, pre-trial detention and prison sentences.

One of the most important legal principles when it comes to children is to take into consideration the best interest of the child (See Chapter 1). This rule is of paramount importance and should guide every decision taken for the child, including whether or not

deprivation of liberty should be resorted to. It is widely established in international Child Justice standards that deprivation of liberty should be a measure of last resort and should be for the shortest appropriate time.⁷⁹

Children's rights and principles of Child Justice apply even in situations related to national security/terrorism. Children's rights are non-derogable and should be applied at all times, while seeking a balance with public safety. Indeed, the CRC encourages the creation of a specialised system for children in conflict with the law which has the objectives of preserving public safety, holding a child accountable for their offending behaviour and promoting their reintegration back into society.⁸⁰ The legitimate objective of preserving public safety is best served when specialised Child Justice mechanisms are in place and work effectively.

The UN Counter-Terrorism Implementation Task Force reiterated in its guidance to States on human rights-compliant responses to the threat posed by foreign fighters, that detention is to be used as a last resort for the shortest period of time, in accordance with children's rights and Child Justice standards.⁸¹ The Neuchâtel Memorandum (2015) also addresses the question of deprivation of liberty.

⁷⁷ UNGA, "United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules)", A/Res./45/113, 14 December 1990. Available at <https://undocs.org/A/RES/45/113>.

⁷⁸ UNGA, "United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules)", A/Res./45/113, 14 December 1990, available at <https://undocs.org/A/RES/45/113>, Rule 11 (b).

⁷⁹ Convention on the Rights of the Child (hereafter CRC), Article 37 (b).

⁸⁰ CRC, Article 40 (3).

⁸¹ OHCHR, United Nations Counter-Terrorism Implementation Task Force, Guidance to States on human rights-compliant responses to the threat posed by foreign fighters, 2018. Available at <https://www.un.org/sc/ctc/wp-content/uploads/2018/08/Human-Rights-Responses-to-Foreign-Fighters-web-final.pdf>, p. 29

Pre-trial detention and prison sentencing should be used only when the child is considered an immediate danger to herself/himself or others, or when it is the only way to ensure appearance in court.⁸² Both legal requisites must be solidly argued and verified by the justice professionals involved in the decision (including professionals such as social workers). When a child is accused of an offence, the matter should be determined without delay,⁸³ which means that in the case of pre-trial detention the aim should be that the child spends the least amount of time possible deprived of his/her liberty. When it comes to sentencing, personal assessment is an absolute requirement: the sentence should be tailored to the individual and be proportionate so as to increase the reintegration prospects of the child/young person.⁸⁴ Finally, children and young people are entitled to challenge the legality of their detention and should be provided with prompt access to legal assistance.⁸⁵

When deprivation of liberty is considered absolutely necessary, it is subjected to several conditions. First, children and young people must be separated from adults (in the case of terrorism-related offences children are often placed in high-security adult facilities in the interest of preserving security) and be placed in specialised juvenile detention facilities.⁸⁶ In addition, detention conditions must respect the dignity of the child/young person. He or she should be provided with the opportunity to develop physically and mentally through access to psychological and family support as well as educational and vocational skills training. In the context of counter-terrorism, the Neuchâtel Memorandum emphasises that critical thinking and social awareness should be developed,⁸⁷ due to the high rates of child exposure to violence in

detention, the gaps in social and academic learning that have a knock-on impact when they are released, the lack of social inclusivity and active citizenship skills to minimise feelings of anger and marginalisation in the post-release phase or the absence of knowledge on constructive accountability towards the assumption of responsibilities and reparation of individual and collective harms.

In 2018, 1,500 children worldwide were detained on grounds of national security (in the absence of armed conflict in the territory of the state).⁸⁸ It is increasingly accepted that the situation related to children recruited and exploited by violent extremist/terrorist groups is similar to that of child soldiers. However, in practice, child soldiers are often seen as victims and are rarely prosecuted or sentenced to prison, whereas children associated with violent extremist/terrorist groups are usually prosecuted.⁸⁹ Children suspected of terrorism-related offences tend to spend more time in pre-trial or administrative detention and are also subject to harsher sentences than children prosecuted for other crimes.⁹⁰

⁸² COMMITTEE ON THE RIGHTS OF THE CHILD, "General Comment No.10 – Children's rights in juvenile justice", CRC/C/GC/10, 25 April 2007. Available at <https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>, para. 80.

⁸³ CRC, Article 40§2 (iii).

⁸⁴ GCTF, Neuchâtel Memorandum on Good Practices for Juvenile Justice in a Counterterrorism Context, 2015. Available at <https://theiij.org/wp-content/uploads/English-Neuchâtel-Memorandum-on-Juvenile-Justice.pdf>, Good Practice 8, p.8.

⁸⁵ CRC, Article 37 (d).

⁸⁶ GCTF, Neuchâtel Memorandum on Good Practices for Juvenile Justice in a Counterterrorism Context, 2015. Available at <https://theiij.org/wp-content/uploads/English-Neuchâtel-Memorandum-on-Juvenile-Justice.pdf>, Good Practice 11, p. 9.

⁸⁷ GCTF, Neuchâtel Memorandum on Good Practices for Juvenile Justice in a Counterterrorism Context, 2015. Available at <https://theiij.org/wp-content/uploads/English-Neuchâtel-Memorandum-on-Juvenile-Justice.pdf>, Good Practice 10, p. 9.

⁸⁸ UN Global Study on Children Deprived of their Liberty, available at <https://omnibook.com/Global-Study-2019>, p. 648.

⁸⁹ R. BRETT, Juvenile justice, counter terrorism and children, 2002. Available at https://quno.org/sites/default/files/resources/Juvenile%20justice_counter-terrorism%20and%20children.pdf.

⁹⁰ UN Global Study on Children Deprived of their Liberty. Available at <https://omnibook.com/Global-Study-2019>, p. 647.

With the rise of organisations such as ISIS (Islamic State), the problem of foreign fighters has amplified the issue. Numerous children are held in detention in Syria and Iraq without being charged because their parents joined a terrorist organisation.

Whereas international legal standards are clear on deprivation of liberty for children even in the context of counter-terrorism, national legislation usually fails to strike the balance between national security concerns and the best interest of the child. Domestic counter-terrorism laws have failed to address specific guidance on how to deal with children and young people. International counter-terrorism frameworks request States criminalise terrorism-related offences and punish them with harsher sentences. Often, this approach prevails over children's rights and Child Justice standards when it comes to the use of deprivation of liberty.

The consequences of detention for children and young people can be profound, creating long-term stigma, physical and mental health issues, family separation and displacement, as well as severely limiting their ability to reintegrate into society and support themselves. Where reintegration programmes are not available in juvenile detention facilities, the danger of recruitment and radicalisation to terrorism while in detention is increased. Finally, some children and young people may face revenge attacks upon returning home after their release from detention. The UN Secretary General⁹¹ has warned that the detention of children can exacerbate community grievances and has repeatedly urged states to prioritise alternatives to detention.

A child protection approach for children deprived of liberty on terrorism grounds

In **Kenya**, children can be sent to Probation Hostels rather than juvenile institutions according to the Probation of Offenders Act. Children go to their regular school during the day and come back to the hostel afterwards. They are in constant contact with their families and communities and the number of places is limited so as to ensure personalised and focused treatment.⁹²

The government of **Sri Lanka** established a rehabilitation programme for detained former members of the Liberation Tigers of Tamil Eelam (LTTE).⁹³ Called the "6+1 model,"⁹⁴ it is based on seven pillars: (1) educational, (2) vocational, (3) psychosocial and creative therapies, (4) social, cultural and family, (5) spiritual and religious, (6) recreational, and (+1) community rehabilitation. Vulnerable groups such as children were prioritised,⁹⁵ and 594 children benefitted from the programme and were reintegrated within one year of release from detention. While on the programme, children were provided with formal education in a school,⁹⁶ as well as vocational training programmes (42 were established) in rehabilitation centres, provided by the government and international and national NGOs.⁹⁷ In addition, children had the possibility to seek spiritual and psychosocial support. As part of this psychosocial support, boys and girls took part in Scouts activities, which aimed at fostering a sense of social responsibility.

