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# Children and violent extremism

## International standards and responses from criminal justice systems

This briefing gives an overview of what the international and regional standards say regarding the care and treatment of children who are suspected, or convicted, of violent extremist related offences. It also looks at some examples of state responses and civil society interventions. It touches upon issues of preventing children's involvement in violent extremism but is primarily focused on the criminal justice and penal response to children who are in conflict with the law owing to involvement in such activity. The briefing is based upon interviews and a desk review conducted during 2016 and 2017.

### Introduction

Whilst perpetrators of terrorist offences tend to be young men,<sup>1</sup> children (meaning all those under 18<sup>2</sup>) engage in terrorist activities in a range of different capacities. In some contexts they will self-radicalise and in others it is a deliberate strategy to involve children directly in terrorist acts including for propaganda purposes.

When children self-radicalise, not much is known about the factors that drive them towards terrorism-related activities. Research suggests that in societies where social inclusion and social mobility is lacking, children and adults alike can feel excluded and isolated from the political, economic and social structures. Such conditions, when coupled with a sense of injustice and a historical narrative of victimhood, can create a toxic environment within which violent extremism can thrive.<sup>3</sup> The Global Terrorism Index finds that terrorism is strongly correlated with governance failures such as state-sponsored political violence and a lack of human rights observance and overall safety and security.<sup>4</sup>

Children can be more vulnerable than adults to the appeal of violent extremism owing to a lack of maturity and judgement. There are also push factors such as poverty and displacement as well as the pull of gaining a sense of identity and ideological attraction. In many instances, children from stable families who are well-educated and of high economic status have been radicalised. Research examining why young Syrians (aged between 12 and 24 years old) are vulnerable to recruitment by violent extremist groups identified four main factors driving this vulnerability:

- Lack of economic opportunity
- Disruptive social context and experiences of violence, displacement, trauma and loss
- Deprivation of psychological needs for efficacy, autonomy and purpose
- Degradation of education infrastructure and opportunities to learn.<sup>5</sup>

1. Allan, H., Glazzard, A., Jespersen, S., et al., *Drivers of violent extremism; Hypotheses and literature review*, Royal United Services Institute, 2015.

2. Article 1 of the UN Convention on the Rights of the Child provides, 'a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier'.

3. See note 1.

4. *Global Terrorism Index*, Institute for Economics and Peace, 2015. Available at: <http://economicsandpeace.org/wp-content/uploads/2015/11/Global-Terrorism-Index-2015.pdf> (accessed 17 March 2017).

5. Caroline Brooks et al, *Why young Syrians choose to fight*, International Alert, 2016.

Children's involvement with terrorist groups is often involuntary and arises in situations of armed conflict where they have been recruited as child soldiers. Groups such as Boko Haram and the terrorist group known as ISIS have abducted, intimidated and coerced many children to join them.

Researchers studying how and why children join ISIS concluded that: '*[c]hildren are easier to indoctrinate and less likely to resist, since they do not yet fully understand their own mortality. Moreover, because children appear less suspicious, using them often leads to more successful missions.*'<sup>6</sup>

The information that is available on the number of children in detention for terrorist-related offences is limited and does not readily lend itself to comparison. However, in recent years there has been growing interest in the process by which children become radicalised and are recruited to terrorist groups as well as how to respond to them in compliance with international standards. A number of international NGOs and think tanks have conducted research on this issue or are in the process of doing so:

- UN Interregional Crime and Justice Research Institute commissioned the Children's Legal Centre to prepare a report on children and counter-terrorism looking at practice in England and Germany;<sup>7</sup>
- UN Office on Drugs and Crime (UNODC) and UN International Children's Emergency Fund (UNICEF) are examining the issue in the context of the activities of Boko Haram and UNODC is preparing a handbook specifically on children and violent extremism;<sup>8</sup>
- The Global Counter-terrorism Forum have produced a life-cycle toolkit for Countering Violent Extremism that includes the Neuchâtel Memorandum on Juvenile Justice;<sup>9</sup>
- The International Juvenile Justice Observatory (IJJO) has begun a project mapping the nature and extent of responses to children who are at risk of being radicalised in some European countries;
- The Global Center on Cooperative Security has produced guidance on the treatment of children in detention;<sup>10</sup> and
- The Quaker United Nations Office produced research on this back in 2002.<sup>11</sup>

Penal Reform International<sup>12</sup> has been involved with this issue for a number of years and is aware that there are very many gaps in our understanding of how and why children become involved in terrorist activity and appropriate ways to respond that are in line with international standards. This briefing has been developed to explore gaps in our understanding of the difficult legal and policy challenges and specifically to examine:

- How can states respond to children involved with terrorist entities in full compliance with international standards and norms related to justice for children?
- To what extent are children charged with or convicted of terrorist offences treated as exceptional and outside of the normal criminal justice regime for children?
- To what extent are children at risk of in-prison radicalisation and what interventions might prevent this?

## Definitions

There is no internationally agreed definition of the term 'radicalisation'<sup>13</sup> but this paper takes as its starting point the definition of radicalisation provided by the Council of Europe as '*a dynamic process whereby an individual increasingly accepts and supports violent extremism. The reasons behind this process can be ideological, political, religious, social, economic or personal.*'<sup>14</sup> According to this definition, radicalisation is a process and not all who begin the process will progress through to the end stage of violence – so it is not a linear process but nonetheless there is a relationship between radicalisation and terrorism. The timelines for the radicalisation process can be very variable.

This definition relies in turn on an understanding of the term 'violent extremism' which is usually considered to be a more inclusive term than 'terrorism', although they are broadly synonymous in common usage. The same Council of Europe guidelines define violent extremism as '*promoting, supporting or committing acts which may lead to terrorism and which are aimed at defending an ideology advocating racial, national, ethnic or religious supremacy or opposing core democratic principles and values.*'

6. Bloom, M., and Horgan, J., *The Rise of the Child Terrorist*, Foreign Affairs, 2015.

7. Hamilton, C. et al, *Children and Counter-Terrorism*, United Nations Interregional Crime and Justice Research Institute (UNICRI), 2016.

8. This will complement the UNODC's *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, published in 2016.

9. Global Counterterrorism Forum, *Initiative to Address the Life Cycle of Radicalization to Violence: Neuchâtel Memorandum on Good Practices for Juvenile Justice in a Counterterrorism Context*, 2016.

10. Global Center on Cooperative Security and the International Centre for Counter-Terrorism, *Rehabilitating Juvenile Violent Extremist Offenders in Detention*, 2016.

11. Rachel Brett, *Counter-Terrorism and Children*, Quaker United Nations Office, 2002.

12. See for example, PRI, *Preventing radicalisation in prisons: Developing a coordinated and effective approach*, 2016, detailing the deliberations of a roundtable convened in 2015.

13. Schmid, A. Radicalisation, De-Radicalisation, Counter-Radicalisation: A Conceptual Discussion and Literature Review, ICCT Research Paper, March 2013.

14. Council of Europe, *Guidelines for prison and probation services regarding radicalisation and violent extremism*, CM/Del/Dec(2016)1249/10.2, 2 March 2016.

