



CHILD PROTECTION MODEL LAW

Best Practices:

Protection of Children from Neglect, Abuse, Maltreatment, and Exploitation

January 2013

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The Protection  Project

JOHNS HOPKINS
UNIVERSITY



International Centre
FOR MISSING & EXPLOITED CHILDREN

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Introduction

In September 2009, The Protection Project at The Johns Hopkins School of Advanced International Studies started a joint project with the International Centre for Missing and Exploited Children to draft a Model Law on Child Protection aimed at protecting children from all forms of neglect, abuse, maltreatment, and exploitation. The project envisioned the holding of various expert group meetings globally to accompany the drafting process by identifying key issues of child protection in each region of the world and suggesting legislative solutions. The Model Law was written through six drafting stages – each version being carefully revised and expanded to reflect the discussions at the regional expert meetings.

The final version of the Model Law incorporates international standards and best practices of child protection, based on the protection measures of the 1989 Convention on the Rights of the Child (CRC) and its two optional protocols from the year 2000, the Optional Protocol to the CRC on the sale of children, child prostitution and pornography (OPSC) and the Optional Protocol to the CRC on the involvement of children in armed conflict (OPAC). Over the course of the project, more than 400 national laws relating to child protection from over 150 countries were researched and analyzed to identify best practices.

The 1st Expert Panel was held in Singapore on April 28-29, 2010 with child protection experts from governments, other national child protection authorities, international organizations, and from civil society organizations, including child protection organizations and universities in Australia, Cambodia, India, Indonesia, Japan, Malaysia, New Zealand, Philippines, Singapore, Sri Lanka, and Thailand. The 2nd Expert Panel, held in Alexandria, Egypt, on October 19-20, 2010 included child protection experts from law faculties at universities, from legislative divisions, governmental departments, and judicial institutions relating to child and family protection, and social workers representing Algeria, Bahrain, Egypt, Iraq, Jordan, Lebanon, Oman, Qatar, Saudi Arabia, Yemen, including representatives from the League of Arab States. The resulting third draft of the Model Law was discussed in San José, Costa Rica, from June 22-23, 2011 with protection

experts from ten different countries in Latin and Central America. The following draft of the Model Law was presented at the 4th Expert Panel conducted in Valencia, Spain, on July 18-19, 2011 including experts from nine European countries. The Expert Panel, convened in Istanbul, Turkey on September 19-20, 2011 also focused on case law from national, regional, and international judicial bodies which serve as a means to highlight the possibilities of implementation of the Model Law. The final Expert Panel brought together representatives from the U.S. and Canada and explored options of incorporating child protection into institutions of higher education in Alexandria, Virginia, on April 2-3, 2012.

The articles of the Model Law on Child Protection are therefore the product of expertise drawing on international standards and comparative models. It cites 130 domestic laws from 68 countries that we understand to be good examples for child protection legislation or to reflect good intentions. The Model Law highlights issues of child protection that need to be regulated with comprehensive laws and its articles help to show omissions and gaps in current legislation all over the world. We intend the Model Law to serve as a guide for countries that are in the process of drafting a child protection law and those that are looking to amend existing laws. Legislators may use parts or specific provisions of the Model Law depending on the needs and unique circumstances of each country.

This Child Protection Model Law will be presented to the members of the Committee on the Rights of the Child during its 62nd Session in January 2013. We recognize the invaluable work of the Committee in advancing the rights of children around the world.

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I hope you find this publication useful.



Mohamed Mattar
Executive Director
The Protection Project

Chapter 1

Principles and Definitions

Article 1 – Objectives of the Law

- (1) *Emphasizing* the inherent value of children as individual, unique, dignified, self-determined, and full-rights bearing human beings, and the vital role of children for maintaining a well-functioning democratic and just society,

Reaffirming the fundamental human rights of children as proclaimed in the Universal Declaration of Human Rights and the Convention on the Rights of the Child without discrimination on the grounds of sex, race, religion, political or other opinion, national, ethnic or social origin, property, birth, disability, or other status and the right of children to take part in all actions affecting them,

Realizing the necessity of special care and assistance, guidance, and education for children to develop all of their inherent potential, to undergo a healthy transition into adulthood, and to become active members of society,

Acknowledging the family as primarily responsible to ensure the development and well-being of children growing up in an atmosphere of happiness, love, and understanding, and the State's role supporting and assisting families with this responsibility,

Recognizing the devastating effects of all forms of neglect, abuse, maltreatment, and exploitation on a child's physical, mental, emotional, and social development, and

Highlighting the importance of international co-operation to implement the provisions of this Law,

The objective of this Law is to protect children from all forms of neglect, abuse, maltreatment, and exploitation in the private and public sphere by –

- (a) Identifying the responsibilities of parents, families, society, and the state in children's upbringing, care, and protection;

- (b) Defining different acts and omissions that amount to neglect, abuse, maltreatment, and exploitation; and
 - (c) Providing the relevant services for child victims, including medical, psychological, and legal assistance, rehabilitation and reintegration measures, and means of intervention and compensation.
- (2) In order to give effect to this Law, all members of society are called upon to participate in the protection of children. Child protection shall be a primary objective in all governmental, legislative, judicial, and administrative proceedings. The private sector shall be encouraged to advance the protection of children by developing rules of corporate social responsibility and codes of conduct. All efforts aimed at protecting children shall bear in mind the growing importance of new technologies, especially the internet, and their benefits to a child's upbringing as well as their potential use to exploit children.
- (3) The State shall allocate the necessary funds to ensure the proper, effective, and adequate implementation of this Law and express its commitment to constantly enhance the level of child protection.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1989

Preamble.

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, ...

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity, ...

Indonesia, Act No. 13 of 2003

Article 3.

The protection of children is intended to guarantee the rights of children so that they may live, grow, develop and participate optimally in society in accordance with their dignity as human beings, and that they will be protected against violence and discrimination in order to ensure the moral values and well-being of Indonesian children.

Lithuania, Law on Fundamentals of Protection of the Rights of the Child, Act No. I-1234, 1996

Article 1 – Purpose of the Law.

1. The purpose of this Law is improvement of legal protection of children within the country, through establishment of principles in defence of the rights and freedoms of the child, co-ordinated with the Constitution of the Republic of Lithuania and international law norms and principles.
2. Within this Law are established the fundamental rights, freedoms and obligations of the child, and the most important guarantees of protection and defence of these rights and freedoms, based upon the Constitution of the Republic of Lithuania, the 1959 United Nations Declaration on the Rights of the Child, the 1989 Convention on the Rights of the Child, and other norms and principles of international law, while taking into account the specific situation of the child within family and society and national law traditions, fundamental rights, freedoms and obligations of the child and the most important guarantees for the defence thereof. ...

Namibia, Draft Child Care and Protection Bill, 2009

Section 2 – Objectives of Act.

The objectives of this Act are – ...

- (f) to protect children from discrimination, exploitation and any other physical, emotional or moral harm or hazards;
- (g) to provide care and protection to children who are in need of care and protection; and
- (h) generally, to promote the protection, development and welfare of children.

Philippines, Anti-Child Pornography Act, No. 9775, 2009

Section 2 – Declaration of Policy.

The State recognizes the vital role of the youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual, emotional, psychological and social well-being. Towards this end, the State shall:

- (a) Guarantee the fundamental rights of every child from all forms of neglect, cruelty and other conditions prejudicial to his/her development; ...