⁹¹ UNSC, "Report of the Secretary-General on Children and Armed Conflict," S/2016/360, 20 April 2016. http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2016_360.pdf, para. 16.

⁹² THE INTERNATIONAL INSTITUTE FOR JUSTICE AND THE RULE OF LAW, Toolkit on Juvenile Justice in a Counter-Terrorism Context, (1st edition), October 2017. Available at <https://theij.org/wp-content/uploads/IJJ-TOOLKIT-JUVENILE-JUSTICE.pdf>, p. 52.

⁹³ M. HETTIARACHCHI, "Sri Lanka's Rehabilitation Program: A New Frontier in Counter Terrorism and Counter Insurgency," Prism Vol. 4, No. 2, 2013: p. 117.

⁹⁴ M. HETTIARACHCHI, "Sri Lanka's Rehabilitation Program: A New Frontier in Counter Terrorism and Counter Insurgency," Prism, Vol. 4, No. 2, 2013, p. 104.

⁹⁵ M. HETTIARACHCHI, "Sri Lanka's Rehabilitation Program: A New Frontier in Counter Terrorism and Counter Insurgency," Prism, Vol. 4, No. 2, 2013, p. 108.

⁹⁶ M. HETTIARACHCHI, "Sri Lanka's Rehabilitation Program: A New Frontier in Counter Terrorism and Counter Insurgency," Prism, Vol. 4, No. 2, 2013, p. 109.

⁹⁷ M. HETTIARACHCHI, "Sri Lanka's Rehabilitation Program: A New Frontier in Counter Terrorism and Counter Insurgency," Prism, Vol. 4, No. 2, 2013, p. 110.

Scouts activities, which aimed at fostering a sense of social responsibility.⁹⁸

In **Syria**, children aged between 12 and 17 who are sentenced to imprisonment by the Kurdish authorities are sent to the Hori Youth Detention and Rehabilitation Centre. During their stay at the centre, children are provided with vocational training, sport, and courses such as geography, history and Arabic. If children follow the programme and are seen to show progress in their rehabilitation, their sentence may be reduced.⁹⁹ Founded in 2017, 350 children have graduated from the centre.

5.2 Diversion and alternatives to detention

Non-custodial measures are of paramount importance in Child Justice. While the most up to date international frameworks pertaining to the administration of justice for children and young people have recognised the application of diversion¹⁰⁰ and alternatives to detention¹⁰¹ in the counter-terrorism context, there is a pending and urgent responsibility of States to assess and put into practice diversion pathways and alternatives to detention for those involved in terrorism-related offences. Despite the legitimate goal of preserving national security, particularly given the increased threat posed by terrorism to many societies, there are several reasons to support the consideration within national frameworks of alternative judicial treatment of children and young people engaged in terrorism-related offences through non-custodial measures:

- International standards of Child Justice do not limit the applicability of diversion or alternatives to detention according to the severity of the offence. Hence, national frameworks have the chance to adapt their regulations (pertaining both to Child Justice and counter-terrorism) using a similar approach, stressing that the most relevant criteria for deciding on the appropriate measures to be taken depend on individual (and comprehensive) assessment of the specific needs of the child as well as the potentiality of his/her reintegration.

- As previously discussed, in recent years, States have considerably widened the range and scope of terrorism-related offences. Children and young people are increasingly being charged with terrorism-related offences owing to the expanded use of charges for preparatory offences or offences related to spreading ideas and exalting terrorism, sometimes blurred with extremist conduct that may not be conducive to terrorism. Accordingly, many children facing terrorism-related charges are first-time offenders, were not directly involved in any acts of violence or became associated with terrorist groups through various forms of coercion, and in these cases non-custodial measures can certainly be effective.

- It is worth noting that many countries are reviewing their counter-terrorism strategies to include a greater focus on prevention and reintegration. Diversion or alternatives to detention are proven to be effective ways of minimising recidivism within well-planned and comprehensive reintegration programmes (See Chapter 6).

⁹⁸ M. HETTIARACHCHI, "Sri Lanka's Rehabilitation Program: A New Frontier in Counter Terrorism and Counter Insurgency," *Prism*, Vol. 4, No. 2, 2013: p. 111.

⁹⁹ E. DUPARCO, Syria rehab centre seeks to tame 'caliphate cubs,' (The National), 20 May 2020. Available at <https://www.thenation-ae/world/mena/syria-rehab-centre-seeks-to-tame-caliphate-cubs-1.731971>.

¹⁰⁰ For the purposes of this Guide, "diversion" is defined as "the conditional channeling of children in conflict with the law away from formal judicial proceedings towards a different way of resolving the issue that enables many — possibly most — to be dealt with by non-judicial bodies, thereby avoiding the negative effects of formal judicial proceedings and a criminal record, provided that human rights and legal safeguards are fully respected." UNICEF. Toolkit on Diversion and Alternatives to Detention, 2010. Available at https://www.unicef.org/tdad/index_55654.html.

¹⁰¹ For the purposes of this Guide, "alternatives to detention (pre-trial detention and post-trial detention)" is defined as "measures that may be imposed on children who are being formally processed through the criminal justice system, at both pre-trial and sentencing stages that do not involve deprivation of liberty." UNICEF. Toolkit on Diversion and Alternatives to Detention, 2010. Available at https://www.unicef.org/tdad/index_55654.html.

- Non-custodial measures have the benefit of flexibility, as they can be adapted to different individual and family/social circumstances.

Non-custodial measures should be accompanied by support services

A range of diversion and alternatives to detention measures are available, from bail, house arrest, electronic monitoring and conditional release to warnings, conditional discharges, status penalties, pecuniary fines, compensation orders, suspended sentences, probation and judicial supervision, community service and vocational training. In order to be effective, focused on the specific needs of children and young people involved in terrorism-related offences, and conducive to their reintegration (See Chapter 6), complementary services must be provided as part of the non-custodial measures. These may include counselling, peer or adult mentoring, medical or psychological care, life skills to deal with their offending behaviour such as building self-esteem and self-control or specific services for girls (and boys) subjected to sexual and gender-based violence. Close and regular supervision by a social worker or probation officer and family support services are advisable whichever measures are deployed.

The use of non-custodial measures when appropriate should be institutionalised within counterterrorism and Child Justice frameworks in each country, which should also mandate training for different professionals.

UK: Deradicalisation programmes and review of sentencing

In 2015, the United Kingdom dealt with a 14-year-old child, the youngest to be prosecuted on terrorism-related charges in the country. The boy was sentenced to detention in a youth facility considering the threat he might pose to society. However, the court imposed a review of the sentence after a specified period of time in order to assess if the child continued to pose a risk to society, after taking part in a mandatory de-radicalisation programme.¹⁰²

- Deploying diversion and alternatives to detention mitigates the risks and harms that are associated with being deprived of liberty including criminal “labelling” and stigmatisation (which may seriously hinder future social relationships, possibilities of employment, etc.), secondary victimisation, re-recruitment by terrorist and violent extremist groups, as well as the risk of a child/young person radicalising others whilst in detention.
- Non-custodial measures have been proven to be more effective from a prison-management perspective in terms of human, material and financial resources. Non-custodial measures also have a greater capacity to reinforce social cohesion through reduced recidivism, reduced stigma and cooperation from the community in the reintegration of children and young people, and thus have the potential to enhance collective and solidarity approaches.
- Diversion and alternatives to detention require that (i) there is compelling/proven evidence that the child/young person has committed the offence, (ii) the child/young person admitted to the offence freely and voluntarily, (iii) the measure is proportionate to the offence committed, (iv) as far as possible, the measure is tailored to address risk and protective factors (resilience-based approach) of the child/young person, (v) the child should participate as much as possible in the decision-making and must

¹⁰² THE INTERNATIONAL INSTITUTE FOR JUSTICE AND THE RULE OF LAW, Toolkit on Juvenile Justice in a Counter-Terrorism Context, (1st edition), October 2017. Available at <https://theij.org/wp-content/uploads/IJ-TOOLKIT-JUVENILE-JUSTICE.pdf>, p. 48.

be given adequate information on the nature and duration of the measures taken and consequences of a failure to participate. These points suggest that from the outset, there is a greater chance to establish an effective pathway towards rehabilitation and reintegration of the child/young person in question (See Chapter 6) compared to through the deprivation of liberty.

