

Child-Friendly Justice and Children's Rights

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Introduction

Whether children come into contact with the law as victims, witnesses, offenders or complainants, it is equally important that they are met with a system that understands and respects both their rights and their unique vulnerability.

This idea – that we must take special care with children whose lives have become entwined in the legal system – is the backbone of child-friendly justice, a movement that calls for a dramatic shift in the ways that our justice systems interact with children. Child-friendly justice embraces the idea that courts can be a powerful tool to positively shape children's lives and at the same time recognises the reality that contact with the legal system is all too often more a source of additional trauma than a remedy for children.

Building on international children's rights obligations, child-friendly justice introduces principles that empower children to enforce their rights and encourages government, court, and law enforcement officials to develop policies that address children's precarious situation in the justice system.

Child-friendly justice asks us to appreciate and minimise the challenges that children face at each step in each aspect of a legal proceeding, building confidence in the view of the justice system as a solution to children's legal issues rather than another of an already long list of problems. Respecting child-friendly justice principles will not only eliminate many of the traumatic experiences children face in the legal system, it will foster greater respect for their rights by providing children the full access to justice they need to bring violations of these rights forward.

This report aims to provide information about the obligation to follow child-friendly justice principles; international, regional, and national standards and strategies for doing so; court decisions, studies, research surveys, and position papers on the subject; and other relevant resources. We hope to add to it on a regular basis, and would very much appreciate your help in drawing our attention to additional information on the subject - please email us at info@crin.org with any comments or suggestions.

The notion that children deserve special attention in the legal system is not a new one, and has taken on various forms and a number of different names throughout its development. You may run across other terms that reference the ideas and principles discussed in this report, from “child-friendly justice” and “child-sensitive justice” to “justice for children” and “children in contact with the law.” Recognising that these terms all cover similar ground, we have chosen for purposes of simplicity to refer to the core of the movement described solely as “child-friendly justice.”

Examples of Child-Friendly Justice Practices

Child-friendly justice can sound abstract and theoretical, so it can be helpful to review sound laws, policies and practices that flow from accepted principles of child-friendly justice. However, it is first important to note that there may not always be one correct solution to a problem that children face in the legal system. Rather, the aim of child-friendly justice is to provide a range of strategies that can be used to adapt a legal proceeding to the particular circumstances of the child or children involved. Please bear in mind, then, that the examples below present just some of these solutions in just some of the contexts that children engage with the legal system.

Children as victims:

- Social workers, police officers, teachers, doctors, nurses, hospital receptionists and anyone else who might encounter child victims should receive appropriate training and be able to quickly refer them to designated points of contact in the legal system.
- Steps should immediately be taken to protect child victims from further harm and to link them with services they may need to reach a full physical and psychological recovery.
- Free 24-hour helplines should be put in place to offer child victims a chance to discuss their options before bringing matters to the attention of authorities.

Children as witnesses:

- Children should be interviewed by trained professionals in the presence of trusted adults; the number of interviews should be kept to an absolute minimum; and, where multiple interviews are necessary, the same interviewer should conduct each session.
- When a child agrees to testify in court, measures should be taken to keep the child at ease. Children should not be forced to have contact with alleged perpetrators and, where appropriate, audio-visual or closed-circuit television technology should be made available to facilitate prerecorded testimony or live communication from a remote location.
- Children should be asked straightforward questions in language that they understand; techniques designed to test or confuse witnesses, as are frequently employed during cross-examination in adversarial legal systems, should be avoided.
- It should never be presumed that children's testimony or evidence is untrustworthy or inaccurate simply because it is not submitted by an adult.

Children as offenders:

- Any child apprehended by the police and suspected of wrongdoing should be given an immediate opportunity to contact a parent, guardian or trusted person and provided with access to a lawyer free of charge.

- Police officers should explain to children why they have been apprehended in a way that they can understand, and should not question children about their potentially offending behaviour until a parent, guardian, trusted person or lawyer has arrived.
- Children should only be detained in exceptional circumstances and, where this is necessary, should never be detained alongside adults.

Children as complainants:

- Children should have access to free legal advice to discuss their rights and the options available for pursuing violations of these rights.
- Children should be able to initiate legal proceedings directly, through a parent or guardian, and through a chosen or appointed legal representative. Young adults should also be able to initiate legal proceedings to address childhood violations of their rights.
- Court fees, parental permission requirements, legal representation mandates, and any other constraints that might prevent children from bringing legal proceedings should be removed.