Article 2 – Definitions

- (1) A child under this Law is any person who has not attained 18 years of age. A different age may apply in the circumstances prescribed by this Law. In case of doubt about the majority or minority of a child, minority status shall be presumed. Ignorance regarding the age of the child shall be excluded as a defense.
- (2) For the purpose of this Law –
 - (a) “Neglect” shall mean the intentional or involuntary non-exercising of duties and responsibilities to adequately care for and supervise a child and to provide for the child’s basic physical, mental, emotional, and social needs;

- (b) "Abuse" shall mean any intentional or willful act or omission by a parent, guardian, care-giver, or other person in a position of trust or authority causing or likely to cause physical, mental, or emotional harm to the child;
- (c) "Maltreatment" shall mean any intentional or willful act resulting in physical, mental, or emotional harm to the child or any omission by a parent, guardian, or care-giver to protect children from such harm, and in general all forms of violence, aggression, cruel, degrading, or humiliating treatment of a child;
- (d) "Exploitation" shall mean –
 - (i) Sexual exploitation, including commercial sexual exploitation of children in the form of child prostitution, child sex tourism, child pornography, and child trafficking for these purposes;
 - (ii) Economic exploitation, including the worst forms of child labor, child begging, children's work and child domestic work not in accordance with the regulations of this Law; and
 - (iii) Other forms of exploitation, including all forms of slavery or practices similar to slavery, debt bondage or servitude;
- (e) "Sexual abuse" of children shall mean any –
 - (i) Engagement or incitement of a child under the age of consent to participate in sexual activities in violation of Article 42 of this Law;
 - (ii) Engagement in sexual activities with a child in abuse of a position of trust or authority such as that of parent, guardian or care-giver;
- (f) "Sexual activities" shall mean sexual intercourse and any other act performed on, by, with, or in front of a child where the presence or participation of the child is for the purpose of the sexual gratification of another person;
- (g) "Parents" shall mean the natural, adoptive, or foster parents of a child;
- (h) "Guardians" shall mean any other person having legal responsibilities for the child;
 - (i) "Care-giver" shall mean anyone other than a parent or guardian who factually cares for a child, due to a professional or non-professional relationship, in a permanent or temporary manner.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 1.

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted by UN GA resolution 55/25 of Nov. 15, 2000, entered into force Sep. 29, 2003

Article 3 – Use of Terms.

For the purposes of this Protocol:

(d) “Child” shall mean any person under eighteen years of age.

International Labour Organization, Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, Convention No. 182 of June 17, 1999, entered into force Nov. 19, 2000

Article 2.

For the purposes of this Convention, the term child shall apply to all persons under the age of 18. Committee on the Rights of the Child, General Comment No. 13, The right of the child to freedom from all forms of violence, April 18, 2011

33. The definition of “caregivers”, referred to in article 19, paragraph 1, as “parent(s), legal guardian(s) or any other person who has the care of the child”, covers those with clear, recognized legal, professional-ethical and/or cultural responsibility for the safety, health, development and well-being of the child, primarily: parents, foster parents, adoptive parents, caregivers in kafalah of Islamic law, guardians, extended family and community members; education, school and early childhood personnel; child caregivers employed by parents; recreational and sports coaches – including youth group supervisors; workplace employers or supervisors; and institutional personnel (governmental or non-governmental) in the position of caregivers for example responsible adults in health-care, juvenile-justice and drop-in and residential-care settings. In the case of unaccompanied children, the State is the de facto caregiver.

Canada/Alberta, Child, Youth and Family Enhancement Act, Chapter C-12, Revised Statutes of Alberta 2000

Section 1.

(2.1) For the purposes of subsection (2)(c), a child is neglected if the guardian

- a) is unable or unwilling to provide the child with the necessities of life,
- b) is unable or unwilling to obtain for the child, or to permit the child to receive, essential medical, surgical or other remedial treatment that is necessary for the health or well being of the child, or
- c) is unable or unwilling to provide the child with adequate care or supervision.

(3) For the purposes of this Act,

- a) a child is emotionally injured
 - i. if there is impairment of the child’s mental or emotional functioning or development, and
 - ii. if there are reasonable and probable grounds to believe that the emotional injury is the result of
 - (A) rejection,
 - (A.1) emotional, social, cognitive or physiological neglect,
 - (B) deprivation of affection or cognitive stimulation,
 - (C) exposure to domestic violence or severe domestic disharmony,
 - (D) inappropriate criticism, threats, humiliation, accusations or expectations of or toward the child,

(E) the mental or emotional condition of the guardian of the child or of anyone living in the same residence as the child;

(F) chronic alcohol or drug abuse by the guardian or by anyone living in the same residence as the child;

b) a child is physically injured if there is substantial and observable injury to any part of the child's body as a result of the non accidental application of force or an agent to the child's body that is evidenced by a laceration, a contusion, an abrasion, a scar, a fracture or other bony injury, a dislocation, a sprain, hemorrhaging, the rupture of viscus, a burn, a scald, frostbite, the loss or alteration of consciousness or physiological functioning or the loss of hair or teeth;

c) a child is sexually abused if the child is inappropriately exposed or subjected to sexual contact, activity or behaviour including prostitution related activities.

Colombia, Law No. 1098/2006 Issuing the Code of Childhood and Adolescence, 2006

Article 3 – Beneficiaries under the Law.

For all purposes of this Act beneficiaries under the law are all persons under 18. Without prejudice to Article 34 of the Civil Code, the term child refers to people between 0 and 12 years, and adolescent to people between 12 and 18 years of age.

Paragraph 1. In case of doubt about the majority or minority, the latter is presumed. In case of doubt about the age of a child or adolescent the younger age shall be presumed. The judicial or administrative authorities order the taking of evidence to determine the age, and once established will confirm or revoke the measures and authorize the necessary corrections according to the law.

Article 18 – Right to Personal Integrity.

For purposes of this Code, maltreatment of children means any form of harm, punishment, humiliation or physical or psychological abuse, neglect, omission or negligent treatment, maltreatment or sexual exploitation, including sexual abuse and rape and in general all forms of violence or aggression against the child or adolescent by their parents, legal guardians or any other person.

India/Goa, The Goa Children's Act, Act 18 of 2003

Section 2 – Definitions.

(b) "A caregiver" is a person who is responsible for looking after the well-being of the child.

This person may be a staff member of any residential facility for children, an employee of an educational institution, a nursery, crèche, a clinic, a hospital, a sport club, a recreational facility, or an employee of any facility that provides services for children;

(m) "Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:-

(i) psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;

(ii) any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;

(iii) unreasonable deprivation of his basic needs for survival such as food and shelter; or failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death;

(q) "guardian" in relation to a child means his natural guardian or any other person who is legally authorized for the purpose of having the actual charge or control over the child;

Latvia, Protection of the Rights of the Child Law, 1998

Section 3 – The Child and the Principle of Equality Regarding the Rights of the Child.

- (1) A child is a person who has not attained 18 years of age, excepting such persons for whom according to law, majority takes effect earlier, that is, persons, who have been declared to be of the age of majority or have entered into marriage before attaining 18 years of age.

Section 15 – Rights of the Child to Protection from Exploitation.

- (1) A child has the right to be protected from economic exploitation, and from employment in conditions that are dangerous or harmful to his or her health or physical, psychological or moral development, or in night work or during such working periods as hinder his or her education.
- (2) A child has the right to be protected from physical and mental exploitation, from sexual exploitation and seduction, and from any other forms of exploitation, which may in any way harm the child.

Pakistan, Draft Bill The Protection of Children Act, 2006

Article 2 – Definitions.