Terrorism is a highly contested term and there are many definitions. The ‘Academic Consensus Definition’ 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 non-combatants, performed for its propagandistic and psychological effects on various audiences and conflict parties.’*<sup>15</sup>

## International standards

The key standards for children in conflict with the law are located in the UN Convention on the Rights of the Child (UNCRC)<sup>16</sup> which has been in existence now for over a quarter of a century, as has the African Charter on the Rights and Welfare of the Child – both treaties are legally binding upon its States Parties. Other relevant human rights standards are enshrined in different types of UN or regional body non-treaty instruments – these complement the human rights treaties, have significant moral force and provide useful and practical guidance.<sup>17</sup> The international standards are certainly not new although they have evolved and been elaborated upon over time.<sup>18</sup>

The overarching principle of the UNCRC regarding children in conflict 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.’*<sup>19</sup> The standards are clear that criminal 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 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 future.

As far as possible, children should be dealt with outside of the formal criminal justice system and diversion should be used wherever appropriate because entry into the

criminal justice system creates an additional risk of violations of rights and of re-offending.<sup>20</sup> States must establish justice procedures for all child offenders that guarantee their right to a fair trial and that are focused upon rehabilitation and reintegration of the child rather than on punishment or retribution. The standards reflect a view that children’s accountability for criminal behaviour is not equivalent to that of adults and should be modified taking into account their maturity because they *‘differ from adults in their physical and psychological development, and their emotional and educational needs. Such differences constitute the basis for the lesser culpability of children in conflict with the law.’*

These are universally applicable principles that hold true for all children, regardless of the severity or nature of the offence in question. They apply to children charged with or convicted of violent extremist offences as much as they do to children charged with or convicted of minor theft. The key principle when addressing serious offending by children is proportionality. Article 40 of the UNCRC states that children must be dealt with *‘in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.’* So a child’s individual characteristics as well as the type and seriousness of the offence must be weighed in the balance, particularly in relation to sentencing. So although the international standards do not talk explicitly about state obligations to prevent radicalisation, to counter violent extremism nor how children charged with extremist offences should be dealt with, the basic tenets should still be applied regardless of the severity or character of the offence.<sup>21</sup>

The UN Committee on the Rights of the Child in recent years has begun to consider these issues directly in its jurisprudence; for example, in the 2016 General Comment on the rights of adolescents, the UN Committee emphasises that *‘The focus should be on rehabilitation and reintegration, including for those adolescents involved in activities categorized as terrorism, in line with the recommendations in general comment No. 10 (2007) on children’s rights in juvenile justice.’*<sup>22</sup> It has also addressed stigmatising effects of prevention strategies with the UK Government during its periodic review in 2015<sup>23</sup> and has urged the Kenyan Government to *‘ensure that counter-terrorism and security measures fully respect the rights of the child*

15. Schmid A., *Perspectives on Terrorism*, 2012.

16. The UNCRC has been ratified by 196 countries, most recently Somalia in October 2015, making it the most widely ratified international human rights treaty in history. The United States remains the only UN member state not to have ratified it.

17. The standards include the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) adopted in 1985; the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) adopted in 1990; the UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) adopted in 1990; and the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) adopted in 2010.

18. See for example; UN Committee on the Rights of the Child, General comment No. 10, 2007, Children’s Rights in Juvenile Justice, The Guidance Note on Justice for Children issued by the UN Secretary General, 2008, Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice, 2010, and UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, 2012.

19. Article 40(1) of UNCRC.

20. Articles 37 and 40(3)(b) of UNCRC. See also, Rules 6 and 11 of the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules).

21. UN Committee on the Rights of the Child (CRC), General Comment No. 10: Children’s Rights in Juvenile Justice, 25 April 2007, CRC/C/GC/10.

22. UN Committee on the Rights of the Child (CRC), General Comment No. 12: On the implementation of the rights of the child during adolescence, 2016, CRC/C/GC/20, para 88.

23. UN Committee on the Rights of the Child, List of issues in relation to the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, 11 November 2015, CRC/C/GBR/Q/5, para 7.

*provided under the Convention and are sensitive to the potential negative impact on children who are affected by such measures. The Committee wishes to underline that measures that do not fully comply with human rights standards would be counterproductive and may contribute further to the radicalization of children.*<sup>24</sup>

Children involved in terrorist groups may be living in areas of armed conflict. The UNCRC is non-derogable, meaning that its provisions continue to apply during an armed conflict or indeed any declared state of emergency. International humanitarian law provisions also apply in situations of armed conflicts. The recruitment of children in armed conflict under the age of 15 is prohibited both in the CRC and the two first Additional Protocols to the Geneva Conventions. The Optional Protocol to the CRC 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 years. Frequently non-state armed groups will be designated as terrorist groups and this raises the question of how children who are members of these groups should be treated if arrested.

In making a decision whether to prosecute children associated with non-state armed groups, States should take into account the Paris Principles and Guidelines on Children associated with Armed Forces and Armed Groups, which provide that *'children who are accused of crimes under international law allegedly committed while they were associated with armed forces or armed groups, should be considered primarily as victims and not as perpetrators.'* State parties to the Optional Protocol to the UNCRC on the Involvement of Children in Armed Conflict should also take all feasible measures to ensure that former child soldiers are demobilised or otherwise released and that they are provided with all appropriate assistance for recovery and reintegration. The UN Security Council resolution 2225 (2015) also encourages member states to consider non-judicial measures as alternatives to prosecution and detention and to focus on the rehabilitation and reintegration of children formerly associated with armed forces and armed groups.<sup>25</sup>

The UN Secretary-General produces a list of parties that recruit or use children, kill or maim children, commit rape and other forms of sexual violence against children, or engage in attacks on schools and/or hospitals in situations of armed conflict on the agenda of the Security Council. In 2015, these included parties in Afghanistan, Central African region, Democratic Republic of Congo, Iraq, Mali, Myanmar, Somalia, South Sudan, Sudan, Syria and Yemen.<sup>26</sup> Children have been detained and charged with criminal offences relating to their alleged association with

armed or extremist groups in many of these countries. For example, the UN Secretary-General reports that as of December 2015, there were 214 boys in detention in Afghanistan on national security-related charges; in Iraq at least 314 children, including 58 girls, were in detention indicted or convicted of alleged association with armed groups; in Somalia, 365 children were detained by the national army or state security; and in Lebanon 15 boys were still detained as at the end of 2015.<sup>27</sup> This is despite the international standards stating that children are in effect incapable of informed consent and even if they are members of a recognised terrorist group, must be viewed primarily as victims and dealt with as such.

Some of the challenges inherent in de-radicalisation of children in violent extremist contexts were brought to light in Somalia during 2014. Children were held in a facility in Mogadishu for the disarmament, demobilisation and reintegration (DDR) of al Shabaab defectors. Concerns were raised by the Special Representative of the Secretary-General on Children and Armed Conflict that they were being detained alongside adults, had not been charged with any crime and also had not received any child oriented reintegration.<sup>28</sup> In part this situation was explained by a lack of resources and capacity on the part of the Somali authorities and in part because these children were viewed as security threats rather than victims: *'Somalia, like most states locked in civil conflict, lacks the infrastructure, expertise, and resources to effectively disengage and reintegrate many of those who end up in DDR camps.'*<sup>29</sup>

Whatever the context, it is vitally important that all responses to children charged with or convicted of terrorism-related activities are firmly grounded in international human rights law and the rule of law. This is because these standards are universally applicable and hold true for all children, regardless of the severity or nature of the offence in question. In highly complex humanitarian settings, even if they are members of a recognised terrorist group, children must be viewed primarily as victims and dealt with as such.