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International Standards and Obligations

Child-Friendly Justice and the CRC

Both the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography place obligations on States to follow the principles of child-friendly justice. Obligations under the CRC tend to be of a more general nature, while those under the OPSC are more explicit in their child-friendly justice aims. While the latter specifically address child victims of exploitation, there is no reason that these more detailed provisions should not be applied to all children, particularly as the adoption of the OPSC has confirmed States' ongoing commitment to child-friendly justice principles. The Committee on the Rights of the Child has also authored General Comments that clarify and elaborate on children's right to special protection in the legal system. The General Comment on children's right to be heard provides ample guidance on the implementation of child-friendly justice principles before, during and after legal proceedings, and the General Comment on juvenile justice applies these principles to children in conflict with the law. In addition, the General Comment on implementing the CRC emphasises children's right to access justice when their rights have been violated. Relevant provisions from the CRC and OPSC and illustrative extracts from the Committee's General Comments are presented below:

Convention on the Rights of the Child:

- Article 3: Best interests.
 1. “In all actions concerning children...the best interests of the child shall be a primary consideration.”
 2. “States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being...and, to this end, shall take all appropriate legislative and administrative measures.”
 3. “States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent

authorities..."

- Article 9: Separation from parents
 1. "States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine...that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence."
 2. "In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known."
- Article 12: The child's opinion.
 1. "States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child..."
 2. "For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body..."
- Article 19: Protection from abuse and neglect
 1. "States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation..."
 2. "[P]rotective measures should...include effective procedures for the establishment of social programmes to provide necessary support for the child...and, as appropriate, for judicial involvement."
- Article 22: Refugee children
 1. "States Parties shall take appropriate measures to ensure that a child who is seeking refugee status shall...receive appropriate protection and humanitarian assistance...."
 2. "For this purpose, States Parties shall...assist such a child...to trace the parents or other members of the family... In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment..."
- Article 37: Torture and deprivation of liberty

"States Parties shall ensure that:

 - (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment...
 - (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
 - (c) Every child deprived of liberty shall be treated with humanity and respect...and in a manner which takes into account the needs of persons of his or her age. In particular every child deprived of liberty shall be separated from adults...and shall have the right to maintain contact with his or her family...;
 - (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation

of...liberty before a court or other...authority, and to a prompt decision on any such action.”

- **Article 39:** Rehabilitative care

“States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.”
- **Article 40:** Administration of juvenile justice
 1. “States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and 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.”
 2. “To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that...
 - (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees...
 - (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance...;
 - (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and...in particular, taking into account his or her age or situation, his or her parents or legal guardians;
 - (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality...
 - (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
 - (vii) To have his or her privacy fully respected at all stages of the proceedings.”
 3. “States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular...
 - (b) whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.”
 4. “A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.”

Optional Protocol on the sale of children, child prostitution and child pornography:

- **Article 8:**
 1. “States Parties shall adopt appropriate measures to protect the rights and interests of child victims...at all stages of the criminal justice process, in particular by:

- (a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;
- (b) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;
- (c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected...;
- (d) Providing appropriate support services to child victims throughout the legal process;
- (e) Protecting, as appropriate, the privacy and identity of child victims and taking measures...to avoid the inappropriate dissemination of information that could lead to the identification of child victims;
- (f) Providing...for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;
- (g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims..."
- 3. "States Parties shall ensure that, in the treatment by the criminal justice system of children who are victims..., the best interest of the child shall be a primary consideration."
- 4. "States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims..."
- 5. "States Parties shall...adopt measures in order to protect the safety and integrity of those persons...involved in the prevention and/or protection and rehabilitation of victims..."
- [Article 9:](#)
 - 3. "States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims..., including their full social reintegration and their full physical and psychological recovery.
 - 4. "States Parties shall ensure that all child victims...have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible."

Committee on the Rights of the Child General Comment No. 12 on the right of the child to be heard:

- "Article 12 [of the CRC]...specifies that opportunities to be heard have to be provided in particular "in any judicial and administrative proceedings affecting the child". The Committee emphasizes that this provision applies to all relevant judicial proceedings affecting the child, without limitation, including, for example, separation of parents, custody, care and adoption, children in conflict with the law, child victims of physical or psychological violence, sexual abuse or other crimes, health care, social security, unaccompanied children, asylum-seeking and refugee children, and victims of armed conflict and other emergencies. Typical administrative proceedings include, for example, decisions about children's education, health, environment, living conditions, or protection..."