- (g) “Child” means a person who has not yet attained the age of 18 years, at the time of any relevant proceeding;

Philippines, The Child and Youth Welfare Code, Presidential Decree No. 603, 1974

Art. 141 – Definition of Terms.

As used in this Chapter:

- (3) A neglected child is one whose basic needs have been deliberately unattended or inadequately attended. Neglect may occur in two ways:
- a) There is a physical neglect when the child is malnourished, ill clad and without proper shelter. A child is unattended when left by himself without provisions for his needs and/or without proper supervision.
 - b) Emotional neglect exists: when children are maltreated, raped or seduced; when children are exploited, overworked or made to work under conditions not conducive to good health; or are made to beg in the streets or public places, or when children are in moral danger, or exposed to gambling, prostitution and other vices.

Jamaica, Child Care and Protection Act, 2004

Section 6-1.

In this section – “prescribed person” means -

- (a) a physician, nurse, dentist or other and health or mental health professional;
- (b) an administrator of a hospital facility;
- (c) a school principal, teacher or other teaching professional;
- (d) a social worker or other social service professional;
- (e) an owner, operator or employee of a child day care center or other child care institution;
- (f) a guidance counsel; or
- (g) any other person who by virtue of his employment or occupation has a responsibility to discharge a duty of care towards a child;

Japan, Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children, Act No. 52 of May 26, 1999, as amended 2004

Article 9 – Knowledge of the Age of the Child.

No one who uses a child shall be exempt from punishment pursuant to the provisions of Articles 5 to 8 on the grounds of lacking knowledge of the age of the child. However, this shall not apply in cases where there is no negligence.

South Africa, Children’s Act, Act No. 38 of 2005

Section 1 (1) – Interpretation.

“abuse”, in relation to a child, means any form of harm or ill-treatment deliberately inflicted on a child, and includes-

- (a) assaulting a child or inflicting any other form of deliberate injury to a child;
- (b) sexually abusing a child or allowing a child to be sexually abused;
- (c) bullying by another child;
- (d) a labour practice that exploits a child; or
- (e) exposing or subjecting a child to behaviour that may harm the child psychologically or emotionally;

“care-giver” means any person other than a parent or guardian, who factually cares for a child and includes-

- (a) a foster parent;
- (b) a person who cares for a child with the implied or express consent of a parent or guardian of the child;
- (c) a person who cares for a child whilst the child is in temporary safe care;
- (d) the person at the head of a child and youth care centre where a child has been placed;
- (e) the person at the head of a shelter;
- (f) a child and youth care worker who cares for a child who is without appropriate family care in the community; and
- (g) the child at the head of a child-headed household;

“child” means a person under the age of 18 years;

“exploitation”, in relation to a child, includes

- (a) all forms of slavery or practices similar to slavery, including debt bondage or forced marriage;
- (b) sexual exploitation;
- (c) servitude;
- (d) forced labour or services;
- (e) child labour prohibited in terms of section 141; and
- (f) the removal of body parts;

“neglect”, in relation to a child, means a failure in the exercise of parental responsibilities to provide for the child’s basic physical, intellectual, emotional or social needs;

Article 3 – Scope of Protection

This Law aims to protect children from all acts or omissions constituting neglect, abuse, maltreatment, and exploitation such as –

- (a) Impairing the health, well-being, or physical integrity of a child, including the use or threat to use any form of violence or aggression;
- (b) Damaging the mental or emotional integrity of a child by threatening, frightening, intimidating, or humiliating the child;
- (c) Neglecting or acting in a negligent manner in respect of a child, particularly one lacking a stable and safe family environment;
- (d) Depriving a child of basic education or vocational training;
- (e) Abducting, selling, or trafficking of a child for any purpose in any form;
- (f) Committing or participating in the sexual abuse of a child, particularly by family members, guardians, care-givers, or any other person who has a close relationship with the child;
- (g) Causing the sexual exploitation of children, through producing or using sexual goods or services involving a child, including child pornography, child prostitution, child sex tourism, participation in sexually-oriented performances, child marriage, and trafficking in children for these purposes;
- (h) Causing the economic exploitation of children, especially the worst forms of child labor, children’s work not in accordance with the regulations of this Law, and disregard for a child’s right to play and engage in leisure;
- (i) Inducing the participation of a child in or the exposure to any exploitative activities or activities that are harmful to the child’s physical, mental, or educational development;
- (j) Failing to protect a child affected by armed conflict and other situations of unrest and instability, such as civilian children, child refugees, internally displaced children, or migrant children, or the recruitment of children in armed forces;
- (k) Failing to protect a child in judicial detention or involved with the justice system as a victim or witness.

Based on:

Argentina, Law of Integral Protection of the Rights of the Child, Law 26.061, 2005

Article 9 – Right to Dignity and Personal Integrity.

Children and adolescents have the right to dignity as right holders and developing people; not to be subjected to violent, discriminatory, degrading, humiliating, intimidating treatment; not to be subjected to any form of economic exploitation, torture, abuse or neglect, sexual exploitation, abduction or trafficking for any purpose or in any form or cruel or degrading condition.

Children and adolescents have the right to physical, sexual, psychological and moral integrity.

Canada/Alberta, Child, Youth and Family Enhancement Act, Chapter C-12, Revised Statutes of Alberta 2000

Section 1.

(2) For the purposes of this Act, a child is in need of intervention if there are reasonable and probable grounds to believe that the survival, security or development of the child is endangered because of any of the following:

- a) the child has been abandoned or lost;
- b) the guardian of the child is dead and the child has no other guardian;
- c) the child is neglected by the guardian;
- d) the child has been or there is substantial risk that the child will be physically injured or sexually abused by the guardian of the child;
- e) the guardian of the child is unable or unwilling to protect the child from physical injury or sexual abuse;
- f) the child has been emotionally injured by the guardian of the child;
- g) the guardian of the child is unable or unwilling to protect the child from emotional injury;
- h) the guardian of the child has subjected the child to or is unable or unwilling to protect the child from cruel and unusual treatment or punishment.

Congo, Democratic Republic, Law No. 09/001 of January 10, 2009 Regarding the Protection of Children

Article 62.

The following is considered to be in a difficult situation which gives the benefits of a special protection:

1. A child that has been rejected, abandoned, exposed to negligence, wandering and begging or found begging, wandering or that commonly engages in wandering and begging;
2. A child who, by his/her wrongful behavior or his/her lack of discipline, gives to his/her parents or tutors or his/her family and friends a reason for discontentment;
3. A child who engages in debauchery or finds his/her resources in gambling or in trafficking or in any occupation exposing him/her to prostitution, begging, wandering or criminality;
4. A child who lacks protection, in a manifest or continuous way, or who does not attend any educational establishment or does not exercise any professional activity;
5. A child who is habitually mistreated;
6. A child who is sexually or economically exploited;
7. A child who is accused of witchcraft;
8. A child who is a mother or pregnant and is being mistreated by her parents or tutors;
9. A child who is without any family support or other support following the lost of his/her parents;
10. A child living with a handicap;
11. A child who is a drug addict;
12. An orphan;

A gifted child also benefits from a special protection.

Egypt, Law No. 12 of 1996 Promulgating the Child Law as amended by Law No. 126, 2008

Article 96.