If we turn to consider how the international standards on counter-terrorism regulate the treatment of children in conflict with the law we can see that they are largely blind to the fact that children can be implicated and engaged in terrorist activity, whether voluntarily or not.

The UNICRI study analyses various international agreements on counter-terrorism and concludes that *'the international standards on counterterrorism, as developed by the UN and the EU, have so far failed to address the rights and vulnerabilities of children.'*<sup>30</sup> The clearest reference made to children in the context of international guidance on responding to radicalisation comes in the

24. UN Committee on the Rights of the Child Concluding Observations for Kenya, 2016, CRC/C/KEN/CO/3-5 18.

25. Security Council resolution 2225 on children and armed conflict, 18 June 2015.

26. Security Council, Report of the Secretary-General, Children and armed conflict, A/70/836-S/2016/360, April 2016.

27. See note 26.

28. 'Somali child soldiers 'punished' in foreign-funded camps: UN' *Yahoo News/AFP*, 21 August 2014. Also see, UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict, 'UN Special Representative for Children and Armed Conflict Calls for Full Implementation of Action Plans by Federal Government of Somalia,' 22 August 2014.

29. Siobhan O'Neil, *Disengaging Children in Violent Extremist Contexts*, Changing Nature of Conflict, UN Reform, 29 October 2015.

30. See note 6, p17.

Council of Europe Guidelines for prison and probation services regarding radicalisation and violent extremism: *‘Young offenders may be particularly vulnerable to radicalisation. In order to avoid the negative effects of imprisonment, sanctions and measures in the community shall be considered first. Additional efforts and resources shall be allocated for working with these offenders.’*<sup>31</sup> While the guidelines are non-binding, it is interesting to note that they focus on the vulnerability of children to radicalisation as well as emphasising the importance of community-based sanctions and measures.

→ It is time for the international standards and guidance around counter-terrorism to better acknowledge that children are engaged in terrorist activities and that all responses must be framed by international standards for children in conflict with the law.

## Prevention in the community

Children are vulnerable to radicalisation for a wide range of factors that are not fully understood or researched. They can include marginalisation; lack of access to services such as education and health; poverty; financial inducements; displacement and migration in unstable states; exposure to ideology; and a personal search for identity. The most effective means of reducing the numbers of children who come into conflict with the law in the context of radicalisation is prevention. The UN Committee on the Rights of the Child’s General Comment No. 10 draws attention to the need for countries to consider prevention when tackling the issue of child criminality, stating that ‘a juvenile justice policy without a set of measures aimed at preventing juvenile delinquency suffers from serious shortcomings’.<sup>32</sup> This is because preventing crime is better for children, their families, their communities and society as a whole.

At the basis of prevention is the attempt to tackle risk factors by fostering protective factors in the children’s lives. Prevention measures are often divided into three tiers:

### Primary

Universal approaches that aim to prevent children from coming in to conflict with the law at all by addressing the root causes of social problems such as poverty and through emphasising inclusion and access to basic services.

### Secondary

Approaches that focus specifically on children at the highest risk of coming in to conflict with the law through support for vulnerable families and by encouraging integration into family, community, peer group, schools, vocational training and work.

### Tertiary

Approaches that focus on children who have already been in conflict with the law to prevent re-offending.

Efforts to prevent children from becoming radicalised within the community usually fall within the secondary and tertiary levels of prevention and are often described as ‘countering violent extremism’ (CVE). This is a relatively new term that lacks a consistent definition but is generally held to mean preventative measures which seek to address the drivers or root causes of violent extremism. CVE focuses more on the environment within which terrorist groups operative and as such can encompass a wide range of activities from challenging ideas and beliefs through to very broad based schemes to build social cohesion. Many development initiatives can be framed as CVE, as a consequence although there are many civil society actors who do not wish to be directly associated with Western security agendas and have resisted this framing of development programming.

CVE initiatives targeted explicitly at children vary hugely in different settings. In general they place an emphasis on change at an individual level with a focus on family participation, building social bonds that endure beyond programming, and in identifying legitimate interlocutors, frequently religious figures, as credible messengers. Such initiatives are most institutionalised and elaborated in northern European countries such as Denmark, Norway and the UK. The US has some pilot programmes in place and in 2015 held a White House Summit to Counter Violent Extremism which brought together over 90 international leaders and experts.<sup>33</sup> The picture in Africa is somewhat different and there is a dearth of community-based strategies to prevent radicalisation hampered by capacity issues: *‘top-down responses dominate and levels of distrust between communities and police are often extremely high. Consequently, rather than being perceived as a force which is there to protect communities, the police tend to be viewed as part of the problem.’*<sup>34</sup>

Some initiatives are integrated into existing crime prevention interventions. In **Denmark**, primary, secondary and tertiary crime prevention interventions for children have been in place since 1977. Local authorities appoint councils comprised of local schools, social services and the police to cooperate in prevention activities such as giving talks in schools and clubs as well as giving home visits for children who have already offended. CVE has been integrated into this existing structure and members of these councils have all been trained in identifying and responding to signs of radicalisation and children’s attachment to extremist ideas and groups.<sup>35</sup>

31. See note 14, para 7.

32. UN Committee on the Rights of the Child (CRC), General comment No. 10: Children’s Rights in Juvenile Justice, 25 April 2007, CRC/C/GC/10, para 17.

33. For an overview of CVE initiatives in the US, see, Kelly A. Berkell, *Off-Ramp Opportunities in Material Support Cases*, Harvard National Security Journal, Volume 8 Issue 1, 2017.

34. United Nations Development Programme, Summary Report, Regional Expert Consultation on Framing the Development Solutions to Radicalization In Africa, 20-22 July 2015 in Nairobi, Kenya, p19.

35. For more information, see, Radicalisation Awareness Network (RAN), *Preventing Radicalisation to Terrorism and Violent Extremism, Approaches and Practices*, 2016, p281.

In **Norway**, the 2014 Action Plan against Radicalisation and Violent Extremism allows for preventative police officers to engage in semi-scripted Empowerment Conversations if they are informed that a person is becoming involved with an extremist group or engaging in behaviour which may display signs of radicalisation; the purpose is to create the basis for reorientation and change in behaviour, not to form part of a criminal proceeding. Conversations will also often involve parents in an attempt to mobilise family engagement and resources. Implementation requires trust-building between the agent of intervention and the target of the intervention, and a preference for a constructive rather than accusatory approach.<sup>36</sup> Another Norwegian intervention, 'Project Exit – Leaving Violent Groups', had a strong focus on parental involvement and also enabled parental network groups, allowing them to share advice and information amongst themselves.<sup>37</sup>

In the **United Kingdom**, CVE initiatives are part of an overall counter-terrorism strategy and as such are organised and implemented quite separately to mainstream crime prevention. The Prevent strategy is part of the Government's wider counter-terrorism strategy, CONTEST. It operates within a pre-criminal space and focuses on training front line staff in schools, the police service, health care centres, social workers, colleges, prisons and community groups in recognising the signs of radicalisation and making referrals to a service, called 'Channel', which can provide early interventions. Since 2015, front line staff have had a statutory duty to make referrals to the police who in turn decide whether there is a need to refer on to Channel.