Recommendations from the Global Counterterrorism Forum

In 2015, the Global Counterterrorism Forum¹⁰³ adopted a set of recommendations on the effective use of appropriate alternative measures for terrorism-related offences. Recommendation 8 recognises that more emphasis should be placed on ensuring that vulnerable individuals are not victimised by imprisonment if viable alternatives are available and appropriate. Such an approach is in line with the general rule that States shall develop the legal basis for non-custodial measures and provide them in order to avoid unnecessary use of imprisonment, rationalise criminal justice policies and provide greater flexibility consistent with the nature and gravity of the offence, with the personality and background of the offender and with the protection of society, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.

The above-mentioned is to be read in conjunction with the Neuchâtel Memorandum (See box in Chapter 1) which included as Good Practices 7 and 8, the design and implementation of diversion and alternatives to detention for children and young people involved in terrorism-related offences, where “protective, supportive, educational and security measures” are to be considered.

CHAPTER 6.

Reintegration strategies for children and young people in contact and in conflict with the law in counter-terrorism contexts, including tertiary prevention focused on combatting recidivism



Given that one of the most important goals of Child Justice is a positive life-long impact on children and young people, reintegration becomes a central and mainstreamed process within Child Justice. Children and young people who have themselves experienced justice proceedings as a consequence of being suspected of, accused of or recognised as having infringed the law, or as victims and witnesses, know very well the negative impact that it can create in their lives in the short-, medium- and long- term. This is even more acute, as discussed in the previous sections, when dealing with children and young people involved in terrorism-related offences.

The legal frameworks and soft-law standards at the international level have insisted on the centrality of the reintegration approach to Child Justice systems, but have not fully defined it, generating confusion among national policymakers when transferring and operationalising these provisions to the national level, particularly when it comes to alignment with or concrete strategies related to counter-terrorism regulations or policies. As such, there continue to be different understandings of reintegration and it is commonly confused with other concepts, such as rehabilitation or aftercare, which are part of a holistic reintegration process but they are not interchangeable terms. It has also meant a failure to harmonise the tasks and roles of different professionals in the Child Justice sector and a lack of coherence in the messages and interventions that children and young people receive during the course of experiences with the criminal justice system. This goes against the continuum of care and long-term perspective that successful reintegration requires.

Reintegration is a key process given that failing to provide comprehensive and high-quality reintegration is highly correlated with recidivism. Reintegration must be a common concern and collective aim of

all professionals involved in Child Justice from day one of a child or young person's contact with the system, and as such, should be addressed by counter-terrorism frameworks specifically. Reintegration needs and potentialities must therefore be assessed and taken into account by all actors involved before, during and long after disposition of the case and release from detention or custodial care. This requires models of action that favour effective collaboration between the different institutions and ministries responsible for a child or young person at these different stages.

Addendum to the Rome Memorandum on Good Practices for Rehabilitation and Reintegration of Violent Extremists (2016)¹⁰⁴ focused on FTFs and other violent extremist offenders

While the Addendum to the Rome Memorandum is not child- or youth-oriented, its Good Practice 2, recognises the need to legally and practically tailor reintegration processes to the existing categories of offenders. It mentions, among the specific categories, that "juveniles" require specialised approaches, recommending States follow and capture in their legal frameworks "Juvenile Justice" regulations and standards.

6.1 Key standards of reintegration within Child Justice systems and applicability to children and young people involved in terrorism-related offences

The following 10 standards attempt to embed reintegration in Child Justice approaches and practices with regards to children in contact and in conflict with the law:¹⁰⁵

¹⁰⁴ Addendum to the Rome Memorandum on Good Practices for Rehabilitation and Reintegration of Violent Extremists, 2016. Available at [https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/2016%20and%20before/Addendum%20to%20the%20Rome%20Memorandum%20on%20Legal%20Frameworks%20ENG%20\(1\).pdf?ver=2020-01-13-154324-110](https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/2016%20and%20before/Addendum%20to%20the%20Rome%20Memorandum%20on%20Legal%20Frameworks%20ENG%20(1).pdf?ver=2020-01-13-154324-110).

¹⁰⁵ Tdh Lausanne Foundation, "Give me a chance, but a real one. How to improve the Reintegration of Children in Conflict with the Law. An analysis of the concept, key standards and practices in the MENA region," 2020. <https://www.tdh.ch/en/media-library/documents/a2j-mena-reintegration-children-conflict-law-give-chance-real-one>

1. Reintegration shall be a **holistic process** that requires **different dimensions of action**

An interdependent and multidimensional range of services should be provided. At a minimum, to be holistic requires that the services provided are based on a multidisciplinary understanding of the reintegration process and address its key dimensions: health (including mental health and sexual reproductive health when required), psychosocial support, education, vocational training and income-generating opportunities, life skills, peer and mentorship programmes, cultural and sports activities and social networks. Specialised therapies and treatment should complement the basic service packages and should be selected through assessing individually the characteristics and circumstances of the child/young person (See Standard 2), rather than provided according to their availability in a given place/time. It would be important to follow a socio-ecological model (individuals, family, community, system), thus looking holistically at the different risk and protection factors within various interconnected layers (See Standard 9).

2. One size does NOT fit all – **Individual and tailored approach**

Methodologies and their associated tools should accommodate a degree of flexibility such that an individualised approach can be ensured. The experiences of children can be extremely different, according to their environments, socioeconomic conditions, risk and protective factors and beyond. Proper assessment tools for the individual situation and needs are thus crucial and should be available to all professionals from different backgrounds (social workers, police, probation officers, child counsellors, prosecutors, judges, etc.) who are in contact with the child from the moment s/he enters the system. A Reintegration Individual Plan should be developed and used throughout the whole process.

3. **Participation.** The child/young person is **meaningfully involved** in his/her own reintegration

Children should be at the heart of well-designed and effective Child Justice systems. Their participation is not only a mandatory standard, but a fundamental

right enshrined in all international instruments, as well as most national frameworks, although insufficiently practiced. The meaningful participation and involvement of children and young people in their own reintegration is the key element in the equation in order to achieve the results sought — a self-directed life far away from crime and the justice system. Respect for the informed decisions of children/youth is a sine qua non for their real participation.

4. Reintegration is **dynamic** and, thus, subject to review

The reintegration of children in conflict with the law is a process which should be mainstreamed in all stages and parts of the Child Justice system (those in pre-trial detention and those deprived of liberty through sentencing, as well as those benefiting from a non-custodial measure scheme, whether diversion or alternatives to detention, in addition to victims and witness of crime). When reintegration is appropriately planned and it works, progressive changes at different levels will be present in the life of the child/young person concerned. Hence, it is indispensable that the child/young person is closely attended to by trained professionals with different expertise who can monitor evolution and, together with the child/young person, adjust the plan as needed.

5. **Specialisation** without “special treatment”

Reintegration processes require specialisation which shall be present at the level of laws and policies and at the level of tools, guidance and methodologies. However, as reintegration should entail a progressive socialisation process with peers, family and overall communities, designing and implementing ad hoc reintegration programmes focused on certain categories of children and young people may be counterproductive, given the additional stigma, labelling and isolation it may pose for them. Another danger is that children in the process of being reintegrated may feel that they will always be considered dangerous criminals, hindering their hopes, motivations and opportunities. It is crucial that professionals involved in the reintegration of children in conflict with the law avoid judgements or categorisation and focus on understanding their concrete situation and potential. In addition, it should not be forgotten that

children and youth should benefit from pre-existing and general child protection systems not necessarily linked with the justice process.