The right to be heard applies both to proceedings which are initiated by the child, such as complaints against ill-treatment and appeals against school exclusion, as well as to those initiated by others which affect the child, such as parental separation or adoption...

A child cannot be heard effectively where the environment is intimidating, hostile, insensitive or inappropriate for her or his age. Proceedings must be both accessible and child-appropriate.

Particular attention needs to be paid to the provision and delivery of child-friendly information, adequate support for self-advocacy, appropriately trained staff, design of court rooms, clothing of judges and lawyers, sight screens, and separate waiting rooms.”

Committee on the Rights of the Child General Comment No. 10 on Children's rights in juvenile justice:

- “[The CRC provides for] treatment that takes into account the child’s age and promotes the child’s reintegration and the child’s assuming a constructive role in society. This principle must be applied, observed and respected throughout the entire process of dealing with the child, from the first contact with law enforcement agencies all the way to the implementation of all measures for dealing with the child. It requires that all professionals involved in the administration of juvenile justice be knowledgeable about child development, the dynamic and continuing growth of children, what is appropriate to their well-being, and the pervasive forms of violence against children...”

Committee on the Rights of the Child General Comment No. 5 on General measures of implementation for the Convention on the Rights of the Child:

- “For rights to have meaning, effective remedies must be available to redress violations. This requirement is implicit in the Convention and consistently referred to in the other six major international human rights treaties. Children’s special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights. So States need to give particular attention to ensuring that there are effective, child-sensitive procedures available to children and their representatives. These should include the provision of child-friendly information, advice, advocacy, including support for self-advocacy, and access to independent complaints procedures and to the courts with necessary legal and other assistance. Where rights are found to have been breached, there should be appropriate reparation, including compensation, and, where needed, measures to promote physical and psychological recovery, rehabilitation and reintegration...”

[Paragraph deleted]

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Other International Standards

A number of other international standards, guidelines, rules and model laws relate to child-friendly justice and, while non-binding, provide a solid basis for improving the ways that children interact with various aspects of the legal system. Nevertheless, these instruments are by no means comprehensive, and relate primarily to children's direct involvement in the criminal and juvenile justice systems. They include:

- UN [Standard Minimum Rules for the Administration of Juvenile Justice \(the Beijing Rules\)](#)
The Beijing Rules call on States to establish legal protections that further the well-being of children in conflict with the law. The Rules cover children's interaction with the legal system from first contact with law enforcement through to adjudication and disposition, directing States

to establish separate juvenile justice systems with laws, regulations and policies that both protect children's rights and meet their individual needs. Specifically, States are encouraged to provide for flexibility and discretion in conducting juvenile justice proceedings while at the same time guaranteeing children basic procedural safeguards.

- UN [Guidelines for the Prevention of Juvenile Delinquency \(the Riyadh Guidelines\)](#)
The Riyadh Guidelines take a child-centered approach to encourage young persons' full participation in society, urging States to adopt laws and processes that address the conditions underlying juvenile delinquency. Among other measures, States are asked to enact laws that promote and protect the rights and well-being of children and to support mechanisms and advocacy services that ensure the status, rights and interests of children in conflict with the law are upheld. Following the principles of fairness and equity, the Guidelines further dictate that official intervention into a child's life must always be pursued in the interests of that child.
- UN [Rules for the Protection of Juveniles Deprived of their Liberty](#) (the Havana Rules)
The Havana Rules give standards of reference to professionals involved in the management of the juvenile justice system from arrest through to release. They seek to uphold the safety and well-being of children in conflict with the law, emphasising in particular that deprivation of liberty should be a last resort in exceptional cases for the minimum necessary time. The conditions and circumstances of detention should ensure respect for children's rights, and each child must be individually assessed and cared for in line with their needs, status and special requirements. The Rules further address children's rights to education, recreation, religion, health care, and to contact with the wider community, and would require States to provide effective remedies where these or any other rights are breached.
- UN [Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime](#) (Child-friendly version available [here](#))Broadly, these Guidelines aim to assist States in designing and implementing legislation, policy, programmes and practices to ensure full respect for child victims and witnesses. They recognise that children are particularly vulnerable and require special protection in their interactions with the justice system, and reaffirm the general principles of the Convention on the Rights of the Child. Under the Guidelines, child victims and witnesses have the right to be treated with dignity and compassion, to be informed, to be heard, to receive effective assistance and benefit from special protective measures, to have their privacy and safety assured, and to seek reparation. A holistic approach is also strongly encouraged.
- [Guidelines for Action on Children in the Criminal Justice System](#)
The Guidelines for Action are aimed not only at States, but also UN entities, NGOs, professional groups, the media and children. They address children who become involved in the criminal justice system in any capacity, whether as offenders, victims or witnesses, and encourage the full implementation of children's rights in the administration of justice. On a national level, governments are urged to develop separate, child-oriented juvenile justice systems that take account of the specific needs of individual children. Most importantly, these systems should both guarantee respect for and prevent the violation of children's rights.
- [UNODC-UNICEF Model Law on Justice in Matters involving Child Victims and Witnesses of Crime](#)
The Model Law sets out provisions for the protection of child victims and witnesses in