This referral system, Channel, has been a controversial strategy with critics saying it contributes to stigmatisation of Muslim communities<sup>38</sup> and it has been characterised as 'failed and friendless'.<sup>39</sup> Although reviewed in 2011, to date it has not been fully evaluated and measuring progress has been very challenging.<sup>40</sup> Channel has been criticised for disproportionately high rates of child referrals – between 2012 and 2015, 918 children, including 84 under the age of 12, were referred to it.<sup>41</sup> A recent report produced by the Open Society Initiative found that referrals to Channel were not always made with the best interests of the child concerned as a primary consideration. It also found serious indications that Prevent is counter-productive.<sup>42</sup>

**“ All involved must recognise that in this particular process it is the interest of the individual child that is paramount. This cannot be eclipsed by wider considerations of counter terrorism policy or operations, but it must be recognised that the decision the court is being asked to take can only be arrived at against an informed understanding of that wider canvas. ”**

Hayden, J. London Borough of Tower Hamlets v M and Others [2015] EWHC 869 (Fam), [2015] 2 FLR 1431

The UN Committee on the Rights of the Child has found that: '*Counter-terrorism measures [in the UK] do not enjoy public confidence owing to the lack of transparency and are widely perceived to have a discriminatory or stigmatizing effect on children, in particular Muslim children.*'<sup>43</sup>

Another prominent aspect of prevention in the UK has been through the family courts who have been actively engaged in issuing court orders to confiscate passports where there is a risk of travel to Syria and adjudicating whether children at risk of radicalisation should be allowed to remain in their family settings or whether it is in their best interests to be removed. In 2015, the Family Division issued guidance for lawyers and judges involved in such cases.<sup>44</sup>

**→ The aim of prevention strategies should be to reduce children's vulnerability by addressing the sort of conditions that can lead to radicalisation to violence and recruitment for terrorism purposes. Prevention work that fuels a sense of marginalisation and discrimination is counter-productive and may lead to a growing alienation amongst young people.**

36. Bjørge, T., & Magnæs Gjelsvik, I. *Norwegian research on the prevention of radicalisation and violent extremism: A status of knowledge*, PHS Forskning, 2015.

37. Institute for Strategic Dialogue (ISD), *Case Study Report: Project Exit – Leaving Violent Groups*, Norway, 2014

38. The Institute of Race Relations produced a strong critique of the PREVENT programme from the perspective of children's rights in January 2016.

39. Paul Thomas, *Failed and Friendless: The UK's 'Preventing Violent Extremism' Programme*, *The British Journal of Politics & International Relations* 12 (3), 2010, pp.442-458.

40. Harris-Hogan, S., Barrelle, K., and Zammit, A., *What is countering violent extremism? Exploring CVE policy and practice in Australia*, *Behavioral Sciences of Terrorism and Political Aggression* Volume 8, Issue 1, 2016.

41. Figure cited in, Sarah Marsden, *Explainer: what happens to people who are suspected of being 'radicalised'?* *Radicalisation Research*, 4 February 2016.

42. Open Society Justice Initiative, *Eroding Trust: The UK's Prevent Counter-Extremism Strategy in Health and Education*, 2016.

43. UN Committee on the Rights of the Child, *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland CRC/C/GBR/CO/5*, 2016, para 21.

44. 'Radicalisation Cases in the Family Courts', Guidance issued by Sir James Munby, President of the Family Division, 8 October 2015, [www.judiciary.gov.uk/wp-content/uploads/2015/10/pfd-guidance-radicalisation-cases.pdf](http://www.judiciary.gov.uk/wp-content/uploads/2015/10/pfd-guidance-radicalisation-cases.pdf), (accessed 20 March 2017).

## Responding to children arrested and charged with violent extremist offences

### A security-dominated approach

At a global level there is vast diversity in approaches towards children who commit crime, or are alleged to have done so, reflecting diversities of legal frameworks, domestic and international political agendas and hugely different constructions and perceptions of childhood. No two systems are alike but criminal justice systems for children around the world are a surprisingly accurate mirror reflecting society's perception of who is a 'good' or 'bad' child. Overwhelmingly children in conflict with the law are from the poorest and most marginalised sections of society and there are powerful correlations between poverty, inequality and child offending.

The shared understanding in many contexts, whether explicit or implicit, is that the objective of criminal justice systems should be punishment – this view is commonly held amongst police, staff working in facilities, the general public, justice systems, the media and governments. This understanding can create a climate where children are treated in the same way as adults and harsh treatment becomes an integral part of this ongoing punishment with the result that detention is used as a measure of first resort not last resort.

In the context of children charged with or convicted of terrorist offences, this security-dominated approach prevails in nearly all jurisdictions and the normative framework for children in conflict with the law is readily abandoned. Sensationalist responses to these offenders can raise the risk of maltreatment and lead to violations such as:

- extended pre-trial detention periods;
- lack of contact with family and friends;
- being held alongside adults;
- lack of access to lawyers;
- being held incommunicado;
- being held in solitary confinement;
- interrogation in order to obtain confession;
- ill-treatment and even torture;
- trials held in inappropriate venues such as adult and military courts;
- police, judicial officers, lawyers, prosecutors and others without training on dealing with children; and
- receiving disproportionately lengthy sentences and in certain jurisdictions application of the death penalty.

**“ Governments that exhibit repressive and heavy-handed security responses in violation of human rights and the rule of law, such as profiling of certain populations, adoption of intrusive surveillance techniques and prolongation of declared states of emergency, tend to generate more violent extremists. ”**

UN Secretary-General Plan of Action to Prevent Violent Extremism (A/70/674; Considered by the General Assembly on 15 January 2016.)

To a large extent, counter-terrorism laws, which have proliferated globally since 2001, tend to cover acts that are already illegal under existing domestic criminal law such as murder and kidnapping. They also establish special procedures for investigating and prosecuting terrorist crimes and impose enhanced punishments. It is important to remember that many children arrested for involvement in terrorist activity may have played a relatively minor role such as acting as a courier or facilitating the transfer of funds or they may have been caught up in a massive sweep of suspects. Their motivations for participation may be very diverse and will not always be radical in character – they may be motivated by financial rewards or have been acting under severe duress.

There are many examples worldwide of counter-terrorist legislation taking precedence over existing laws that protect children's rights. In Pakistan, for example, legislation was passed in 2014 to combat violent extremism. The Pakistan Protection Act (2014) gives extensive powers to security forces with regard to arrest and detention and has overriding effect over other legislation including the Juvenile Justice System Ordinance (2000) which prevents detention of children under 15 years old. It allows for children to be detained for up to 90 days and to be tried in Anti Terrorism Courts.<sup>45</sup> Such severe treatment can in turn exacerbate the risks of radicalisation by fuelling perceptions of grievance and persecution.<sup>46</sup>

**→ Prosecuting terrorist offences is hugely complex, sensitive and subject to critically important security concerns. Despite this, it is essential that specific safeguards regarding children in conflict with the law are respected from the start of any investigation into terrorist offences.**

45. Society for the Protection of the Rights of the Child, Annual Report, 2014.

46. See for example, Seth G. Jones and Martin C. Libicki, *How Terrorist Groups End: Lessons for Countering al Qaeda*, 2008.