6. Co-management and co-responsibility

Because reintegration is not meant to be a stand-alone service or a one-way road, but rather a complex and multidimensional process, the involvement of well-trained (with ongoing training to be provided), specialised and interdisciplinary professionals is key for the successful reintegration of children in conflict with the law. This involvement needs to be agreed and regulated, with clear roles and strong coordination mechanisms to ensure effective collaborative work (avoiding delays, bureaucracy, etc.). Co-management and co-responsibility extends in particular to the child/young person who is subjected to reintegration.

7. Reintegration shall ensure the continuity of care, a long-term approach and accompanied follow-up

While depending on the assessment of the case, in general the “continuity of care” implies a long-term approach to reintegration programmes, and entails ensuring appropriate follow-up is a key component of the support provided to the children/young people, their families and communities.

8. Reintegration should prevent institutional dependency

The issue of institutional dependency is closely connected to the responsibility of the institution and the Child Justice system not to abandon the child/young person when s/he is released. Efforts to prevent institutional dependency will not be successful unless they go hand in hand with “continuity of care” (See Standard 7).

9. Reintegration should address as priority offending behaviours and promote factors of resilience

The reintegration process should be individually focused, community-based and build on the strengths and resilience of children, families and

communities e.g. “Desistance from crime” (See Section 6.3).

10. Reintegration should be realistic, otherwise it will not be successful, exacerbating the risk of re-entering the justice system

The development of effective reintegration programmes largely depends on the real political will of States to comply with the international commitments made, but beyond that, within their own societies, to make them safer and more collective, and to invest in the social capital that children and young people represent. If reintegration of children in conflict with the law is to succeed, then it is essential to have a coherent and grounded national strategy/policy that identifies the key steps in the development of concrete and feasible interventions, analyses and takes into account local needs, entails the training of the appropriate professionals (avoiding rotation in positions if they hold public office to enable specialisation) and allocates financial resources.

While these standards are common to all children who face a reintegration process, undoubtedly those who have been recruited and exploited by terrorists and violent extremist groups face a specific and complex set of challenges during their reintegration that should be considered across all stages, from planning and implementation, to review, follow-up and evaluation.

- Violence has a severe impact on the physical and mental health of children. Those coming through such traumatic situations may have sustained physical injuries and impairments, contracted chronic diseases or developed post-traumatic stress disorder (PTSD). Furthermore, girls, in particular but not exclusively, are at risk not only of the trauma of sexual violence, but also sexually transmitted infections (that may extend to any children) with high chances of endangering their sexual and reproductive health. Reintegration of these children should entail specialised and continuous health services.

- It is common for these children and young people to face strong stigmatisation and rejection by families and communities, including being ostracised

because they may have been forced to violate social norms, values and beliefs or to act directly against their own families/communities. Indoctrination and continuous exposure to violence make the reintegration pathway particularly challenging, where evidence-based “deradicalisation/disengagement” approaches need to be more effectively developed as they currently lack a grounded basis. They should be voluntary, otherwise they risk posing additional harms. Holistic and specialised programmes should be put in place that are careful not to use stigmatising terminology that may have the effect of increased social isolation. With the appropriate safety procedures in place and well-trained staff, socialisation with other children undergoing reintegration during some service provision is advisable.

■ The reintegration plan/measures for these children and young people require deep knowledge and analysis of the “conflict journey” they have experienced and the circumstances in which they were recruited and/or used. Government and other actors applying Disarmament, Demobilisation and Reintegration (DDR)¹⁰⁶ approaches and operations when applicable should mainstream child protection standards, an area which requires further work and development, including ongoing monitoring and evaluation. In situations where the child was forced to leave his/her country and thus may have lost family connections, reintegration shall include opportunities for family tracing and reunification, where multidisciplinary (cross-border) expertise is essential.

6.2 Rehabilitation approaches for children and young people associated with armed groups, including those designated as terrorist groups: general trends of evidence-based mental health and psychosocial interventions

Considering the holistic nature of reintegration of children and young people as described in the previous section, mental health and psychosocial interventions (MHPSS) appear as an approach, as well as a specific intervention for rehabilitation

well as a specific intervention for rehabilitation (applied at different levels depending on the case in question).

Children and young people involved in violent extremism conducive to terrorism and/or in terrorism-related offences are likely to have been both victims and perpetrators. The significant number who have undergone traumatic events, often without any close support from a caretaker, often experience high psychosocial and/ or psychological distress (and in some cases, Post Traumatic Stress Disorder). With distress expressed through symptoms such as nightmares or flashbacks, the re-experiencing of the violence they went through (inflicted and suffered) and other important stress-related symptoms — often also during the judicial processes — it is unlikely they will be able to function and develop in a healthy environment if no holistic and specialised MHPSS intervention is provided to them.

MHPSS interventions/support must consider the following:

- Availability of space for children/young people to receive MHPSS services in confidentiality and within a safe environment.
- Time available to effectively conduct adapted support (especially relevant for children in detention).
- Services should be provided in language that is understandable and adapted to the age, maturity and situation of the child/young person. The support of accredited and trained interpreter/cultural mediators is key for the effectiveness of MHPSS interventions.
- Availability, safety and well-being of qualified professionals to conduct adapted evidence-based approaches. Specialised treatment requires the availability of a specialist as a supervisor, but the treatments themselves

¹⁰¹ DDR is a process that contributes to security and stability by disarming combatants, removing them from military structures, and socially and economically integrating them into society. DDR programmes downsize armed forces, or disband them completely (World Bank, 2017).

can be carried out by trained lay counsellors.

- Children and young people being in a position to trust the actors providing MHPSS interventions (e.g. independent professionals from outside the detention centre).
- Comprehensive approach to MHPSS, including case management plan for reintegration.
- Complementary approach to work with children's families and their environments on MHPSS.
- Actors are bound by the do no harm principle, along with the main ethical practices of responsibility, integrity, justice, respect for people's rights and dignity.
- The MHPSS intervention/support should focus on identifying, through participatory approaches, fears and stressors to address, as well as focusing on areas of interest for the child/young person in connection with rebuilding life goals.
- Focus on developing resilience: the ability to cope with the stressful and life-threatening situations faced during and after contact with the law. MHPSS interventions should work on the existing resources that the child/young person might have to strengthen his/her resilience capacities and capacity to cope, but also to adapt to life's challenges and changes and to transform negative experiences into renewed confidence, autonomy and control over a meaningful future. Family, social and environmental elements should be assessed and factored into the resilience approach to apply to MHPSS interventions.

Tdh's Mental Health and Psychosocial Interventions framework

The components of the Tdh MHPSS framework (adapted for children in conflict with the law and CAAFAG) are: ecological framework, the IASC MHPSS pyramid, the resilience paradigm and the wellbeing pillars: (1) "Feel safe": Safety, security

and stability; (2) "Feel connected": Relationships, bonds and networks; (3) "Feel worthy": Roles and identities; (4) "Feel respected": Justice and rights-fulfilment; and (5) "Feel hopeful": Hope and meaning. These interconnected dimensions focus on building resilience and enhancing the well-being of children and youth, applying a socio-ecological model that considers the levels of individual, family, community and environment.

Particularly addressing PTSD, recognised international guidelines (e.g. of the American Psychological Association, the International Society for Traumatic Stress Studies, and the National Institute for Health and Care Excellence) propose applying a trauma-focused approach that encompasses a variety of techniques. These may include *cognitive processing therapy (CPT)*, *Eye Movement Desensitisation and Reprocessing (EMDR)*, and *narrative exposure therapy (NET)*. CPT and NET have been tested in a range of diverse settings across the world, while only NET has been tested in relation to children associated with armed groups. The advantage of NET over the other approaches is its life-span approach: it does not target a single index trauma, but the whole series of events as they accumulated in the biography of the person. For those who have perpetrated acts of violence, this is especially relevant, as it enables the reconciliation of the conflicting meaning systems of civilian life and armed group life, which is a key challenge in these cases. It is worth noting that these examples of specialised mental health techniques should be accompanied by the psychosocial lens.

