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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**



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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)





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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



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Minimum Guarantees

Age of criminal
responsibility

CRC 40(3)(a); Beijing 4.1

Principle of non-
discrimination

CRC 2; Beijing 2.1; Havana 4

Prohibition of the
retroactive prohibition
of a conduct

CRC 40(2)(a); ICCPR 15(1)

**Abolition of status
offences**

Riyadh 56

**Competent,
independent and
impartial authority**

CRC 40(2)(b)(iii); ICCPR 14(1)

Presumption of
innocence

CRC 40(2)(b)(i); ICCPR 14(2)



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Minimum Guarantees (cont.)

Child's right to be heard in any judicial proceeding

CRC 12; Beijing 14.2

Right to have the matter determined without delay

CRC 40(2)(b)(iii); Beijing 20(1)

Right to legal representation

CRC 37(d) and 40(2)(b)(ii) and (iii); ICCPR 14(3)(b) and (d)

Presence of parents

CRC 40(2)(b)(iii); Beijing 15.2

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 an interpreter

CRC 40(2)(b)(vi); ICCPR 14(3)(f)

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



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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

Requirement of consent for diversion

Beijing 11.3

Cooperation between the child justice sectors, law enforcement, social welfare and education sectors

Vienna 42

Provision of community programmes

Beijing 11.4; Tokyo 2.5

Programmes aimed at strengthening social assistance

Vienna 42



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Adjudicatory Process and Sentencing

Competent, independent and impartial authority in a fair hearing

CRC 40(2)(b)(iii); ICCPR 14(1); Beijing 14.1

Social enquiry report

Beijing 16; Tokyo 7

Sentence of detention as a measure of last resort

CRC 37(b); Beijing 17.1 and 19;

Havana 1 and 2

Sentence proportionate to circumstances, gravity of the offence, age and needs of the child

CRC 40(4); Beijing 5 and 17.1(a)

Non-custodial measures available

CRC 40(3)(b); Beijing 18(1);

Tokyo 5, 6.2, 8 and 9



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

Separation from adults

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

Physical conditions of detention centres holding children

Havana 31-37; SMRTP 9-20 and 43

Contact with the outside world

CRC 17; SMRTP 39 and 40; Beijing 26.5; Havana 41, 59 and 62

Admission of children to detention facilities

Havana 20-25 and 27

Young female offenders deserve special attention and held separately from males

Beijing 26.4; SMRTP 8(a); Bangkok 1, 36-39 and 40-56

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

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

Staffing

SMRTP 46-54; Havana 81-86

Complaints mechanisms

SMRTP 36; Havana 75-78

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

System of inspection

Havana 14, 72 and 73; Optional Protocol to the CAT, 2002



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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