The child shall be considered at risk if he is exposed to a situation threatening the sound upbringing that should be made available to him, or in any of the following cases:

1. If the child's safety, morals, health, or life is at risk.
2. If the conditions surrounding the child's upbringing in the family, or at school, or in care institutions, or others, places him at risk, or if the child is exposed to neglect, abuse, violence, exploitation, or vagrancy.
3. If the child is unduly deprived of his rights, even partially, in terms of custody or in visiting either parent or whoever is rightfully entitled to visitation rights.
4. If those responsible for covering the child's expenses abandon him, or if the child loses his parents, or one of them, or if the child's parents or his guardian abandon all responsibility towards him.
5. If the child is deprived of basic education or if his educational future is at risk.
6. If the child is exposed in the family, school, care institutions, or other to violence, or to acts contrary to public morals, or pornographic material, or to commercial exploitation of children, or to harassment or sexual exploitation, or to the illegal use of alcohol or narcotic substances affecting the mental state.
7. If the child is found begging. Acts of begging include offering for sale trivial goods and services, or performing acrobatic shows and other activities not considered an appropriate source of living.
8. If the child collects cigarette butts, or any other kinds of trash or waste.
9. If the child has no permanent residence, or generally sleeps in the streets or in other unfit places for residence or accommodation.
10. If the child mingles with deviants or suspected deviants, or with those known for their bad reputation.
11. If the child behaves badly or revolts against his father's authority or guardian or custodian or caregiver, or is against his mother's authority in the case of the death, absence, or legal incapacity of his guardian. In this case, no measures shall be taken concerning the child, even if it is investigation procedures, unless there is a complaint from his father, guardian, custodian, mother or caregiver according to the circumstances.
12. If the child has no legitimate means of supporting himself or does not have trustworthy provider.
13. If the child is physically, mentally or psychologically sick or mentally disabled, in a manner affecting his ability to perceive or chose, and where such illness or weakness would endanger his safety or that of others.
14. If the child is under seven (7) years of age and committed a felony or a misdemeanor. With the exception of the cases mentioned in Items 3 and 4, any person putting a child at risk shall be imprisoned for a period not less than six (6) months, and a fine of not less than two thousand (2,000) Egyptian pounds, and not exceeding five thousand (5,000) Egyptian pounds, or by one of the two penalties.

Mali, Order No. 02-062, 2002

Article 50.

Are considered, in particular, as difficult situations threatening the health of a child, a child's development or physical or moral integrity:

- a) the loss of parents of children who remain without family support;
- b) foster children, abandoned and found;
- c) the exposure of children to neglect and vagrancy;
- d) the notorious and continuous lack of education and protection;
- e) the regular maltreatment of a child;
- f) sexual exploitation of a child whether boy or girl;
- g) the exposure of children to sexual abuse;
- h) the exposure of children to begging and their economic exploitation;
- i) the exploitation of children in organized crime;
- j) the exposure of children to armed conflict;
- k) the exposure of children to practices having an adverse effect on their health;
- l) the inability of parents or of those who are responsible for the child to ensure their protection and education.

Ghana, Act 560, The Children's Act, 1998

Section 18—Meaning of Care and Protection.

- (1) For purposes of this Act, a child is in need of care and protection if the child –
- (a) is an orphan or is deserted by his relatives;
 - (b) has been neglected or ill-treated by the person who has the care and custody of the child;
 - (c) has a parent or guardian who does not exercise proper guardianship;
 - (d) is destitute;
 - (e) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child;
 - (f) is wandering and has no home or settled place of abode or visible means of subsistence;
 - (g) is begging or receiving alms, whether or not there is any pretence of singing, playing, performing, offering anything for sale or otherwise, or is found in any street, premises or place for the purpose of begging or receiving alms;
 - (h) accompanies any person when that person is begging or receiving alms, whether or not there is any pretence of singing, playing, performing, offering anything for sale or otherwise;
 - (i) frequents the company of any reputed thief or reputed prostitute;
 - (j) is residing in a house or the part of a house used by any prostitute for the purpose of prostitution, or is otherwise living in circumstances calculated to cause, encourage or favour the seduction or prostitution of or affect the morality of the child;
 - (k) is a person in relation to whom an offence has been committed or attempted under section 314 of the Criminal Code 1960 (Act 29) on slave dealing;
 - (l) is found acting in a manner from which it is reasonable to suspect that he is, or has been, soliciting or importuning for immoral purposes;
 - (m) is below the age of criminal responsibility under the Criminal Code, 1960 (Act 29) and is involved in an offence other than a minor criminal matter; or
 - (n) is otherwise exposed to moral or physical danger.

- (2) A child shall not be considered to come within the scope of paragraphs (i) and (j) of subsection (1) if the only reputed prostitute that the child associates with is his mother and if it is proved that she exercises proper guardianship and care to protect the child from corrupt influences.

India/Goa, The Goa Children's Act, Act 18 of 2003

Section 2 – Definitions.

- (l) "Child in need" means all children including those whose rights are being violated or who need special attention and/or protection and shall include, for the purposes of this Act;-
- (i) Child in need of care and protection and juvenile in conflict with law as defined in the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000);
 - (ii) Child labour;
 - (iii) Street Children;
 - (iv) A child who has been dedicated;
 - (v) A foetus;
 - (vi) An adopted child;
 - (vii) A child in a Home, registered or otherwise;
 - (viii) a child in foster-care;
 - (ix) Child in situation of abuse;
 - (x) A differently abled child;
 - (xi) Children of prisoners;
 - (xii) Children of commercial sex workers;
 - (xiii) A child who is vulnerable;
 - (xiv) A child whose parents are separated or divorced;
 - (xv) A child who has an illness or disease or ailment which has a social stigma attached to it eg. HIV, Leprosy.

South Africa, Children's Act, Law No. 38 of 2005

Section 1 (1) – Interpretation.

"care", in relation to a child, includes, where appropriate-

- (a) within available means, providing the child with-
 - (i) a suitable place to live;
 - (ii) living conditions that are conducive to the child's health, well-being and development; and
 - (iii) the necessary financial support;
- (b) safeguarding and promoting the well-being of the child;
- (c) protecting the child from maltreatment, abuse, neglect, degradation, discrimination, exploitation and any other physical, emotional or moral harm or hazards;
- (d) respecting, protecting, promoting and securing the fulfilment of, and guarding against any infringement of, the child's rights set out in the Bill of Rights and the principles set out in Chapter 2 of this Act;
- (e) guiding, directing and securing the child's education and upbringing, including religious and cultural education and upbringing, in a manner appropriate to the child's age,

maturity and stage of development; guiding, advising and assisting the child in decisions to be taken by the child in a manner appropriate to the child's age, maturity and stage of development; ...

- (g) guiding the behaviour of the child in a humane manner;
 - (h) maintaining a sound relationship with the child;
 - (i) accommodating any special needs that the child may have; and
 - (j) generally, ensuring that the best interests of the child is the paramount concern in all matters affecting the child; ...
-

Article 4 – Principles

- (1) The protection of the child's life shall be the primary obligation for any person, institution, or other body dealing with children. The child's right to survival and development, meaning the physical, mental, emotional, and social development and well-being of a child shall be protected to the maximum extent possible.
- (2) In all actions concerning children, whether undertaken by any person, private or public institution, or other body in application of this Law, the best interests of the child shall be a primary consideration. To ensure the best interests of the child the following principles shall be observed –
 - (a) The protection of the child's right to life, development, health, and safety and the guarantee of the child's dignity, honor, and personality shall be the fundamental objective of any such act;
 - (b) The family shall be primarily responsible to care for and to protect children; the State shall assist families with this obligation and intervene only when the family is unfit, unwilling, or needs help to protect children from exploitation;
 - (c) Permanency shall be a key goal, choosing the least intrusive intervention in the life of the child to assure stability of the child's personal relationships and social environment and to guarantee the continuity of the child's education, training, or employment;
 - (d) Administrative and judicial decisions affecting a child and their implementation shall be taken promptly and without unreasonable delay;
 - (e) Parents, guardians, and the child shall participate in all stages of the proceedings unless it is contrary to the child's best interests; and
 - (f) All decisions and initiatives falling under the scope of this Law, shall be taken by the competent organizations, institutions, or individuals taking into account the individuality, age and maturity, native language, sex, sexual orientation and gender identity, health status and special abilities of the child and aiming to preserve the ethnic, racial, religious, and cultural identity of the child as the circumstances require.