Uganda: Positive outcomes for children who received narrative exposure therapy (NET)

Narrative exposure therapy (NET) is a treatment for trauma-spectrum disorders in survivors of multiple and complex trauma, building on the fear network model of traumatic memories. This model rests on the notion that multiple traumatic experiences lead to intensive emotional-sensory memories that are poorly integrated with the corresponding context information. Therefore, NET aims at connecting the emotional-sensory

elements of the fear network with the corresponding context information (i.e. time and space) and to thereby process and integrate the traumatic experiences in the life story of the client. Narrative Exposure Therapy for Forensic Offender Rehabilitation (FORNET) is an extension of the existing NET rationale with the focus on the perpetrator locating events in time and space in order to reduce the appetite for further violent acts. Its aim is to appreciate that violent and aggressive reactions were adaptive in the war context and that many combatants experience positive feelings about violence. By contrast, as civilians, different reactions would be more appropriate and can lead to better outcomes for the future of the ex-combatant (finding a job, having a family, etc.). The aim is therefore to contrast the appropriateness of violent reactions between the past and the present. In Uganda, children and young people who were exposed to extreme trauma through their involvement with the Lord Resistance Army received NET with 80-90% of those who initially suffered from PTSD, no longer suffering from PTSD symptoms 8 months after treatment.¹⁰⁷

The psychosocial perspective should be considered, as mentioned above, with a particular focus on the personal skills of children and young people. Group activities conducted by mentors seek to mitigate environmental risks and cultivate personal coping mechanisms and capacities. During adolescence, many children still need to build and cultivate their capacity to feel empathy. Prolonged exposure to extreme violence — like that experienced by children and young people involved in violent extremism that is conducive to terrorism and/or involved in terrorism-related offences — could affect this development. At the same time, the context of conflict perpetuates a situation where antagonistic groups dehumanise each other and allow themselves to adopt violent behaviours. These dehumanising

beliefs can be easily imbibed by vulnerable children and young people whose critical thinking is affected by psychosocial distress and low levels of education.

Psychosocial group activities with Tdh in Baghdad's detention centres

There are a number of psychosocial group activities that can play a vital role, as they allow the child/young person to gain skills to deconstruct such ideologies themselves. The list below consists of examples of activities that can contribute to building empathy, developing critical thinking and building a new identity. They are currently applied by Tdh in its work in detention centres in Baghdad with children and young people convicted for terrorism-related offences and deprived of their liberty. These activities, being in groups, foster collaboration, communication, responsibility, and help learn children and youth to better manage their emotions, regain confidence and building trust with themselves and others. They are all interconnected: (1) Mentorship systems and peer support groups; (2) Projection of films that promote peace among antagonistic groups; (3) Sport activities with trained coaches that promote team spirit, cooperation, self-worth; (4) Art activities allowing children and youth to find ways to live and experience emotions in ways they wouldn't otherwise; (5) Peace education through activities that can help them to turn away from judgmental attitudes towards others and to see things from another's point of view, thus enabling them to build more meaningful and healthy relationships. There are existing peace education manuals developed by professionals that can be contextualised to the corresponding intervention and context;¹⁰⁸ (6) Supervised book/reading clubs, (7) Literacy classes can also contribute to developing critical thinking as it offers the opportunity to

¹⁰⁷ Sample was 700 children former combatants/recruited soldiers, and the timeframe was 2011 to 2019.

¹⁰⁸ Examples are: the "Peace Education Training Material for South East Asia" by Global Partnership for the Prevention of Armed Conflict (GPPAR), "Child Soldiers: Peace Education Curriculum" by War Child.

modulate perceptual and cognitive processing¹⁰⁹ and to access to new information independently; (8) Healthy masculinity: all around the world, new approaches are emerging towards men with violent behaviour. Boys receive sessions that question and discuss the role of men in society, and for example, how to gain respect and success without using violence as a means to achieve this.

Contemporary analysis of individual radicalisation reflects a broad academic consensus that radicalisation is a dynamic rather than linear process. There is no single distinct pathway to violent extremism and individuals may enter and exit a path for different reasons and at different times.¹¹⁰ The radical and extreme mindset usually initially appeals to very few: people whose sense of distress and longing for identity and whose searing personal experiences make them most susceptible to those who manipulate grievances and identities as an entry point to gain popular support. Participation in terrorist attacks and indoctrination into the ideologies of hatred and violence leaves the moral sensibilities of children and young people deformed. Some of them may not easily give up the violent ways of thinking in which they have been trained.¹¹¹ It has, however, been observed in the Iraqi context, that simply by virtue of mixing and interacting with other inmates in detention, as well as empathetic and more ideologically open staff members such as guards and social workers, a large number of them naturally become more open and gradually abandon violent attitudes and behaviours.

Families of children and young people in detention may also be at any stage of violent radicalisation, or they may not be at all. They may be in detention themselves. Some will be in contact with the child/young person, and others not at all. Some families may reject the child/young person on their

release from detention, while others may welcome him/her back. Regardless of the situation, families and the social environment (e.g. peers, community dynamics) are likely to play a vital role in the recovery of the child or young person throughout the reintegration pathway, given their potential for influence and their role in the well-being and resilience of the child/young person.

There are, as yet, no evidenced effective specialised approaches to tackle violent radicalisation and violent extremism conducive to terrorism among children and young people in the Middle East. There is therefore a need for actors involved in the rehabilitation of children and young people to collaborate with academics on building evidence-based therapies that encompass both mental health and psychosocial support interventions in this particular field. This flows from the assumption that general MHPSS services are a better entry point for any intervention related to violent extremism conducive to terrorism, because those espousing violent ideologies tend to resist any direct attempts to change their mindset. It is also expected that mental health, violent radicalisation and aggression are inter-correlated, since violent ideologies may justify perpetration of violent acts and are likely to serve and maintain mental health conditions among perpetrators. Additional research and methods should consider the role of family members, social networks and peer environment in influencing the way of thinking among these children and young people.

Mental health and psychosocial support interventions and pathways to disengage from violent extremism conducive to terrorism need to be integrated following a holistic socio-ecological approach. Interventions should aim not at confronting violent ideologies, but at contextualising the mindset (including emotions and beliefs) into a renewed life biography.

¹⁰⁹ F. HUETTIG, R. KOLINSKY & T. LACHMANN, "The culturally co-opted brain: how literacy affects the human mind," *Cognition and Neuroscience* Vol. 33, No. 3, 2018. pp. 275-277.

¹¹⁰ G. HOLMER, P. BAUMAN, "Taking Stock, analytical tools for understanding and designing P/CVE Programs" (United States Institute for Peace), 6 September 2018. Available at <https://www.usip.org/publications/2018/09/taking-stock-analytic-tools-understanding-and-designing-pcve-programs>.

¹¹¹ American Institute for Research and EQUIP1 LWA, "Role of Education and the Demobilization of Child Soldiers: Aspects of an Appropriate Education Program for Child Soldiers," March 2007. Available at https://pdf.usaid.gov/pdf_docs/PNADI663.pdf.

6.3 Innovative approaches: “Desistance from crime” within effective reintegration strategies, including tertiary prevention

A comprehensive, while individualised, approach to reintegration of children and young people engaged in terrorism-related offences should entail innovative methods in order to shift the traditional criminal response. This section will briefly present the desistance from crime approach, chosen because it is strongly evidenced in the scientific literature, and according to this evidence is also flexible and widely applicable in different contexts. It pays special attention to the strengths and resources of children, young people and communities rather than focusing on the risk they represent, thus applying a consistent resilience-based framework for reintegration interventions involving tertiary prevention outcomes.

Tertiary prevention

Tertiary prevention (or indicated prevention) focuses on measures employed after a crime has occurred in order to prevent successive incidents (recidivism). It involves a range of practices focused on people who are already in conflict with the law, whether deprived of liberty or serving a non-custodial measure following a judicial process.

The desistance approach, presented below with a specific focus on its application in counter-terrorism contexts, can be implemented with a certain flexibility, allowing it to be adapted to various cultural, political and social contexts. It can potentially be adapted to contexts with specific forms and patterns of crime, from areas with high crime rates to areas of conflict and political violence. The approach may also be adjusted to fit with diverse forms of justice, including alternatives to the formal justice system or restorative justice. Its implementation should also be considered in settings where resources are disparate and insufficient.