## Key differences for children

The following section addresses some of the implications flowing from adherence to international standards for children in conflict with the law. These considerations are not exhaustive but highlight a number of key differences in the treatment of children and adults.

### Setting a minimum age of criminal responsibility

The UNCRC requires that States set a minimum age of criminal responsibility and the Committee on the Rights of Child has stated that this should be raised progressively to 18.<sup>47</sup> This means that any child under a fixed age who has committed an act that would constitute an offence, including an act of terrorism, cannot be arrested or charged and if necessary they should be subject to special protective measures. Children over the minimum age of criminal responsibility and under 18 years of age are entitled to the full panoply of protections outlined in the international standards regardless of the severity of the offence.

Several states have recently amended their laws, or planned to do so, in response to a perceived threat from children who have been or at risk of being radicalised. In 2016, Russia lowered the age of criminal responsibility to 14 for a variety of offences related to terrorism, the rationale being that children are vulnerable to recruitment by terrorist groups and at 14 have the capacity to understand their actions.<sup>48</sup> Kyrgyzstan also has a new draft law which would make terrorism and religious extremism punishable from the age of 14 years.<sup>49</sup> In November 2016, Australia reduced the age at which control orders can be applied to terrorism suspects from 16 to 14. Control orders allow detention or extreme limitations on designated suspects' movements, communications, or livelihoods, with the aim of preventing future terrorist activity. Court-ordered restrictions under control orders can include electronic tagging, curfews, and requirements to report to police, and restrictions on using specified technologies such as the internet and on attending certain places and associating with certain people. Australia's National Children's Commissioner raised concerns that "imposing control orders on an already disaffected young person could have the reverse effect, effectively shutting down communication avenues."<sup>50</sup>

States should set as high a minimum age of criminal responsibility as possible reflecting the emotional, mental and intellectual maturity of children. The minimum age of criminal responsibility should be applied consistently to all children in conflict with the law regardless of the nature

or severity of the offence and should refer to the age of the child at the time of the offence. It is essential to have clear and appropriate procedures in place to determine the age of children suspected of involvement in terrorist activity particularly when their identity documents and birth records may not be readily accessible.

### Ensuring confidentiality

The UNCRC is clear that children in criminal proceedings should have their privacy respected, and that their best interest should be a primary consideration and this is reinforced in the UN Beijing Rules. This becomes imperative when children are suspected or charged with terrorist-related offences which are a matter of considerable media and public interest. To ensure that future rehabilitation is successful, children's right to privacy must be maintained.

### Protections in police detention

All children in police detention are vulnerable and the stakes can be very high when they are arrested with an offence concerning violent extremism. There are a whole range of protective provisions that should be observed (but frequently are not) and there is a greater risk of ill-treatment at the police station when basic safeguards are not in place or are not upheld. Time limits for children involved in criminal procedures should be much shorter than for adults even when the offence is serious and involves highly complex and pressured investigations.<sup>51</sup> Every child arrested and deprived of his/her liberty should be brought before a judge to examine the lawfulness of detention within 24 hours and to decide whether remand detention is necessary or can be substituted with an alternative measure.

Legal assistance from the first steps of criminal proceedings is particularly important where children are suspected of having committed a serious offence. In addition to the assistance of a lawyer, parents or legal guardians should also be present at the proceedings because they can provide general psychological and emotional assistance to the child. Children, owing to their age and development, can be susceptible to making involuntary self-incriminatory statements. The UN Committee on the Rights of the Child addresses this at length in General Comment No. 10 and requires that there is independent scrutiny of interrogation to ensure that evidence is voluntary and not coerced and police and other investigating authorities are well trained. Above all, protections must be put in place to prevent children from being exposed to violence or torture whilst in police custody.<sup>52</sup> This includes being held separately from adults.

47. UN Committee on the Rights of the Child (CRC), General Comment No. 12 (2016): On the implementation of the rights of the child during adolescence CRC/C/GC/20, para 88.

48. International Center for Not-for-Profit Law (ICNL), *Overview of the Package of Changes into a Number of Laws of the Russian Federation Designed to Provide for Additional Measures to Counteract Terrorism*, July 2016.

49. Nargiza Osmonova, 'Kyrgyz deputy proposes to punish for terrorism and religious extremism at the age of 14', *24.kg news agency*, 26 January 2016, <http://eng.24.kg/parliament/179013-news24.html>, (Accessed 20 March 2017).

50. Human Rights Watch, 'Australia Expands 'Control Orders' on Children Counterterrorism Measure Applies to 14-Year-Olds', 22 November 2016.

51. See note 32, paras 51–52.

52. Preventing violence is a complex area explored in some depth in the 'Joint report of the Office of the High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children on prevention of and responses to violence against children within the juvenile justice system', A/HRC/21/25, 27 June 2012.

### Specialised courts for children

In international law, children have the same rights to a fair trial as adults. They also have the right to additional protections including the right to support from an adult or guardian,<sup>53</sup> the right to privacy and confidentiality<sup>54</sup> and the right to decisions being taken without delay. In order to be able to participate fully in a trial, the child must be able to understand what is taking place and international standards place a clear obligation on State Parties to ensure that this happens.

The Committee on the Rights of the Child recommends that States establish separate courts to try children charged with a criminal offence and further recommends that where it is not possible to establish juvenile courts, a State should nevertheless ensure the appointment of specialised judges or magistrates to deal with cases of juvenile justice. The Committee has explicitly expressed concern at the practice of transferring children to adult courts as such a practice conflicts with Articles 1, 37 and 40 of the UNCRC.<sup>55</sup>

Some countries have established special counter-terrorism courts that do not always meet international standards for independence and impartiality; others grant military courts jurisdiction over terrorism prosecution. This means that far from children being tried in specialised courts staffed with trained personnel with expertise in children's rights, they can find themselves tried in adult, military or specially constituted counter-terrorism courts. In Pakistan, for example, military courts were given powers over terrorism-related cases in the wake of the massacre of nearly 140 school children at an Army Public School in Peshawar in December 2014. The International Commission of Jurists asserts that during 2015, military courts convicted at least 40 people, possibly including children, in opaque, secret proceedings.<sup>56</sup>

In Egypt, children over 12 years old should be tried in separate Child Courts. However, the Child Law (2008) states that if they are over 15 they can be tried in the Criminal Court or the Supreme State Security Court, when it is a 'necessity' to be tried alongside an adult co-defendant. In recent years, this provision has been relied upon to process hundreds of children arrested during political protests through adult courts where they have few safeguards such as access to lawyers and social welfare reports. Furthermore, children have been tried in military courts both immediately following the uprising of 2011 and more recently since 2014 when a new decree was issued extending the powers of military courts.

### Supreme Court ruling that UNCRC applies to Crime Commissions

In Australia, terrorism cases are heard by state-level Crime Commissions. In 2016, the New South Wales Supreme Court ruled that a 16 year old boy could be summonsed to give evidence to this body in a trial concerning his brother. However, the Supreme Court clarified that this body was not exempt from the rules of natural justice nor from the UNCRC and that it must consider the principle of the best interests of the child when deciding whether to compel children to give evidence.