- (3) Every child shall be entitled to the same rights and level of protection without discrimination on the grounds of her/his or of her/his parents' or guardians' age, race, sex, sexual orientation, gender identity, nationality, ethnic or social origin, language, religion, socio-economic position, family status, familial relations, health, disability status, or political, religious, or other opinion.
- (4) In all actions undertaken in application of this Law, specifically in administrative and judicial proceedings, the child's views and wishes, in accordance with the age and maturity of the child, shall be taken into consideration. This requires that –
- (a) The child receives adequate information about the proceedings and decisions, the right to express her/his views, and the importance and potential effect of her/his participation in a manner and language that the child can understand;
 - (b) The child is given an opportunity to express her/his views and wishes and receives the necessary assistance to do so in an enabling and encouraging environment;
 - (c) The child's views and wishes are given due weight when a case-by-case analysis indicates that the child is capable of forming her/his own views in a reasonable and independent manner; and
 - (d) The child is informed about the outcomes of the proceedings and given the opportunity to respond to the proceedings and decisions; and
 - (e) The child receives free legal assistance in accordance with Article 22 of this Law.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 2.

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3.

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, 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, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, 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, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 6.

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 12.

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, the views of the child being given due weight in accordance with the age and maturity of 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, in a manner consistent with the procedural rules of national law.

Australia/Capital Territory, Children and Young People Act, Act 2008-19, as amended by Act 2009-28

Section 9 – Principles Applying to Act.

- (1) In making a decision under this Act in relation to a child or young person, a decision-maker must have regard to the following principles where relevant, except when it is, or would be, contrary to the best interests of a child or young person:
 - (a) the child's or young person's sense of racial, ethnic, religious, individual or cultural identity should be preserved and enhanced;
 - (b) the child's or young person's education, training or lawful employment should be encouraged and continued without unnecessary interruption;
 - (c) the child's or young person's age, maturity, developmental capacity, sex, background and other relevant characteristics should be considered;
 - (d) delay in decision-making processes under the Act should be avoided because delay is likely to prejudice the child's or young person's wellbeing.
- (2) A decision-maker exercising a function under this Act must, where practicable and appropriate, have qualifications, experience or skills suitable to apply the principles in subsection (1) in making decisions under the Act in relation to children and young people.

Australia/New South Wales, Children and Young Persons (Care and Protection) Act 1998 No 157, as amended in 2009

Section 10 – The Principle of Participation.

- (1) To ensure that a child or young person is able to participate in decisions made under or pursuant to this Act that have a significant impact on his or her life, the Director-General is responsible for providing the child or young person with the following:
 - (a) adequate information, in a manner and language that he or she can understand, concerning the decisions to be made, the reasons for the Department's intervention, the ways in which the child or young person can participate in decision-making and any relevant complaint mechanisms,
 - (b) the opportunity to express his or her views freely, according to his or her abilities,
 - (c) any assistance that is necessary for the child or young person to express those views,
 - (d) information as to how his or her views will be recorded and taken into account,
 - (e) information about the outcome of any decision concerning the child or young person and a full explanation of the reasons for the decision,

- (f) an opportunity to respond to a decision made under this Act concerning the child or young person.
- (2) In the application of this principle, due regard must be had to the age and developmental capacity of the child or young person.

Australia/Victoria, Children, Youth and Families Act, No. 96 of 2005, as amended in 2009
Section 10 – Best Interests Principles.

- (1) For the purposes of this Act the best interests of the child must always be paramount.
- (2) When determining whether a decision or action is in the best interests of the child, the need to protect the child from harm, to protect his or her rights and to promote his or her development (taking into account his or her age and stage of development) must always be considered.
- (3) In addition to subsections (1) and (2), in determining what decision to make or action to take in the best interests of the child, consideration must be given to the following, where they are relevant to the decision or action –
 - (a) the need to give the widest possible protection and assistance to the parent and child as the fundamental group unit of society and to ensure that intervention into that relationship is limited to that necessary to secure the safety and wellbeing of the child;
 - (b) the need to strengthen, preserve and promote positive relationships between the child and the child’s parent, family members and persons significant to the child;
 - (c) the need, in relation to an Aboriginal child, to protect and promote his or her Aboriginal cultural and spiritual identity and development by, wherever possible, maintaining and building their connections to their Aboriginal family and community;
 - (d) the child’s views and wishes, if they can be reasonably ascertained, and they should be given such weight as is appropriate in the circumstances;
 - (e) the effects of cumulative patterns of harm on a child’s safety and development;
 - (f) the desirability of continuity and stability in the child’s care; ...
 - (l) the child’s social, individual and cultural identity and religious faith (if any) and the child’s age, maturity, sex and sexual identity; ...
 - (n) the desirability of the child being supported to gain access to appropriate educational services, health services and accommodation and to participate in appropriate social opportunities;
 - (o) the desirability of allowing the education, training or employment of the child to continue without interruption or disturbance;
 - (p) the possible harmful effect of delay in making the decision or taking the action; ...
 - (r) any other relevant consideration.

China, Law of the People’s Republic of China on the Protection of Minors, 1992
Article 4.

The protection of minors shall follow the following principles:

- (1) Safeguarding the lawful rights and interests of minors;
- (2) Respecting the personal dignity of minors;
- (3) Fitting in with the characteristics of minors’ physical and mental development; and
- (4) Combining education with protection.

Estonia, Republic of Estonia Child Protection Act, RT I 1992, 28, 370, as amended by Act RT I 2004, 27, 180

Section 10 – Equal Right of Child to Receive Assistance and Care.

The Child has an equal right to receive assistance and care and to develop, regardless of his or her sex, ethnic origin, regardless of whether the child lives in a two parent family or single parent family, whether the child is adopted or under curatorship, whether the child is born in wedlock or out of wedlock, or whether the child is healthy, ill or disabled.

Ghana, Act 560, The Children’s Act, 1998

Section 2 – Welfare Principle.

- (1) The best interest of the child shall be paramount in any matter concerning a child.
- (2) The best interest of the child shall be the primary consideration by any court, person, institution or other body in any matter concerned with a child.

Section 3 – Non-Discrimination.

No person shall discriminate against a child on the grounds of gender, race, age, religion, disability, health status, custom, ethnic origin, rural or urban background, birth or other status, socio-economic status or because the child is a refugee.

Indonesia, Law on Child Protection, No. 23 of 2002

Article 2.

The protection of children shall be based up on Pancasila (the national ideology), the 1945 Constitution and the basic principles contained in the Convention on the Rights of Child, including the following:

- a. Non-discrimination;
- b. The best interests of the child;
- c. The right to life, continuity of life and to develop;
- d. Respect for the opinions of children.

Latvia, Protection of the Rights of the Child Law, 1998

Section 3 – The Child and the Principle of Equality regarding the Rights of the Child.

