International Standards and Norms on Juvenile Justice and law reform

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Contributing factors to violence against children in conflict with the law

- Increasing rates of detention
- Low priority
- Inadequate staffing
- Lack of monitoring and oversight
- Lack of cooperation between justice sector and welfare sector
Sources of violence against children in conflict with the law

- Staff in detention institutions
- Police and security forces while in custody
- Sentencing
- Adult detainees
- Peers
- Self-inflicted harm
International legal framework on juvenile justice

- **Convention on the Rights of the Child**
- UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)
- UN Standard Minimum Rules for the Treatment of Prisoners
- UN Standard Minimum Rules for Non-custodial Measures (Tokyo Rules)
- UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)
- UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules)
- Guidelines for Action on Children in the Criminal Justice System (Vienna Guidelines)
- UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)
Juvenile Justice Standards divided by areas

Minimum Guarantees

- Initial contact and pre-trial detention
- Diversion
- Adjudicatory process and sentencing
- Standards of detention
- After care and reintegration
## Minimum Guarantees

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Child’s right to be heard in any judicial proceeding
CRC 12; Beijing 14.2

Presence of parents
CRC 40(2)(b)(iii); Beijing 15.2

Right to an interpreter
CRC 40(2)(b)(vi); ICCPR 14(3)(f)

Right to have the matter determined without delay
CRC 40(2)(b)(iii); Beijing 20(1)

Right not to be compelled to give testimony or to confess or acknowledge guilt
CRC 40(2)(b)(iv); ICCPR 14(3)(g)

Right to legal representation
CRC 37(d) and 40(2)(b)(ii) and (iii); ICCPR 14(3)(b) and (d)

Right to privacy
CRC Art. 40(2)(b)(vii)
Initial contact and pre-trial detention

Contacts promote the well-being of the juvenile and avoid harm
Beijing 10.3

Pre-trial detention: a measure of last resort and for the shortest possible period of time
CRC 37(b); Beijing 13.1; Havana 1 and 2

Immediate notification to parents or guardians of the apprehension
Beijing 10.1

Child who is arrested or deprived of their liberty brought promptly before a judge or other officer authorised to exercise judicial power
CRC 40(2)(b)(iii); ICCPR 9; Beijing 10.2

Specialisation within the police
Beijing 12.1, Riyadh 58

Detention pending trial replaced by alternative measures
Beijing 13.2; Tokyo 6.2

Separation from adults
Beijing 13.4

Care, protection and assistance while in custody
Beijing 13.5
Diversion

Promote diversion or other alternative initiatives to the criminal justice system
CRC 40.3(b); Beijing 6, 11.1 and 11.2; Vienna 15

Provision of community programmes
Beijing 11.4; Tokyo 2.5

Requirement of consent for diversion
Beijing 11.3

Programmes aimed at strengthening social assistance
Vienna 42

Cooperation between the child justice sectors, law enforcement, social welfare and education sectors
Vienna 42
Adjudicatory Process and Sentencing

**Competent, independent and impartial authority in a fair hearing**
CRC 40(2)(b)(iii); ICCPR 14(1); Beijing 14.1

**Sentence proportionate to circumstances, gravity of the offence, age and needs of the child**
CRC 40(4); Beijing 5 and 17.1(a)

**Social enquiry report**
Beijing 16; Tokyo 7

**Non-custodial measures available**
CRC 40(3)(b); Beijing 18(1);
Tokyo 5, 6.2, 8 and 9

**Sentence of detention as a measure of last resort**
CRC 37(b); Beijing 17.1 and 19;
Havana 1 and 2
Adjudicatory Process and Sentencing (cont.)

No child deprived of his or her liberty unlawfully or arbitrarily
CRC 37(b); UDHR 9; ICCPR 9(1); Havana 20;
Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment 2

Deprivation of liberty restricted to violent crimes or persistence
Beijing 17.1(c)

Prohibition of torture, capital punishment and corporal punishment
CRC 6 and 37(a); ICCPR 6(5) and 7; UDHR 3 and 5;
Beijing 17.2 and 17.3; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Right to appeal
CRC 40(2)(b)(v); ICCPR 14(5)

Records of cases involving children kept confidential and closed to third parties
Beijing 21
Standards of Detention

Purpose is rehabilitation and reintegration of the child
CRC 40(1); ICCPR 10(3); SMRTP 65; Beijing 26.1; Havana 12; Tokyo 10.1 and 10.4

Admission of children to detention facilities
Havana 20-25 and 27

Separation from adults
CRC 37(c); ICCPR 10(2)(b) and 10(3); Beijing 13.4 and 26.3; SMRTP 8(d)

Young female offenders deserve special attention and held separately from males
Beijing 26.4; SMRTP 8(a); Bangkok 1, 36-39 and 40-56

Physical conditions of detention centres holding children
Havana 31-37; SMRTP 9-20 and 43

Contact with family
CRC 37(c); SMRTP 37; Havana 59-61; Beijing 26.5

Medical care
CRC 24; Beijing 26.2; SMRTP 22-26; Havana 49-55

Contact with the outside world
CRC 17; SMRTP 39 and 40; Beijing 26.5; Havana 41, 59 and 62

Children with special needs
SMRTP 82-83 Havana 51-54
Standards of Detention (cont.)

**Education, vocational training and employment**
CRC 28 and 32; SMRTP 65, 66 and 71-77; Beijing 26.1, 26.2 and 26.6; Havana 12, 18(b) and 38-46

**Religious, cultural and other rights adequately protected**
CRC 14(1) and 30; SMRTP 31 and 32; Havana 4 and 48

**Use of restraint or force never used as a means of ‘punishment’**
Havana 63, 64 and 67; SMRTP 33 and 34

**Recreation**
CRC 17 and 31; SMRTP 21, 39 and 40; Havana 18(c), 41, 47 and 62

**Rules on measures of discipline in institutions**
Havana 66-71

**Maintenance of adequate, secure and complete records**
Havana 19, 21-23, 69 and 70

**Staffing**
SMRTP 46-54; Havana 81-86

**Complaints mechanisms**
SMRTP 36; Havana 75-78

**System of inspection**
Havana 14, 72 and 73; Optional Protocol to the CAT, 2002
After care and Reintegration

Preparation for the child’s release
Havana 79

Detention reviewed periodically to determine if early release is possible
CRC 25 and 40(2)(b); Beijing 28

Support and supervision following release
Beijing 28.2; Havana 80