Restorative Justice: An approach to complement desistance within States’ Rule of Law — An Ibero-American example of good practice

Restorative justice represents a radical paradigm shift away from combined traditional welfare and punitive justice approaches to juvenile offending. Restorative justice processes aim at bringing together the different interests of the parties (victim, perpetrator and community), where each of them play a crucial role in the resolution of a case: The perpetrator assumes responsibility for the harm caused, the victim participates in the solution of the harm to heal himself/herself, and the community supports conflict resolution and de-labelling, actively participating in the reintegration of perpetrator and victim.

This Guide does not delve into the diversity of existing theories and practices of restorative justice, but rather embraces a general vision of its principles, considering restorative justice to be a penal philosophy or a set of values related to the way of thinking about tertiary prevention and participation in children’s desistance from crime.¹¹² The recently approved **Ibero-American Declaration in Juvenile Restorative Justice** (COM-JIB, 2015) is an example of this idea in the sense that it does not seek to substitute the existing Juvenile Justice system, but mostly attempts to implement restorative values that already exist according to international legislative standards and national legislation.

Examples of restorative justice practices that can be mainstreamed within a reintegration pathway that applies desistance include: victim-perpetrator mediation, conferencing, sentencing and peace-making circles. It may be appropriate to apply these during the advanced stages of a reintegration process.

¹¹² S. MARUNA, “Desistance and restorative justice: It’s now or never,” *Restorative Justice* Vol. 4, No.3, 2016: pp. 289-301.

The desistance approach proposes flipping the perspective of traditional criminological theories: instead of studying why *individuals commit crimes*, it asks why individuals stop committing crimes. It considers how change happens over the life course of offenders.¹¹³ Interestingly, a large proportion of offenders stop committing crimes at a certain point; criminal careers that last a lifetime are rare.¹¹⁴ Nonetheless, criminological studies have paid greater attention to those who reoffend than to the larger group of people who give up crime.¹¹⁵ Hence, the desistance approach focuses more on the successes—disengagement from criminal behaviour (that may include radicalism/extremism conducive to terrorism)—rather than the failures of children and young people (recidivism).

A distinction should be made between three aspects of the desistance process, which may occur simultaneously:

- *Primary desistance* relates to an offence-free period in the course of a criminal career. It is simply the absence of criminal behaviour for a period of time.
- *Secondary desistance* refers to a shift in the individual's self-identity. The child/young person in conflict with the law changes their perception of themselves, along with their attitudes and values.¹¹⁶
- *Tertiary desistance* concerns the sense of belonging to one's anchor community.¹¹⁷ Because identity is socially constructed and negotiated, securing long-term change depends not only on how one sees oneself but also on how one is seen by others, as well as how one sees one's place in society.

Related to these three aspects of desistance, several studies highlight the reasons why people move away from criminal behaviour by considering three main explanations:

- Age and maturity development: It is very relevant to note that adolescence constitutes a developmental stage of life conducive to giving up criminal acts, as specific changes during the passage from childhood to adulthood are consolidated.¹¹⁸ During this particular stage of life, children look for traditional "markers of adulthood" (such as finding a job, being economically independent, having one's own housing, starting a family, seeking recognition, etc.). It is more difficult to achieve these markers while simultaneously actively offending.¹¹⁹ Consequently, the existence of alternatives to deviance and crime is crucial in order to allow children to develop other values and behaviours.

- New social events and ties: This refers to social capital that is developed by offering opportunities to develop law-abiding relationships and social networks. Stable and quality relations offer both supervision and support to the child/young person. These new situations re-organise his/her routine activities and become opportunities to change his/her self-perception and self-identity.¹²⁰ In other words, these turning points and social bonds make offending less attractive because individuals have something to lose (e.g. parent's trust, employee's confidence, partner's affection, community friendliness and acceptance, etc.). As a result, this risk of losing something is often associated with engagement in conventional roles (e.g. a partner, parent, employee, volunteer worker, sports coach, etc.).

¹¹³ S. MARUNA, AND T. P. LEBEL, "The desistance paradigm in correctional practice: from programmes to lives" IN F. MCNEILL., P. RAYNOR, AND C. TROTTER (Eds.), *Offender Supervision: New directions in Theory, Research and Practice*, Oxon & New York: Routledge, 2018, pp. 91-114.

¹¹⁴ F. MCNEILL, S. FARRALL, C. LIGHTOWLER AND S. MARUNA, "How and why People Stop Offending: Discovering Desistance," Scotland: Institute for Research and Innovation in Social Services, 2012.

¹¹⁵ A. BLUMSTEIN, J. COHEN, J.A. ROTH AND C.A. VISHER, *Criminal Careers and Career Criminals*, Vol. 1, Washington DC: National Academy Press, 1986.

¹¹⁶ S. MARUNA, T.P. LEBEL, N. MITCHELL AND M. NAPLES, "Pygmalion in the reintegration process: desistance from "crime through the looking glass" in *Psychology, Crime & Law* Vol. 10, No. 3, 2004: pp. 271-281.

¹¹⁷ F. MCNEILL, "Desistance and criminal justice in Scotland," in H. Croall., G. Mooney, and M. Munro (Eds.), *Crime, Justice and Society in Scotland* (2nd edition), London: Routledge, 2016.

¹¹⁸ J. AMEMIYA, J. KIETA AND K.C. MONAHAN "Adolescent offenders' qualitative reflections on desistance from crime," *Journal of Research on Adolescence* Vol. 27 No. 4, 2017: pp. 765-781.

¹¹⁹M. MASSOGLIA AND C. UGGEN, "Settling down and aging out: Toward an interactionist theory of desistance and the transition to adulthood,"

¹²⁰*American Journal of Sociology* Vol. 116, No. 2, 2010: pp. 543-582.

J.H. LAUB AND R.J. SAMPSON, *Shared beginnings, divergent lives: Delinquent boys to age 70*, Cambridge, MA: Harvard University Press, 2003.

- Cognitive and narrative transformations:¹²¹ Changes in identity are accompanied by new narrative discourses known as the “redemption script.” Contrary to the “condemnation script” of persistent offenders who express the wish to stop offending but believe that change is not possible for them, the “redemption script” is characterised by a narrative framework that supports and explains changes. The desisters’ “redemption script” comprises an optimistic message of hope for the future and realistic change. The discourse of desisters show three particular features. Firstly, this new discourse gives a coherent structure to the past, present and future child’s attitudes and aspirations. Secondly, the new discourse contributes to developing a sense of agency. Finally, it raises generative motivations which are understood as the desire to pay attention to other people and to do something for them, for society and for future generations.¹²²

The dimensions supporting each level of desistance

Three dimensions/contributors nourish the three aspects of desistance (primary, secondary and tertiary).

✓ The first dimension (individual) refers to contributors strengthening individual skills, capabilities and motivations for change: human capital.¹²³ This dimension accounts for all kinds of personal resources, including new capabilities, development of a sense of agency and changes in attitudes and beliefs.

✓ The second dimension (relational) concerns the contributors that support all kinds of relations

that foster desistance through the development of supportive formal and informal social networks: social capital. It includes individuals’ conventional relations, such as family, school colleagues, friends, justice system actors and community members. Apart from the importance for children/young people of having someone that believes in them, it is also meaningful for them to have formal recognition of their achievements. Evidence shows that we begin to believe that we are able to change our lives when the people around us think we can. Therefore, it is up to the justice system and society to give young people the chance to change, and to show some degree of confidence in their ability to do so if the young person is to achieve change.

✓ The third dimension (societal) states that the deployment of human and social capital is conditioned by two aspects of the societal context: available opportunities and the labelling/de-labelling potential of society. In referring to the labelling/de-labelling potential of society, this dimension takes into account the social and judiciary reactions to the child/young person, as well as the stigmatisation associated with criminal proceedings.¹²⁴

121 J.H. LAUB AND R.J. SAMPSON, *Shared beginnings, divergent lives: Delinquent boys to age 70*, Cambridge, MA: Harvard University Press, 2003.