- (2) The State shall ensure the rights and freedoms of all children without any discrimination – irrespective of race, nationality, gender, language, political party alliance, political or religious convictions, national, ethnic or social origin, place of residence in the State, property or health status, birth or other circumstances of the child, or of his or her parents, guardians, or family members.

Section 6 – The Principle of Protection of the Rights of the Child.

- (1) In lawful relations that affect a child, the rights and best interests of the child shall take priority.
- (2) In all activities in regard to a child, irrespective of whether they are carried out by State or local government institutions, public organizations or other natural or legal persons engaged in the care and upbringing of the child, and the courts and other law enforcement institutions, the ensuring of the best interests of the child shall take priority.
- (3) Protection of the rights of the child shall be realised in collaboration with the family, State and local government institutions, public organisations and other natural and legal persons.

Pakistan, Draft Bill The Protection of Children Act, 2006

Article 2 – Definitions.

- (c) “Best interest of a child” means primary consideration, in all actions either by public or private bodies, for protection, survival, development and participation of children ...

Namibia, Children's Status Act, No. 6 of 2006***Section 2. (1) – Objectives and Interpretation.***

The objectives of this Act are to promote and protect the best interests of the child and to ensure that no child suffers any discrimination or disadvantage because of the marital status of his or her parents and this Act must be interpreted in a manner consistent with these objectives.

Article 5 – International Law

The protection of children under this Law shall at a minimum guarantee the standard of protection provided by the Convention on the Rights of the Child and other international conventions ratified by this State. International law shall be used as a source of interpretation and application of this Law.

Based on:

League of Arab States, Arab Charter on Human Rights, May 22, 2004, entered into force March 15, 2008

Article 43.

Nothing in this Charter may be construed or interpreted as impairing the rights and freedoms protected by the domestic laws of the States parties or those set force in the international and regional human rights instruments which the states parties have adopted or ratified, including the rights of women, the rights of the child and the rights of persons belonging to minorities.

Egypt, Law No. 12 of 1996 Promulgating the Child Law as amended by Law No. 126, 2008

Article 1.

... Furthermore, the State shall, as a minimum, guarantee the rights of the child, as stated in the Convention of the Rights of the Child and all other relevant international covenants enforced in Egypt.

Latvia, Protection of the Rights of the Child Law, 1998, as amended in March 2000

Section 18 – Guarantees of the Rights of the Child.

Guarantees for the rights of the child shall be as determined by the Constitution, this Law and other laws and regulatory enactments, as well as international agreements binding on Latvia.

Syria, Bill of the Rights of the Child, 2006

Article 321.

In the absence of a provision in this law and in all cases, principles and provisions of the Constitution, the Convention on the Rights of the Child No. (44/25) dated 20/11/1982, and the two Optional Protocols thereto No. (263) dated 25/5/2000 regarding the sale of children, child prostitution, child pornography and the involvement of children in armed conflict should be taken into consideration.

Chapter 2

Implementation and Application

Article 6 – National Child Protection Policy and Highest Child Protection Agency

- (1) The Highest Child Protection Agency (HCPA) shall be established. It shall have the status of a legal person. Its overall function shall be to coordinate, monitor, supervise, and encourage the activities of the Child Protection Committees (CPCs) and all child protection service providers. The composition, organization, and mandate of the HCPA shall be determined by law/regulation. The state shall make sufficient funds available for the establishment and operation of the HCPA.
- (2) The HCPA shall direct all child protection measures and advice on formulating the national child protection policy, specifically by –
 - (a) Coordinating the implementation of all child protection policies by the competent agencies, organizations, and institutions;
 - (b) Proposing to the legislative/executive organs and taking part in the deliberations of draft legislative acts relating to child protection;
 - (c) Preparing and bringing into effect national, regional, and community-based child protection programs by providing the necessary financial resources, allocating them amongst the CPCs, and advising on the priorities in the implementation of these programs;
 - (d) Guaranteeing that all members of the HCPA and the CPCs possess the necessary expertise to perform tasks related to child protection and receive continuing education about recent developments in the area of child protection; and

- (e) Informing the public about its activities and about incidents where children are at risk of neglect, abuse, maltreatment, and exploitation aiming to ensure the progressive advancement of children's rights and welfare in this State.
- (3) Throughout all its activities, the HCPA shall take into consideration the research carried out in accordance with Article 7 of this Law. It shall consult with the CPCs and with representatives from all subordinated governmental and non-governmental child protection service providers on a regular basis. It shall serve as a focal point for international cooperation in the area of child protection.
- (4) The HCPA shall be responsible for supervising the CPCs and monitoring their activities, specifically by assessing the reports submitted by the CPCs on a regular basis.
- (5) The HCPA shall be responsible for monitoring the implementation of this Law and the status of child protection in this state. The HCPA shall report on all its activities to the competent authorities on a regular basis. This report shall address cases where children are at risk of neglect, abuse, maltreatment, and exploitation, their root causes, and the appropriate responses in accordance with this Law, and the general child protection policies. It shall be made available to the general public.

Based on:

Bulgaria, Child Protection Act, 2002, as amended in 2005

Article 17 – A State Agency for Child Protection.

- (1) The State Agency for Child Protection, further referred to as “the Agency”, is a specialised body at the Council of Ministers in charge of the governance, co-ordination and control of child protection activities.
- (2) The State Agency for Child Protection is a legal entity maintained from state budget funds, having its seat in the city of Sofia.
- (3) The Agency is governed and represented by a Chairperson, who shall be nominated through a Council of Ministers' ruling and shall be appointed by the Prime Minister.
- (4) A Deputy Chair, appointed by the Prime Minister, shall assist the activities of the Agency Chairperson.
- (5) The Agency's activities, structure, work organisation and staff shall be determined by a Regulation, adopted by the Council of Ministers upon recommendation of the Chairperson.
- (6) The Agency Chairperson shall on an annual basis submit to the Council of Ministers a report on the Agency's activities.

Article 19 – Functions of the Agency.

The State Agency for Child Protection shall:

1. organise and coordinate the implementation of child protection state policies;
2. prepare and bring into effect national and regional programs to ensure child protection by providing the necessary financial resources and allocating them amongst the child protection departments;

3. propose to the Council of Ministers and take part in the deliberations of draft legislative acts in the field of child protection;
4. provide methodological guidance and control the municipal social assistance services in their child protection activities;
5. encourage child protection activities of non-for-profit legal entities;
6. organise and conduct scientific research and educational activities in the field of child protection;
7. perform international cooperation activities;
8. develop and maintain a national information system on:
 - a) children in need of special protection;
 - b) children eligible for adoption;
 - c) specialised institutions;
 - d) non-for-profit legal entities, working on child protection programs;
 - e) other data, relevant to child protection.

Egypt, Law No. 12 of 1996 Promulgating the Child Law as amended by Law No. 126, 2008

Article 144 – National Council for Childhood and Motherhood.

A council to be named “The National Council for Childhood and Motherhood” (NCCM) shall be established. It shall enjoy the status of a legal person and have its seat in the city of Cairo. A decree by the President of the Republic shall be issued determining its composition its organization, and its mandate.

Iceland, Child Protection Act, Act No. 80 of 2002

Article 7 – Government Agency for Child Protection.

The Government Agency for Child Protection is an autonomous agency under the authority of the Minister of Social Affairs. The Government Agency for Child Protection is in charge of administration within the field covered by the Act. The Minister of Social Affairs shall decide the location of the Government Agency for Child Protection and appoint its director.