accordance with existing international human rights instruments, calling on national governments and justice professionals to create systems that improve the treatment of child victims and witnesses. The Law underscores children's right to be informed and to receive appropriate assistance, including the appointment of a support person to guide them through the criminal justice process. Courts are also expected to make every effort to facilitate children's right to be heard, to adopt extensive measures that protect children's privacy before, during and after proceedings, and to guarantee children's right to receive restitution or compensation from convicted offenders.

- [Guidance Note of the Secretary-General: UN Approach to Justice for Children](#)

The Secretary General's Guidance Note seeks to ensure the full application of international norms and standards for all children who come into contact with national justice systems. The Note argues that States should embrace a stronger rule of law for children by empowering justice institutions and adopting strategies that specifically guarantee respect for children's rights. Guiding principles to be followed include the best interests of the child, the right to fair and equal treatment, the right to be heard, and the right to be protected from violence. States are urged to integrate these and other child-friendly justice notions into relevant constitutional and legislative reform efforts, and to promote overall integrity and accountability in justice and law enforcement.

- [UN Human Rights Council Resolution on Human Rights in the Administration of Justice, in particular Juvenile Justice](#)

In this Resolution, the Human Rights Council calls on States to take effective legislative, judicial, social, educative and other measures in implementing UN standards on human rights in the justice system. Rehabilitation, reintegration and monitoring are stressed, and the Resolution recognises that children in conflict with the law must be treated in a manner consistent with their rights, dignity and needs. States are advised to allocate resources for legal aid in a way that promotes these rights, and in particular urged to take all necessary steps, including legal reform, to prevent and respond to violence against children within the justice system.

- [UN Guidelines for the Alternative Care of Children](#)

Where children are or must be deprived of parental care, these Guidelines assert that States are responsible for protecting their rights and well-being. The most suitable form of alternative care should be identified for each child, grounded in the child's best interests and with a view to ensuring safety and security. The Guidelines specify that children should be consulted and have their views taken into account at all stages, that particular attention should be paid to especially vulnerable children, and that children's rights to education, health, basic services, identity, freedom of religion and language should be promoted. Decisions related to care should be reviewed regularly and made through judicial, administrative or other procedures with safeguards in place, including the legal representation of children involved.

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Regional Standards

Regional human rights systems have also established conventions and guidelines that are relevant to child-friendly justice. While these have often been developed with a particular cultural context in mind, regional standards can still serve as a fine model to be elaborated and adapted in other parts of the world. Of particular note are instruments from the European and African systems, including:

Europe

- [Guidelines on Child-Friendly Justice](#)

The Council of Europe approved Guidelines on Child-Friendly Justice to direct European governments in their efforts to enhance children's access to justice. The Guidelines address children's place and role in legal proceedings, as well as their views, rights and needs. Above all else, they aim to ensure that children's rights to information, representation, participation and protection are fully respected in all proceedings. Structurally, the Guidelines address the elements of child-friendly justice as they would arise during a child's encounter with the legal system, progressing from initial interactions with lawyers and the police through to court hearings and post-decision monitoring, enforcement or other follow-up activity.