Source: The text of the judgement itself is restricted but was reported in news sources. See for example, 'Boy can give evidence against brother in terrorism inquiry, court orders', The Guardian, 27 April 2016, <http://www.theguardian.com/australia-news/2016/apr/27/boy-can-give-evidence-against-brother-terrorism-inquiry-court-orders>, (accessed 17 March 2017).

A key international standard is that those involved in the administration of justice for children are well trained 'in a systematic and ongoing manner.' Professionals including police, prosecutors, judges and social workers should be 'well informed about the child's, and particularly about the adolescent's physical, psychological, mental and social development, as well as about the special needs of the most vulnerable children, such as children with disabilities, displaced children, street children, refugee and asylum-seeking children, and children belonging to racial, ethnic, religious, linguistic or other minorities.'<sup>57</sup> This is much less likely to happen in systems where children arrested for terrorist offences are processed through military, adult or terrorist courts.

### Processing cases within a reasonable time

Strict legal provisions should ensure that the lawfulness of and continued need for pre-trial detention is reviewed regularly, preferably every two weeks. The right to trial within a reasonable time should be applied very strictly to children and adjournments once trial has started should be avoided.

### Individualised and proportionate sentencing

Under the Beijing Rules, deprivation of liberty "shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response" that can protect the public safety.

53. Article 40(b)(iii) of the CRC provides for the presence of a child's parents or guardians in judicial proceedings unless it is considered not to be in the best interests of the child, taking into account his or her age or situation.

54. Article 40(2)(b)(vii) of the CRC provides that a child has the right to 'have his or her privacy fully respected at all stages of the proceedings.'

55. For example, in its Concluding Observations to Canada in 2003, the Committee expressed its concern at the 'expanded use of adult sentences for children as young as 14' (Committee on the Rights of the Child, Concluding Observations: Canada (2003), CRC/C/15/Add.215, para. 56). In its Concluding Observations to Pakistan in 2016, the Committee recommended that the State '(c) Ensure that all stages of cases involving children, even those concerning terrorism-related crimes or violations of sharia law, including arrest, detention (whether pretrial or post-trial) and trial, are overseen by juvenile courts, in compliance with the Convention and all applicable international standards.' (Committee on the Rights of the Child, Concluding Observations: Pakistan (2016) CRC/C/PAK/CO/5, para 25).

56. International Commission of Jurists, *Advocacy Analysis: Pakistan's Military Courts*, 2016.

57. See, CRC General Comment No. 10, para.40 and UN Beijing Rules 12 and 22.

The Beijing Rules stipulate that in cases of serious offending by juveniles, retributive sanctions may be considered to have some merit but stress that “such considerations should always be outweighed by the interest of safeguarding the well-being and the future of the young person”.

International standards are clear that, however serious the offence, sentencing procedures must be individualised and proportionate both to the nature of the offence and to the child’s background and characteristics. This implies that sufficient relevant background detail must be obtained to ensure proportionality. Rule 16.1 of the Beijing Rules sets out the obligation to obtain ‘social inquiry reports’ prior to sentencing. The commentary adds that the sentencer ‘should be informed of relevant facts about the juvenile, such as social and family background, school career, education experiences, etc’. These facts should also include his or her age, physical and mental health, socio-economic background, cultural affiliations and intellectual development.

Children cannot be subject to the death penalty or to a life sentence without prospect of parole. These provisions are not always upheld. In Pakistan, terrorism related cases are tried under the Pakistan Protection Act 2014 and the Anti Terrorism Act 1997, both of which override the provisions of the Juvenile Justice System Ordinance 2000. This means that children can be tried and convicted of terrorism related charges and can be sentenced to death in principle since the moratorium on the use of the death penalty was lifted in 2014. The Bahrain Center for Human Rights has been very critical of the length of sentences given to children convicted of terrorist offences: for example a 17 year-old was recently sentenced to 130 years imprisonment on charges of protesting against the ruling royal family and terror acts. In a recent case in England, a 14 year-old boy, based in England, recruited and mentored online by ISIS in Syria, went on to incite an 18 year-old in Australia to behead a police officer at a national holiday ‘Anzac Day’ parade. The boy was convicted of inciting terrorism, and given a life sentence with a minimum tariff of five years. He will be released once a parole board has decided he is no longer dangerous which in effect means he has five years in youth custody to undergo de-radicalisation before moving in to the adult prison system.<sup>58</sup>

## Prevention of radicalisation in detention

### Preventing children from being radicalised whilst detained

A study of the profiles of 79 recent European jihadists found that 45 had spent time in prison previously and of these over a quarter (12) had been radicalised whilst in prison although the process had intensified afterwards.<sup>59</sup> The UN Plan of Action to prevent violent extremism stresses that ‘*harsh treatment in detention facilities can play a disconcertingly powerful role in the recruitment of a large number of individuals who have joined violent extremist groups and terrorist organizations.*’<sup>60</sup>

A study by the International Centre for the Study of Radicalisation and Political Violence at King’s College, London in 2010 examined the evidence from 15 countries about how adults could be radicalised or reformed in prison. It found that prisons are certainly ‘places of vulnerability’ in which radicalisation takes place but on the other hand it also found that they can be ‘incubators for peaceful change and transformation.’<sup>61</sup> This same study found that ‘*radicalisation is driven by behaviours and conditions that are typical of the prison environment, especially religious seeking, defiance and the need for protection*’; and ‘*over-crowding and under-staffing amplify the conditions that lend themselves to radicalisation*’.<sup>62</sup> In the context of Saudi Arabia, commentators have noted that prisoners can be radicalised because they are given the opportunity of atoning for their crimes – ‘cleaning their soul’.<sup>63</sup>

There is little research examining whether radicalisation processes are the same for children in prison as they are for adults or for their peers living in the community, and although there are anecdotal examples, we do not have a clear picture of the scale or nature of radicalisation amongst children within prisons.<sup>64</sup> Whilst radicalisation in prison is a growing area of research for adults, it is overlooked for children. A recent review of Islamist Extremism in prisons in England and Wales concluded that ‘*work on risk and management of extremism and radicalisation in the under-18 offender cohort is in its infancy.*’<sup>65</sup>

58. Jessica Elgot, ‘Anzac day terror plot: British teenager given life sentence’, *The Guardian*, 2 October 2015, [www.theguardian.com/news/2015/oct/02/anzac-day-terror-plot-british-teenager-given-life-sentence](http://www.theguardian.com/news/2015/oct/02/anzac-day-terror-plot-british-teenager-given-life-sentence). (accessed 20 March 2017).

59. The International Centre for the Study of Radicalisation and Political Violence, *Criminal Pasts, Terrorist Futures: European Jihadists and the New Crime-Terror Nexus*, 2016.

60. UN Plan of Action to Prevent Violent Extremism, A/70/674, December 2015

61. Neumann, P., *Prisons and Terrorism Radicalisation and De-radicalisation in 15 Countries*, International Centre for the Study of Radicalisation and Political Violence, 2010, p2

62. See note 61, pp7 and 25.

63. Major-General Mansoor Al Turki, spokesman of the Saudi interior ministry, cited in Chatham House, *Moving Target UK–GCC Relations and the Politics of ‘Extremism’*, 2016. ‘We don’t see a specific pattern. People can be rich or poor. Sometimes there’s a religious background. We’ve had some who went abroad on a scholarship, failed on studies and came back – or sometimes they got radicalized abroad. If we want to see any pattern, it’s young people: 18 to 22 ... It’s not necessarily people who were raised religiously. Some have been jailed for crimes; jailed for rape and drugs and suddenly he’s a member of ISIS. They can be convinced it’s the chance to clean their soul and face God with a clean record.’