The Government Agency for Child Protection shall promote co-ordination and strengthening of child protection work in Iceland, and shall provide advice to the Minister of Social Affairs on policy-making in the field. It shall ensure that research and development work is carried out in the field of child protection.

The Government Agency for Child Protection shall provide guidance on the interpretation and implementation of the Child Protection Act and instruction and advice for child protection committees in Iceland. It shall also monitor the work of child protection committees as provided in this Act. ...

The Government Agency for Child Protection may run special service centres with the objective of promoting interdisciplinary collaboration, and strengthening and co-ordination of agencies in the handling of cases of child protection. The Government Agency for Child Protection may also offer child protection committees other specialist services, such as non-institutional measures in the field of treatment for children, with the objective of assisting the committees in fulfilling their mandated role. A fee may be charged for special projects undertaken by the Government Agency for Child Protection under this provision, as further stated in regulations. The fee shall never be higher than the cost of running the service centre or the cost of the specialised service in question, including cost of staff salary and training, and other costs provably incurred in connection with the service.

The Government Agency for Child Protection shall also undertake other tasks assigned to it by this Act or other legislation.

The Government Agency for Child Protection shall issue an annual report on its work.

The Minister of Social Affairs shall stipulate more detailed provisions on the work of the Government Agency for Child Protection in regulations.

Kenya, The Children's Act, Act No. 8 of 2001

Section 32 – Functions of the Council.

- (1) The object and purpose for which the Council is established is to exercise general supervision and control over the planning, financing and co-ordination of child rights and welfare activities and to advise the Government on all aspects thereof.
- (2) Without prejudice to the generality of subsection (1), the Council shall—
 - (a) design and formulate policy on the planning, financing and co-ordination of child welfare activities;
 - (b) determine priorities in the field of child welfare in relation to the socio-economic policies of the Government;
 - (c) plan, supervise and co-ordinate public education programmes on the welfare of children;
 - (d) facilitate donor funding of child welfare projects;
 - (e) co-ordinate and control the disbursement of all funding that may be received by the Council for child welfare projects;
 - (f) provide technical and other support services to agencies participating in child welfare programmes;
 - (g) prescribe training requirements and qualifications for authorised officers;
 - (h) ensure the enhancement of the best interests of children among displaced or unaccompanied children held in care, whether in refugee camps or in any other institution;
 - (i) ensure the full implementation of Kenya's international and regional obligations relating to children and facilitate the formulation of appropriate reports under such obligations
 - (j) participate in the formulation of policies on family employment and social security, that are designed to alleviate the hardships that impair the social welfare of children;
 - (k) work towards the provision of social services essential to the welfare of families in general and children in particular;
 - (l) consider and approve or disapprove child welfare programmes proposed by charitable children's institutions in accordance with section 69;
 - (m) formulate strategies for the creation of public awareness in all matters touching on the rights and welfare of children;
 - (n) set criteria for the establishment of children's institutions under this Act;
 - (o) design programmes for the alleviation of the plight of children with special needs or requiring special attention;
 - (p) establish panels of persons from whom guardians ad litem appointed by the court may be selected by the court to assist the Minister in carrying out his duties under this Act and in particular in the appointment of any officers prescribed under this Act, in the establishment of children's institutions and the formulation of any regulations that may be provided under this Act;

- (q) establish Area Advisory Councils to specialise in various matters affecting the rights and welfare of children;
- (r) create linkages and exchange programmes with other organisations locally and abroad;
- (s) endeavour to create an enabling environment for the effective implementation of this Act.

Sierra Leone, The Child Rights Act, 2007

Section 51.

- (1) The Ministry, in collaboration with other Ministries, shall have the responsibility to promote the enjoyment of child rights and welfare in Sierra Leone.
- (2) Subject to this Act, the Ministry shall have the overall function to monitor, supervise and coordinate the activities of all child welfare committees and to ensure the progressive advancement of children's rights and welfare throughout the country.
- (3) In collaboration with relevant stakeholders the Ministry shall undertake research on the welfare of children in Sierra Leone.
- (4) Without prejudice to the overall functions specified in this section, it shall be the responsibility of the Ministry to
 - (a) provide administrative and logistical support including training for the effective functioning of the child welfare committees;
 - (b) render expert advice and guidance to child welfare committees and respond to inquiries from child welfare committees;
 - (c) receive and review periodic reports from child welfare committees at all levels;
 - (d) prepare and submit to the Commission quarterly reports on the status and welfare of children in Sierra Leone; and
 - (e) facilitate information - sharing and networking of child welfare committees.

United States, Child Abuse Prevention and Treatment Act Amendments of 1996, Pub. L. 104-235, 1996

Section 101 – Office on Child Abuse and Neglect.

Section 101 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) is amended to read as follows:

“Sec. 101. Office on Child Abuse and Neglect.

“(a) Establishment

The Secretary of Health and Human Services may establish an office to be known as the Office on Child Abuse and Neglect.

“(b) Purpose

The purpose of the Office established under subsection (a) of this section shall be to execute and coordinate the functions and activities of this subchapter and subchapter III of this chapter. In the event that such functions and activities are performed by another entity or entities within the Department of Health and Human Services, the Secretary shall ensure that such functions and activities are executed with the necessary expertise and in a fully coordinated manner involving regular intradepartmental and interdepartmental consultation with all agencies involved in child abuse and neglect activities.”.

Article 7 – Research, Prevention, Training Activities, and Technical Assistance

The HCPA shall conduct and coordinate research and training activities and provide technical assistance as part of a preventive approach to guarantee the protection of children from all kinds of neglect, abuse, maltreatment, and exploitation. These activities shall create awareness of the issues, understanding and addressing their root causes. This approach shall include especially –

- (a) The execution, promotion, and coordination of research on national incidences of child neglect, abuse, maltreatment, and exploitation and the appropriate responses on an interdisciplinary and inter-institutional level;
- (b) The analysis of such research to better understand the economic, social, and/or cultural root causes of these incidents of child neglect, abuse, maltreatment, and exploitation and to develop policies to protect the children;
- (c) The establishment of a constructive dialogue between the HCPA, the CPCs, the child protection service providers, academia, experts in the field (including teachers, medical professionals, and child-care workers), and representatives from civil society on the issue of child protection;
- (d) The provision of technical assistance, such as administrative and logistical support, to such experts in order to effectively plan, improve, develop, and carry out programs and activities aimed at protecting children based on the research findings with a specific focus on the prevention of cases of child neglect, abuse, maltreatment, and exploitation;
- (e) The development and implementation of awareness-raising activities through national conferences and seminars, especially by integrating the mass media, including print media, television, radio, and online media in the process;
- (f) The carrying out of training activities, including on the provisions of this Law and its implementation, for professional and volunteer personnel in the fields of education, medicine, law enforcement, judiciary, social work, and other fields relevant to child protection to increase their knowledge about the various forms of child neglect, abuse, maltreatment, and exploitation, to facilitate the investigation of cases, and the identification of victims and offenders; this shall include the integration of such issues in the curricula of institutes of higher education in the fields of education, social work, medicine, and law and of police academies;
- (g) The encouragement of private-sector initiatives to prevent child neglect, abuse, maltreatment, and exploitation, including the enactment of codes of conduct;

- (h) The education of children and adults on the rights of children to be protected from neglect, abuse, maltreatment, and exploitation and on the available protection mechanisms for child victims and witnesses, such as the established formal response system; through the organization of special workshops in schools and community organizations and the development and dissemination of adequate training and information materials; and
- (i) The enactment of the required legislation to establish and carry out all relevant research, training activities, and technical assistance.