- [European Convention on the Exercise of Children's Rights](#)

The ECECR facilitates children's right to participate in certain family legal proceedings, recognising their rights to be informed, to express their views and to seek a special representative. Where a representative has been appointed for a child, he or she is expected to explain the judicial process and potential outcomes, ultimately determining and presenting the child's views to the court. Judicial authorities are also obliged to ensure that children are consulted and their best interests considered, acting with speed and where necessary urgency to reach decisions.

Africa

- [Guidelines on Action for Children in the Justice System in Africa](#)

Prepared in conjunction with a regional conference on child-friendly justice, these Guidelines provide a framework for child-friendly justice law reform in Africa. The Guidelines apply to all proceedings that involve children, whether formal or informal, judicial or administrative, civil or criminal. The overarching principles mirror the Convention on the Rights of the Child and African Charter on the Rights and Welfare of the Child, and the Guidelines detail specific measures to improve respect for children's rights from their first contact with the justice system. The underlying principles further emphasise the importance of children's access to justice, child rights-oriented legal representation, and child-friendly judicial settings. Notably, the Guidelines also devote special attention to child-friendly justice practices in traditional and religious courts.

- [African Charter on the Rights and Welfare of the Child](#):

Similar to the Convention on the Rights of the Child, the African Charter offers a comprehensive set of children's rights obligations. States that have ratified the Charter agree that the best interests of the child is the primary consideration in all actions concerning children, and that children must be given an opportunity to express their views in any proceedings that concern them. The Charter also enshrines children's rights to privacy, to protection against child abuse and torture, and – in the context of children in conflict with the law – to be treated in a manner consistent with their dignity and worth.

[Section deleted from “The Council of Europe approved” to “November 2010: New Council of Europe Guidelines on Child-Friendly Justice”]

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National Laws and Policies

Beyond international and regional instruments and standards, child-friendly justice has received increasing attention from national law-making bodies. As more and more governments seek to bring their justice systems in line with children's rights and child-friendly justice principles, a variety of approaches to law and policy reform has begun to emerge. With this in mind, the reports below highlight a small sample of proposed amendments and initiatives designed to improve children's interaction with national justice systems.

- [Azerbaijan](#): In response to international criticism, Parliament is planning to develop a separate juvenile justice system and introduce child-friendly environments in courts.
- [Bolivia](#): A draft law on juvenile justice promises, among other things, to guarantee the rights of children in conflict with the law to privacy and participation.
- [Indonesia](#): The national Child Protection Commission has presented a bill that would eliminate the detention and imprisonment of children in conflict with the law and reform juvenile justice proceedings in general.
- [Malta](#): In a debate on child custody, Members of Parliament have called for new legislation to guarantee that children have the right to be heard in all court cases that involve their well-being.
- [Nepal](#): The Government has committed to opening more juvenile courts in the country, which offer children access to special child-friendly facilities, technology and professional support.
- [New Zealand](#): The Government has approved a package of reforms on the treatment of child witnesses; the new measures aim to improve questioning of children in court, facilitate wider use of video evidence, reduce delays in investigation and provide guidance to lawyers and judges working with child witnesses.
- [Swaziland](#): The recently enacted Children's Protection and Welfare Bill establishes special children's courts that promise to enhance access to justice and bring speedy resolution to cases involving children.
- [Turkey](#): Several Government ministries have set out to enhance the protection of children's rights within the justice system by improving coordination, revising training programmes and creating special child-friendly spaces in courthouses.
- [United Kingdom](#): The Government has unveiled a plan to make giving evidence less intimidating for child victims of sexual exploitation. Among other things, the plan seeks to

place restrictions on the cross-examination of young witnesses and increase the number of children testifying via videolink rather than in person.

- [United States](#): Amid controversy, courts around the country have begun to permit trained dogs to provide support to children and other vulnerable witnesses during live testimony.

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Child-Friendly Justice in the Courts

Child-friendly justice standards have also been elaborated in national, regional and international courts. As child-friendly justice aims to govern children's rights, status, and role in legal proceedings, how courts interpret relevant CRC provisions is particularly important. Taken from CRIN's [CRC in Court](#) case law database, which contains decisions from around the world that cite, quote and discuss the Convention, the excerpts below show how some courts have approached children's rights and child-friendly justice.