Among others: V. BENAÏTH, X. DELARMINAT AND A. GAÏA, “Changements biographiques et transformation d’un mode de vie : l’apport des recherches sur les sorties de délinquance,” *Revue internationale de criminologie et de police technique et scientifique* Vol. 69, No.3, 2016: pp.323-348.

122 S. MARUNA, *Making Good: How Ex-Convicts Reform and Rebuild Their Lives*, Washington DC: APA Books, 2001.

123 F. MCNEILL, *Towards Effective Practice in Offender Supervision*. Glasgow: Scottish Centre for Crime and Justice Research, 2009. Available at https://www.sccjr.ac.uk/wp-content/uploads/2012/10/McNeil_Towards.pdf

124 M. BARRY, “On the cusp of recognition: Using critical theory to promote desistance among young offenders,” *Theoretical Criminology* Vol. 20, No. 1, 2016: pp. 91-106; A. GAÏA, “Expériences socio-judiciaires et sorties de délinquance” *Agora débats/jeunesses* Vol 3. No. 77, 2017: pp. 121-133..

Children and young people involved in terrorism-related offences can truly benefit if a desistance approach is mainstreamed appropriately within the reintegration strategy to be followed from their first contact with the justice system. It is an approach that integrates the dual status of victim-perpetrator, which, according to international standards, should be present in all terrorism-related cases that concern children and young people. Ultimately, despite the severity of the extreme violence suffered and perpetrated, desistance gives a real opportunity to children and young people to live lives away from terrorism and crime, while at the same time fostering more resilient generations and cohesive communities. Focusing on the protective factors, strengths and potential of children and young people presents a much more sustainable and child-friendly route to reintegration.

Reconceptualizing the drivers of violent extremism

In 2018, Tdh and WANA Institute jointly developed policy research, "Reconceptualizing the drivers of violent extremism: An agenda for child & youth resilience," aimed at presenting a comprehensive and practical picture of positive protective responses around resilience and violent extremism worldwide with a focus on the MENA region.¹²⁵

A pilot example of desistance in Burundi between Tdh and the University of Lausanne (Switzerland): The Good Lives Model (GLM)

Developed from the field of positive psychology, the Good Lives Model (GLM) is a specific rehabilitative framework of intervention grounded in the strength-based approach and on the principles of desistance. It focuses on individual needs and aspirations, while also considering their networks and social environment, and promotes positive relationships with individuals and engagement in wider social life. It fosters the

restoration of offenders into communities through opportunities for the acquisition of skills. The main objective of GLM's interventions is to assist in the development of a life plan that involves effective ways of securing primary human goods without hurting others. Generally, difficulties result from the activities or strategies (secondary goods) that are used to obtain primary goods. The focus of the intervention is to identify the obstacles to securing primary goods through acceptable secondary goods rather than committing crime. It requires an explicit conceptualisation of what a "good life" means to a particular individual. As an approach, it encompasses respect for individual strengths, abilities, decision-making capacities and agency, while also considering relational and environmental elements.¹²⁶

The GLM was contextualised in Burundi by the University of Lausanne in partnership with Tdh Lausanne. It was applied in two detention centres for minors from 2014 to 2018 in three stages: (1) a toolkit pertaining to the contextualised assessment of children/young people to gather information directly, and then tailor the GLM intervention; (2) application in the detention centres through a set of various activities, and following up on cases (including those still in detention and those already released); and (3) evaluation of the results to adjust as required. The GLM is a practical example of the desistance approach applied during the reintegration of children and young people deprived of liberty because of terrorism-related offences.

Desistance and Disengagement Programmes in the UK's Counter-Terrorism Strategy (CONTEST)

In 2018, the UK's CONTEST framework (consisting of Prevent, Pursue, Protect and Prepare)

¹²⁰ TERRE DES HOMMES AND WANA INSTITUTE, Reconceptualizing the drivers of violent extremism: An agenda for child & youth resilience, 2018. Available at <https://www.tdh.ch/en/media-library/documents/extremism-child-youth-tdh>.

¹²¹ T. WARD AND S. MARUNA, Rehabilitation: Beyond the Risk Paradigm, New York: Routledge, 2007.

launched a new “Prevent Strategy.” The new element was the inclusion of Desistance and Disengagement Programmes (DDP). These programmes are aimed at individuals already engaged in terrorism to help them disengage and reintegrate back into society. The introduction and proposed expansion of DDP targets a wider category of people, including individuals subjected to court-approved conditions: terrorism and terrorism-related offenders; those on Terrorism Prevention and Investigation Measures (TPIMS); and those who have returned from conflict zones in Syria or Iraq and are subject to Temporary Exclusion Orders (TEOs).

DDP is premised on the notion that changing the ideas and beliefs of offenders is ineffective in stopping individual engagement in terrorism, unless it is accompanied by other provisions (social support, material incentives and other inducements)¹²⁷; hence incorporating a desistance perspective into the different dimensions the Strategy sets out.

CHAPTER 7.

Recommendations for action



This Guide sets out several specific recommendations for key policy-makers and practitioners working on the Rule of Law and Justice Systems aimed at supporting their efforts in the development and implementation of grounded, protective and specialised justice constituencies for children and young people affected by terrorism in multiple ways. These recommendations are set out below, by theme:

Legislation

- A *specialised Child Justice system* (legislation, law enforcement processes, professionals, institutions, services) to be used as the *primary jurisdiction* and authority when children and young people (at least up to 24 years old, following the UN's official definition of youth¹²⁸) are involved in terrorism-related offences.

Where unavailable, States should approve a specific and binding legal framework of Child Justice. It is recommended that existing and any new Child Justice legislation expressly includes young people, as well as children.

- Child Justice frameworks should contemplate further specific provisions and safeguards applied to children and young people involved in terrorism-related offences. Counter-terrorism frameworks should incorporate a referral to Child Justice regulations and insert concrete provisions pertaining to the judicial rights of children and young people within their texts.

- Both Child Justice and counter-terrorism national frameworks should ensure that the MARC is set out at least at 14 years old, but preferably at 15 or 16 years old as recommended by the international frameworks on Child Justice.

- The *required further legal connection between Child Justice and counter-terrorism frameworks should clarify its relationship*: Child Justice should prevail as *lex specialis* over regular criminal laws and procedures (including

a military nature) in handling cases of children and young people involved in terrorism-related offences.

- Child Justice and counter-terrorism legal frameworks to expressly include the *standard of dual status of victim and perpetrator*, with primary attention to the victim aspect.

- Child Justice and counter-terrorism legal frameworks to share the common goal of fostering the safe reintegration of all children and young people involved in terrorism-related offences.

- *In all the above, gender specifications* should be made avoiding generalities and specifying concrete legal measures for females and males. Criminological models should be re-conceptualised to tackle gender-based differences. It is essential to employ an intersectional lens when mainstreaming legal considerations related to gender into laws and standards.

- *Caution should be exercised when regulating terrorism-related offences in national legal frameworks*. Children and young people should not be prosecuted solely for association with a terrorist or violent extremist group when they have been recruited and exploited by that group. In addition, children and young people should not be disproportionately or unnecessarily criminalised for expressing opinions, often online, that are perceived as "exalting" terrorism. Those should be carefully assessed to find the better prevention action to be carried out, preferably connected with child protection programmes.

- Consider the legal classification of victims of trafficking in persons in all its forms and of sexual violence, where committed by terrorist groups, as victims of terrorism with the purpose of rendering them eligible for the official support, recognition and redress available to victims of terrorism, including access to national relief and reparation programmes.

- *Recruitment of children and youth by any non-State criminal or armed group should be prohibited and prosecuted*, including by designated terrorist and violent groups, in national legislation.

¹²⁸ There is no universally agreed international definition of the youth age group. For statistical purposes, however, the United Nations — without prejudice to any other definitions made by Member States — defines "youth" as those persons between the ages of 15 and 24 years. This definition, which arose in the context of preparations for the International Youth Year (1985) (see A/36/215), was endorsed by the General Assembly resolution 36/28 of 1981. All UN statistics on youth are based on this definition.