64. See Global Center on Cooperative Security and the International Centre for Counter-Terrorism, *Rehabilitating Juvenile Violent Extremist Offenders in Detention*, 2016.

65. UK Ministry of Justice, *Summary of the main findings of the review of Islamist Extremism in prisons, probation and youth justice*, 2016.

A frequently cited example is that of the ‘shoe-bomber’, Richard Reid, who had spent time in a facility for young offenders in the UK but it is not in fact clear whether radicalisation took place during his time in custody.<sup>66</sup>

Another issue is that women who have been convicted of terrorist offences may be living in prison with their children who may in turn be at risk of radicalisation.

It is hard to underestimate how frightening the experience of detention can be for children in many different jurisdictions. Children in detention are acutely vulnerable because they are isolated from family, friends, education and a normal social environment – associating with groups or strong individuals is common behaviour amongst children in detention and is often an opportunistic attempt to find security and safety. Given that this is opportunistic it is also possible that such relationships finish when they no longer serve their purpose, that is when the child leaves detention and that they are indicative of a need for security rather than an indicator of risk of radicalisation. Although children can be particularly vulnerable, the risk of radicalisation should not be overstated and normal feelings of insecurity, uncertainty and fear on arrival in prison should not automatically be viewed through the prism of radicalisation risk. Increased religiosity or conversion to particular religions should not be perceived as indicators of extremism and ignores the fact that religion can be a protective factor.<sup>67</sup>

As a starting point, children should not be held in institutions where violent extremism can thrive and where there is a likelihood of becoming radicalised. A key part of this is to ensure that children are held separately from adults, they feel safe so do not have the need to join violent groups to ensure their own protection, the institutions are humane and not over-crowded, they retain contact with their families, and they receive targeted and individualised rehabilitation programmes.

### Separation from adults

Children in many jurisdictions are still routinely held in detention alongside adults, which carries a multitude of risks, amongst them the risk of radicalisation. Separation from adults is an essential human right standard and relies upon adequate birth registration and documentation.

### Risk assessment

Currently there are two risk assessment tools in use in different jurisdictions that seek to identify prisoners who have been radicalised or are at risk of radicalisation whilst in prison. These are VERA 2 (used in Europe, US, Canada, Australia and South Asia including the Philippines and Indonesia) and ERG22+ (developed by the National Offender Management Service in the UK).<sup>68</sup>

Neither is adapted specifically for use with children and their effectiveness in different regional settings has been questioned. In many jurisdictions, using them is challenging since there are just too few resources to apply them effectively. As yet there is no validated link between the risk factors in these assessment tools and a risk of offending subsequently.

**“ It is vitally important that any assessment tools used for children in detention to determine their risk of being radicalised or of radicalising others, are carefully validated, nuanced and avoid over-simplification. ”**

It is also important to be clear whether risk assessment tools are assessing the risk of recidivism, of being radicalised or of radicalising others. Particular care should be taken not to categorise children as high risk of radicalisation because of the nature of their offence, their religion, or their travel history.

### Dispersal or separation?

A recurrent debate is whether prisoners deemed to be at risk of radicalising others should be separated from or integrated with the general population or held in concentration with other extremist prisoners. With regards to children, it should be noted that the numbers at any one time are likely to be very small which makes separation from the general population more challenging since they may be held in de facto solitary confinement and lack opportunities to mix with others.

There is likely to be a strong rehabilitative effect of maintaining contact with other children which suggests that segregation and separation may not be beneficial. Decisions on segregation should be made based upon a careful risk analysis but taking into account that there are risks around reinforcing a sense of ‘us’ and ‘them’ through separation from the mainstream population of detainees.

66. See note 41, p27.

67. The positive effects of religion are often overlooked. For example, in the UK context, the report by Transition to Adulthood Alliance and Maslaha, *Young Muslims on trial: A scoping study on the impact of Islamophobia on criminal justice decision-making*, March 2016, which states ‘The often negative light in which Islam is viewed by authorities at different stages of the criminal justice system, sits in stark contrast to how Muslim prisoners and ex-offenders perceive it, which is as a positive and supportive influence in coping with both prison and release and resettlement.’

68. VERA 2 has now been updated to VERA 2R and has been supplemented with additional mental health related indicators, indicators for women and young people as well as risk promoting and risk mitigating factors. 1.

## Rehabilitation and reintegration of children convicted of terrorist offences

The process of rehabilitation for children is absolutely key both to preventing radicalisation in prison and to supporting children who have been radicalised to desist and reintegrate on release. This is the case whether in conflict areas or in more stable justice systems for children. Children are exceptionally capable of rehabilitation which includes building constructive trust-based relationships with staff, developing a sense of optimism about the child's future upon release through developing education, training and employment and connections with family and friends (so long as this is in the child's best interests). In Sri Lanka for example, a programme for former LTTE combatants, including children, consists of six modes of rehabilitation in addition to community engagement, nicknamed the "6+1 model": (1) educational; (2) vocational; (3) psychosocial and creative therapies; (4) social, cultural, and family; (5) spiritual and religious; (6) recreational.<sup>69</sup>

The process of rehabilitation should begin the moment a child arrives in a detention institution. The child should be interviewed upon admission and a psychological and social report should be prepared. This report, together with a medical report, should be used by the institution to determine the most appropriate rehabilitation programme to be pursued. Girls are frequently victims of gender-based violence and require specialised gender-specific and age-appropriate support, counselling, and healthcare.

Rehabilitation is not possible where there is overcrowding, poorly trained staff, a climate of fear, violence and mistrust and an inadequate ratio of children to available staff. It will work most effectively in settings which are small enough for individual treatment to be provided and where children feel safe and secure. Children who experience good conditions of detention will be far more willing and able to respond to rehabilitative programmes. It is fundamental that they must be held separately from adults, in a safe physical environment where adequate medical care is provided.

**“ My friend was involved in the demonstrations with me for a long time. He got picked up by the regime. He was raped and tortured in prison. As soon as he came out, he renounced the revolution as ineffective in defeating the regime. He went and joined one of the small battalions around Aleppo before eventually going over to Islamic State. He is completely brainwashed now. ”**

Interview with a Syrian male, cited in a report by International Alert, *Why young Syrians choose to fight*.

Staff should consist of specialists such as educators, vocational instructors, counsellors, social workers, psychiatrists and psychologists. They need to be trained in child psychology, child welfare and international standards regarding children's rights in order for them to carry out their responsibilities effectively. Corporal punishment, closed or solitary confinement, and any other punishment that compromises the physical or mental health of the child are strictly prohibited.