Children as victims, witnesses

- [C and Others v. Department of Health and Social Development](#) (Constitutional Court of South Africa), *case concerning the emergency removal of children from their parents' custody*:
“The right to parental care or family care requires that the removal of children from the family environment must be mitigated in the manner described in the UNCRC, in order to satisfy the standard set for the limitation of rights in section 36(1) of the Constitution. The requirements that the removal be subject to automatic review and that all interested parties, including the child concerned, be given an opportunity to be heard, in my view, stand as essential safeguards of the best interests of the child.”
- [Grant v. Grant](#) (High Court of St. Lucia), *custody decision considering the right of children to express their views in proceedings concerning them*:
“While there are no statutes directing the court to give effect to the wishes and feelings of a child, the courts, over the last few years, have become increasingly aware of the importance of listening to the view of older children and taking into account what children say, not necessarily agreeing with what they want nor, indeed, doing what they want but paying proper respect to older children who are at an age and have the maturity to make their minds up as to what they think is best for them, bearing in mind that older children very often have an appreciation of their own situation which is worthy of consideration by, and the respect of, the adults, and particularly the courts. This enjoinder to consider the wishes and feelings is reflective of the international obligation under the UN Convention on the Rights of the Child 1989...”
- [Situation in the Democratic Republic of the Congo, Prosecutor v. Lubanga Dyilo](#) (International Criminal Court), *case concerning the participation of child victims as witnesses in International Criminal Court proceedings*:
“All victims wishing to participate in the proceedings shall submit a written application to the Trial Chamber, specifying the nature of the harm they suffered and how their personal interests are affected... [T]he Trial Chamber may order protective and special measures to assist victims, and will generally take into account, to the fullest extent possible, the special needs and

interests of victims or groups of victims, such as child victims.”

- State v. Secretary, Ministry of Law, Justice & Parliamentary Affairs and Others (High Court of Bangladesh), *judgment regarding the appropriate placement for child victims of violence*: “In the facts of the instant case, had the best interests of the child been considered then the learned Senior Judicial Magistrate... should have realised that the best interests of a seven year old girl demands that she be allowed to remain with her parents... When it is apparent that the girl was crying to be with her mother, that clearly is an expression of the view of the child to be with her mother and in compliance with Article 12 of the CRC the learned Magistrate should have given effect to it... There is nothing on record to suggest that the learned Magistrate at all considered the views of the child which shows abject ignorance of the international provisions, which are meant to be for the welfare and wellbeing of children.”

Children as offenders

- Bulacio v. Argentina (Inter-American Court of Human Rights), *decision addressing violations of children's rights in detention*: “To safeguard the rights of children detainees, and especially their right to humane treatment, it is indispensable for them to be separated from adult detainees. In addition, as this Court has established, those in charge of detention centers for children who are offenders or accused must be duly trained for the performance of their tasks. Finally, the right of detainees to communicate with third parties, who provide or will provide assistance and defense, goes together with the obligation of the State agents to immediately communicate to said persons the minor's detention, even if the minor has not requested it...”
- Police v. Vailopa (Supreme Court of Samoa), *decision concerning legal protections for children in conflict with the law*: “That young offenders and children generally require special treatment cannot be doubted. As recited in the preamble to the CRC, 'the child by reason of his physical and mental immaturity needs special safeguards and care including appropriate legal protection... Article 37(d) requires that a youth in custody has the right to promptly receive 'access to legal and other appropriate assistance.' In this case I would interpret that to mean that of his mother who according to the evidence was in the police building at the time or perhaps even the Registrar of court whom he was brought down...to see. In respect of article 40(2) (b) (ii) I would respectfully agree...that the words and/or the underlying philosophy of article 40(2)(b)(ii) means that a parent, guardian, caregiver or one of the persons referred to previously must be present before a youth can be interviewed by the police in respect of potential criminal misconduct...”
- Procurator Fiscal, Linlithgow v. Watson & Anor. (Privy Council; United Kingdom), *case concerning lengthy delays in the initiation of juvenile justice proceedings*: “The United Nations Convention was ratified by the United Kingdom... Chapter 16 of the Book of Regulations deals with the subject of children in the light of what it acknowledges in para 16.01 as the fundamental rights of the child which are recognised and guaranteed by the [European Convention on Human Rights]. Para 16.18 states that procurators fiscal are required to liaise with the Children's Reporter in cases against children who are reported for consideration of proceedings and that such liaison should take place as a matter of urgency so as to avoid any unnecessary delay in dealing with these cases. I would endorse the recognition which is given by this paragraph to the fact that the passage of time is likely to be particularly

prejudicial where criminal charges are brought against children..."