Law enforcement

- The MARC should be applied consistently (across administrative, criminal and military jurisdictions) to all children and young people in conflict with the law regardless of the nature or severity of the offence, including terrorism-related offences. States should revise the age provisions across their regulations pertaining to children and young people in the context of counter-terrorism to at least comply with the international standards – as highlighted above, at least 14 years old, but preferably 15 or 16 years old.

- Children and young people involved in terrorism-related offences should have access through *legal aid to lawyers specialised in children's and young people's access to justice-related rights* at a minimum and from the beginning of their contact with the justice sector. States should regulate accordingly to ensure this legal aid is both free and specialised when required.

- *Avoid the use of administrative detention of children and young people involved in terrorism-related offences*, unless procedures that take into account the necessity of acting in their best interest have been carefully followed and evidenced. When administrative detention is imposed, all Child Justice principles, standards and legal provisions are to be applied systematically. Children and young people must be able to have meaningful and effective remedy and to challenge the imposition of these administrative measures.

- *Deprivation of liberty* (including administrative detention and pre-trial detention) *must be a measure of last resort and for the shortest time possible*, always after having carefully analysed the different weight of rights in place (best interest of the child) and after ensuring all Child Justice procedures and safeguards have been in place. Pre-trial detention should not be a default option for children and young people awaiting trial for a terrorism-related offence. When deprived of liberty, children and young people should never be placed in adults' prison, and certainly never in military prisons. It is mandatory

that they are placed in detention centres specialised for minors and young people, which must provide specific and comprehensive reintegration programmes. Caution should be exercised not to isolate or stigmatise children and young people involved in terrorism-related offences, as well as to carefully supervise signs of danger of recruitment and further radicalisation to terrorism while in detention.

- *Diversion and alternatives to detention should be fostered, evaluated and applied by justice professionals* for children and young people involved in terrorism-related offences. The entry into the criminal justice system creates additional risks of secondary victimisation and re-recruitment by terrorist and violent extremist groups. While it may not be suitable in all cases, a significant proportion (e.g. first offenders, those recruited but who have not exercised violence, etc.) can benefit from diversion and alternatives to detention schemes within justice procedures. These non-custodial measures have the potential to greatly boost and reinforce a far safer and long-lasting reintegration pathway. Justice professionals (judges, lawyers, prosecutors, etc.) need to be better trained and equipped in using diversionary measures and alternatives to detention in terrorism-related cases. More research is required to assess the effectiveness of non-custodial alternatives in ensuring public safety. Finally, it is essential that the public is sensitised on the use of non-custodial measures in strengthening public safety, reducing the risk of re-offending and effectiveness in the reintegration of children and young people, in turn, impacting positively on efforts to build more cohesive societies.

Justice practices

- *Terminology matters*: Misuse of concepts such as "radicalisation" or "extremist" without the corresponding specificities as to imply behaviours, attitudes and/or offences related to terrorism can cause enormous harm to children and young people in the short, medium- and long-

term, when they are in conflict with the law, as well as when they are victims or witness. Accurate and neutral non-stigmatising language is essential at the level of justice and child protection practitioners in all dimensions of the work. When legislation (international and national) supports appropriate terminology, a progressive cascade effect may happen in practice.

In addition, in line with CRC GC No. 24 (2019), Juvenile Justice and its extensions (e.g. Juveniles) should be shifted towards much more protective approach, where the international frameworks advocate for Child Justice and children in conflict and in contact with the law.

- Mainstream *knowledge on the social categorisation of children and young people involved in terrorism-related offences* to be included in training provided to justice, security and child protection professionals. This would lead to fairer and more tailored treatment in the justice sector, and subsequently safer and more sustainable reintegration.

- *Ensure age- and gender-appropriate analysis* in the design of *special investigative and interview techniques with children and young people involved in terrorism-related offences*. Detailed guidance should be compiled and regulated including concrete accountability mechanisms to supervise these processes, with specific focus on torture and other cruel, inhuman or degrading treatment or punishment. Special attention should be paid to their impact, not only on the primary target but also considering collateral effects on others (e.g. children/family members of the suspect). Children and young people should always have access to a specialised lawyer during these procedures.

- *Age- and gender-sensitive witness protection frameworks should be regulated* within justice proceedings pertaining to terrorism in any of its forms should be regulated and put in practice at national and international levels. These have the added benefit of encouraging witnesses to come forward and provide information and cooperation throughout the investiga-

tive and prosecutorial processes.

- Advocate for the *compilation and signature of handover protocols* of children and young people associated with armed forces and groups (including terrorist groups) to child protection civilian actors who are accredited and have sufficient networks and means to manage appropriate rehabilitation within a safe reintegration pathway. This applies both in countries where there is armed conflict and in countries receiving “foreign terrorist fighters.”

Reintegration, including rehabilitation

- Reintegration must be the primary goal of Child Justice systems, including for children and young people involved in terrorism-related offences.

- Ensure that the *10 minimum key standards of reintegration are considered and applied*: (1) holistic and multidimensional; (2) individual and tailored; (3) meaningful participation and engagement of the child/young person; (4) subject to review throughout the process; (5) specialised but without giving special treatment to the children and young people involved in terrorism-related offences to avoid secondary victimisation or stereotyping/stigmatisation; (6) involves the co-management and co-responsibility of different actors, including the child/young person and his/her family; (7) ensures continuity of care, a long-term approach and associated follow-up; (8) prevents institutional dependency; (9) promotes factors of resilience; and (10) is realistic and coherent. As part of being realistic, a reintegration process must be grounded in national strategy/policy and identify the key steps in the development of concrete and feasible interventions, analyse and take into account local needs, involve the training of the appropriate professionals (who, if they hold a public job, should remain in position rather than rotating to enable specialisation) and allocate financial resources.

- Reintegration should start from the first contact with the justice system and be applied within different justice processes: deprivation of liberty (in all its forms), non-custodial measures, aftercare, etc.

- **Rehabilitation interventions** within the reintegration process should address the extreme violence and trauma suffered by children and young people involved in terrorism. MHPSS approaches should be connected and complement one another in all the interventions and should focus on identifying, through participatory approaches, fears and stressors to address, as well as focusing on areas of interest for the child/young person in connection with rebuilding life goals (resilience-based). Consider application of specialised mental health therapies successfully applied to this group for children and young people, with the appropriate contextualisation and safeguards (eg. narrative expose therapy). The impact of rehabilitation should be carefully monitored and evaluated, and avoid labelling and stigmatising of the child/young person.

- Consider the application of **innovative approaches and methodologies (e.g. desistance from crime)** that focus on what drives an offender to move away from offending and to build a new life. Adding this lens to traditional and more risk-oriented and punitive approaches can greatly contribute to the reintegration of children and young people involved in terrorism-related offences. Contextualisation of the model and constant monitoring and evaluation are crucial for its progressive application and improvement.

children and young people for terrorism-related offences (whether suspects, perpetrators, victims and/or witnesses), institutionalised collaboration between different stakeholders such as police, counter-terrorism experts, prosecution authorities, courts, probation, detention facilities, families, schools and welfare services is a sine qua non to ensure appropriate treatment in the justice sector and reintegration. There have already been some attempts at this in different places that can inspire or be capitalised on according to the different political and operational systems in each country (e.g. information-sharing protocols; multidisciplinary professional group to support the judge's work in each case, including follow-up; central case manager able to work with different professionals and authorities, etc.). Evaluation of specific needs required by different professionals in the field and conceptualisation of specific training curricula, adapted to the professional situation, including blended methodologies and coaching support/on-the-job training. Cross-country training exchanges have been proven to be very effective. Where possible, training should be accompanied by incentives such as specialisation and career development.

Specialisation of professionals in the justice sector

- **Interdisciplinary and multisectoral agency cooperation and ongoing training and evaluation** are essential and should be strengthened. Given the complexity and multiple dimensions that must be considered in cases involving

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**Every child in the world
has the right to a childhood.
It's that simple.**