All children will benefit from rehabilitation programmes and this is an important part of preventing radicalisation whilst in prison. The risk of being drawn to radical ideologies is likely to be much higher for those children who perceive their future to be bleak and uncertain. There is also scope to develop specific and individualised programmes for de-radicalisation and disengagement for children convicted of violent extremism or who have become radicalised whilst in detention. This is reflected in the UN Plan of Action to Prevent Violent Extremism which recommends that states '*Introduce disengagement, rehabilitation and counselling programmes for persons engaged in violent extremism which are gender-sensitive and include programmes for children to facilitate their reintegration into society. These programmes must be in full compliance with international human rights norms and standards, including the rights to freedom of movement, freedom of expression and privacy, gender equality and the principle of non-discrimination.*'

Several countries have developed programmes for adult prisoners for de-radicalisation and disengagement including Algeria, Egypt, Indonesia, Jordan, Malaysia, Morocco, Pakistan, Saudi Arabia, and Yemen. Currently Saudi Arabia administers one of the most advanced programmes. With support from the European Union, Nigeria has begun a de-radicalisation programme for former Boko Haram members. Turkey also has a prison programme which uses family members, often mothers, to engage with prisoners.<sup>70</sup> A common element is to rely on religious leaders such as clerics or imams to build relationships with prisoners. Commentators have argued that it is vital to also include psychologists and not to rely on religious input alone which may not be sufficient to address individual vulnerabilities.<sup>71</sup>

Some of these programmes focus specifically on children and young people. For example, an NGO called Violence Prevention Network has been running programmes in prisons in Germany since 2001 to de-radicalise young hate crime offenders from right wing and Muslim fundamentalist backgrounds. The programme takes place over five months during detention and is followed up after release. The methodology involves group discussions, one-to-one conversations, civic education and participative observation but is focused mainly on engaging offenders to talk about their offending in group settings and includes reconstructing the actual offences.

69. Malkanthi Hettiarachchi, *Sri Lanka's Rehabilitation Program: A New Frontier in Counter Terrorism and Counter Insurgency*, Prism 4, No. 2, 2013.

70. Anne Speckhard, *Prison and Community Based Disengagement and De-Radicalization Programs for Extremists Involved in Militant Jihadi Terrorism Ideologies and Activities*, January 2011.

71. See note 70.

A 2010 evaluation found that the recidivism rate for this group fell to under 30 per cent whilst normally it was around 80 per cent. A key finding from the evaluation was that there was a trusting relationship between the offenders and the facilitators and this trust was essential for promoting a lasting change in the individual's attitudes and behaviour.<sup>72</sup>

**“ Rehabilitation needs vary: those who are ideologically indoctrinated need to have their world view addressed, whereas those for whom trauma was a primary catalyst for engaging in terrorism are in need of posttraumatic stress therapy. Those who have purely mercenary motives are unlikely to disengage from terrorism and might even be drawn further into the militant jihad by a program that addresses only ideology. These individuals may need skills training and psychological assistance to reorient to a different, nonviolent means of earning an income. ”**

Anne Speckhard in *Prison and Community Based Disengagement and De-radicalisation Programs for Extremists involved in militant jihadi Terrorism Ideologies and Activities*.

In Pakistan, Project Sabaoon was established by the military, UNICEF and other civil society organisations in 2009 in the Swat Valley. It focuses on children aged between 12 and 17 who have been involved with the Taliban. It employs psychologists, teachers, and religious instructors to inspire critical thinking and decision making and uses counselling to address social and psychological problems ranging from low self-esteem and anger management to post-traumatic stress disorder. Following individual risk and intake assessments, the centre provides participating youths with tailored primary and secondary education, civics courses, and psychological and religious counselling, as well as technical and vocational training. By 2012, over 1,150 young men had benefited from this programme and in 2010, a second similar facility was opened for girls.<sup>73</sup>

## Conclusions

The recent study by UNICRI concludes that *‘international policy and law-making has struggled to keep up with the rapid changes, and the rights of children affected by terrorism and counter-terrorism have not entered into mainstream discourse, and have been largely overlooked.’* Children have also been overlooked at the level of national law and policy which frequently lacks clarity about how children engaged in terrorist related activity should be treated: are they to be treated in the same way as adults? Are they ‘normal’ child offenders? Are they in a distinct category of their own? When should counter-terrorist provisions take priority over provisions in law protecting children in conflict with the law? More research is needed about what happens in practice to these groups of children when they are processed through criminal justice systems and it is also an issue that could be explored further in the UN Committee on the Rights of the Child’s jurisprudence. Another significant gap is our understanding of how children can best be de-radicalised and rehabilitated whilst in detention.

Despite these gaps in our knowledge, PRI’s experience of working on justice for children issues over 25 years is that children – all those under 18 – need special protection when they are in conflict with the law and that this is the case irrespective of the severity of the alleged offence and irrespective of whether they are members of terrorist groups or because exceptional legal powers apply. It is also important that we don’t needlessly ‘reinvent the wheel’ and much learning can be applied from our experience of working with children in gangs or demobilised child soldiers.

This issue really exposes the weaknesses in justice for children systems in many different jurisdictions. What is vitally important is that the risk and dangers of violent extremism do not become a pretext for diluting the application of international standards for children in conflict and contact with the law. Much is at stake since if we get it right for children at this stage in their development, it is likely to reduce the risk of their further engagement in violent extremism in the future.

72. Violence Prevention Network, *Presentation on A Successful Approach to Deradicalisation*, Presentation on 14 October 2015, <http://docslide.us/documents/a-successful-approach-to-deradicalisation-radicalisation-and-violent-extremism.html>, (accessed 20 March 2017).

73. Human Rights Council, National Report to Universal Periodic Review, Pakistan, A/HRC/WG.6/14/PAK/1, 5 August 2012.

## Recommendations

The following are some key recommendations arising from this briefing that are addressed primarily to governments:

- 01** Any work to prevent radicalisation that fuels a sense of marginalisation and discrimination is counter-productive and may lead to a growing alienation amongst young people. The aim of prevention strategies should be to reduce children's vulnerability to radicalisation by addressing the conditions that can lead to radicalisation, to violence and recruitment for terrorism purposes, including marginalisation and structural discrimination.
- 02** Children associated with armed groups should be treated primarily as victims and transferred to child protection authorities for rehabilitation.
- 03** All responses to children charged with or convicted of terrorism-related activities must be firmly grounded in international human rights law and the rule of law. The international standards are universally applicable principles and hold true for all children, regardless of the severity or nature of the offence in question. They apply to children charged with or convicted of terrorist offences as much as they do to children charged with or convicted of minor offences.
- 04** Children arrested and charged with terrorist offences should receive protections commensurate with their age when being interviewed, detained, tried and sentenced. These include access to a lawyer, timely hearings, proportionate sentencing, contact with family and friends, detention as a measure of last resort and separation from adults in detention.
- 05** All allegations of torture and ill-treatment against children in detention must be investigated and prosecuted appropriately.
- 06** Further research should examine effective strategies to prevent the radicalisation of children in detention and form part of an overall approach of individualised rehabilitation and reintegration. Tools to assess the risk of children being radicalised should be carefully validated and tailored for specific contexts.
- 07** Children convicted of terrorist offences, or who have become radicalised whilst in detention, should receive individualised programmes to counter the effects of radical ideology.

## **Children and violent extremism: International standards and responses from criminal justice systems**

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We promote alternatives to prison which support the rehabilitation of offenders, and promote the right of detainees to fair and humane treatment. We campaign for the prevention of torture and the abolition of the death penalty, and we work to ensure just and appropriate responses to children and women who come into contact with the law.

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