- Regina v. Setaga (High Court of Tuvalu), *decision examining the acceptable progression of trials involving children in conflict with the law:*

"The Constitution requires a trial to be held 'within a reasonable time', which should be defined consistently with the CRC and take into account the age of the offender. The younger a child is, the more important it is that a trial be held soon after the offence is committed. It is rare that a delay in a prosecution would require a trial to be stopped rather than expedited, but in this case, D would be unable to properly defend himself against the allegations. More specifically, the evidence collected at the time of the investigation did not conclusively prove that D was guilty. To defend himself against the allegations, D would have to be able to present evidence of how he was and what he thought as a thirteen year old, and that would now be impossible."

- Salduz v Turkey (European Court of Human Rights), *case concerning the right to legal assistance for children accused of committing an offence:*

"The police should provide access to a lawyer from the first interrogation of a suspect unless there are very compelling reasons not to in particular circumstances. In this case, the Turkish government's only justification for denying Salduz access to a lawyer was that he was accused of committing an offence related to national security... In particular, in view of Salduz's young age, the Court noted the fundamental importance of providing him with legal assistance and the government's obligation to do so under international treaties, including the CRC."

- Seniloli v. Voliti (High Court of Fiji), *decision on children's right to protection in juvenile justice proceedings:*

"The Convention in relation to the custody of children, is in conformity with the Juveniles Act and the Constitution. It is intended to ensure that children in conflict with the law, and who are vulnerable because of age and powerlessness in relation to the administration of law enforcement agencies, are accorded special protective measures."

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Research

Many legal and psychological research studies and texts have been published on matters related to child-friendly justice, especially on the situation of child victims. While there is undoubtedly a need for further research, particularly in the juvenile justice and civil court contexts, an interest in comparing child-friendly justice practices across jurisdictions has recently emerged and promises to spread positive developments in the field around the globe. A selection of relevant publications appears below:

- [Achieving Child-Friendly Justice in Africa](#) (African Child Policy Forum)
- [Achieving Justice for Victims of Rape and Advancing Women's Rights: A Comparative Study of Legal Reform](#) (MADRE)
- [Child-Friendly Laws in Africa](#) (African Child Policy Forum)

- [Child Trafficking in the Nordic Countries: Rethinking Strategies and National Responses](#) (UNICEF Innocenti Research Centre)
- [Child Witnesses in the New Zealand Criminal Courts - A review of practice and implications for policy](#) (Institute of Public Policy), including information on Australia, France, Israel, South Africa and the United Kingdom
- [Children's Participation in Family Law Proceedings](#) (Childwatch International Research Network)
- [The Evaluation of the Implementation of International Standards in National Juvenile Justice Systems in Europe](#) (International Juvenile Justice Observatory)
- [Exposing Realities: Children's Legal Protection Centres: A Good Practice Report](#) (African Child Policy Forum)
- [Final Report and Recommendations on Child Victims in the European Union](#) (Children in the Union – Rights and Empowerment)
- [Juvenile Justice and Human Rights in the Americas](#) (Inter-American Commission on Human Rights)
- [National and International Efforts for Child Justice Reform, in particular through Improved Coordination in Technical Assistance](#) (UN Secretary-General)
- [No Rights Without Accountability: Promoting Access to Justice for Children](#) (International Development Law Organization)
- [Results of an International Survey Regarding Children's Participation in Decision-Making Following Parental Separation](#) (Centre for Children and Young People)
- [The Right of Children to Be Heard: Children's Right to Have Their Views Taken into Account and to Participate in Legal and Administrative Proceedings](#) (UNICEF Innocenti)
- [Safeguarding Children in Detention: Independent Monitoring Mechanisms for Children in Detention in the Middle East and North Africa](#) (Penal Reform International)
- [Testimony Without Fear \(?\). Non-Revictimizing Cultures and Practices: A Map of Practices for Taking Special Testimony from Children and Adolescents \(Childhood Brazil\) Through a New Lens: A Child-Sensitive Approach to Transitional Justice](#) (International Center for Transitional Justice)

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Other Resources

Countless other events, articles and resource pages on child-friendly justice exist; many of these can be

found on CRIN's [Child-Friendly Justice homepage](#). Please alert CRIN at info@crin.org if you are aware of any forthcoming events or publications, or would like for us to include your work in the list above or on our dedicated homepage.

[Section deleted from here to “Acknowledgements”]

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