Based on:

Botswana, Children in Need of Care Regulations, 2005

Section 38 – Training of Care Givers.

The Minister shall provide training for-

- (a) care providers such as social workers, health care workers and home economists; and
- (b) officers responsible for the training of children while they are under care.

Guatemala, Law for Integral Protection of Childhood and Adolescence, Decree No. 27 of 2003

Article 92 – Functions.

The Defense Agency of the Rights of Children and Adolescents has the following functions: ...

- d) Coordinate actions in an inter-institutional manner, governmental and nongovernmental, national and international level, especially actions that provide protection to children and adolescents.
- e) Realize prevention activities aimed at protecting the human rights of children and adolescents by means of talks, conferences, seminars, forums, videos, TV clips, radio and print media.
- f) Coordinate with the Director of Promotion and Education of the Human Rights Prosecutor's Office, actions to promote and educate the children, youth, and adults regarding the rights and duties of children and adolescents and the protection mechanisms, developing the appropriate training material, reproducing and publishing the same and ensuring that both parents and teachers to conduct activities to disseminate those multiple rights. ...

United States, Child Abuse Prevention and Treatment Act, Pub. L. 93-247, 1974 (42 U.S.C. 5105), as amended and reauthorized by the Keeping Children and Families Safe Act, Pub. L. 108-36, 2003 and CAPTA Reauthorization Act of 2010, Pub. L. 111-320, 2010

Section 5105 – Research and Assistance Activities.

(a) Research

(1) Topics

The Secretary shall, in consultation with other Federal agencies and recognized experts in the field, carry out a continuing interdisciplinary program of research, including longitudinal research, that is designed to provide information needed to better protect children from abuse or neglect and to improve the well-being of abused or neglected children, with at least a portion of such research being field initiated. Such research program may focus on –

- (A) the nature and scope of child abuse and neglect;

- (B) causes, prevention, assessment, identification, treatment, cultural and socio-economic distinctions, and the consequences of child abuse and neglect, including the effects of child abuse and neglect on a child's development and the identification of successful early intervention services or other services that are needed;
- (C) effective approaches to improving the relationship and attachment of infants and toddlers who experience child abuse or neglect with their parents or primary caregivers in circumstances where reunification is appropriate;
- (D) appropriate, effective and culturally sensitive investigative, administrative, and judicial systems, including multidisciplinary, coordinated decisionmaking procedures with respect to cases of child abuse and neglect;
- (E) the evaluation and dissemination of best practices, including best practices to meet the needs of special populations, consistent with the goals of achieving improvements in the child protective services systems of the States in accordance with paragraphs (1) through (14) of section 5106a (a) of this title;
- (F) effective approaches to interagency collaboration between the child protection system and the juvenile justice system that improve the delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems;
- (G) effective practices and programs to improve activities such as identification, screening, medical diagnosis, forensic diagnosis, health evaluations, and services, including activities that promote collaboration between—
 - (i) the child protective service system; and
 - (ii) (I) the medical community, including providers of mental health and developmental disability services; and
 - (II) providers of early childhood intervention services and special education for children who have been victims of child abuse or neglect;
- (H) an evaluation of the redundancies and gaps in the services in the field of child abuse and neglect prevention in order to make better use of resources;
- (I) effective collaborations, between the child protective system and domestic violence service providers, that provide for the safety of children exposed to domestic violence and their nonabusing parents and that improve the investigations, interventions, delivery of services, and treatments provided for such children and families; ...
- (O) the national incidence of child abuse and neglect, including –
 - (i) the extent to which incidents of child abuse and neglect are increasing or decreasing in number and severity;
 - (ii) the incidence of substantiated and unsubstantiated reported child abuse and neglect cases;
 - (iii) the number of substantiated cases that result in a judicial finding of child abuse or neglect or related criminal court convictions;
 - (iv) the extent to which the number of unsubstantiated, unfounded and false reported cases of child abuse or neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse or neglect;
 - (v) the extent to which the lack of adequate resources and the lack of adequate training of individuals required by law to report suspected cases of child abuse and neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse and neglect;

- (vi) the number of unsubstantiated, false, or unfounded reports that have resulted in a child being placed in substitute care, and the duration of such placement;
- (vii) the extent to which unsubstantiated reports return as more serious cases of child abuse or neglect;
- (viii) the incidence and prevalence of physical, sexual, and emotional abuse and physical and emotional neglect in substitute care;
- (ix) the incidence and prevalence of child maltreatment by a wide array of demographic characteristics such as age, sex, race, family structure, household relationship (including the living arrangement of the resident parent and family size), school enrollment and education attainment, disability, grandparents as caregivers, labor force status, work status in previous year, and income in previous year; ...

(b) Provision of technical assistance

(1) In general

The Secretary shall provide technical assistance to State and local public and private agencies and community-based organizations, including disability organizations and persons who work with children with disabilities, to assist such agencies and organizations in planning, improving, developing, and carrying out programs and activities, including replicating successful program models, relating to the prevention, assessment, identification, and treatment of child abuse and neglect. ...

Section 5106 – Grants to States, Indian Tribes or Tribal Organizations, and Public or Private Agencies and Organizations.

(a) Grants for programs and projects

The Secretary may make grants to, and enter into contracts with, entities that are States, Indian tribes or tribal organizations, or public agencies or private agencies or organizations (or combinations of such entities) for programs and projects for the following purposes:

(1) Training programs

The Secretary may award grants to public or private organizations under this subsection—

- (A) for the training of professional and paraprofessional personnel in the fields of health care, medicine, law enforcement, judiciary, social work and child protection, education, child care, and other relevant fields, or individuals such as court appointed special advocates (CASAs) and guardian ad litem, who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect, including the links between domestic violence and child abuse and neglect;
- (B) to improve the recruitment, selection, and training of volunteers serving in public and private children, youth, and family service organizations in order to prevent child abuse and neglect;
- (C) for the establishment of resource centers for the purpose of providing information and training to professionals working in the field of child abuse and neglect;
- (D) for training to enhance linkages among child protective service agencies and health care agencies, entities providing physical and mental health services, community resources, and developmental disability agencies, to improve screening, forensic diagnosis, and health and developmental evaluations, and for partnerships between child protective service agencies and health care agencies that support the coordinated use of existing Federal, State, local, and private funding to meet the health evaluation needs of children who have been subjects of substantiated cases of child abuse or neglect;

- (E) for the training of personnel in best practices to meet the unique needs of children with disabilities, including promoting interagency collaboration; ...
- (J) for enabling State child welfare agencies to coordinate the provision of services with State and local health care agencies, alcohol and drug abuse prevention and treatment agencies, mental health agencies, other public and private welfare agencies, and agencies that provide early intervention services to promote child safety, permanence, and family stability; ...

Section 5106C – Grants to States for Programs Relating to Investigation and Prosecution of Child Abuse and Neglect Cases.

(a) Grants to States

The Secretary, in consultation with the Attorney General, is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

- (1) the assessment and investigation of suspected child abuse and neglect cases, including cases of suspected child sexual abuse and exploitation, in a manner that limits additional trauma to the child and the child's family;
- (2) the assessment and investigation of cases of suspected child abuse-related fatalities and suspected child neglect-related fatalities;
- (3) the investigation and prosecution of cases of child abuse and neglect, including child sexual abuse and exploitation; and
- (4) the assessment and investigation of cases involving children with disabilities or serious health-related problems who are suspected victims of child abuse or neglect.

Article 8 – Child Protection Committees

- (1) Child Protection Committees (CPCs) shall be established on the regional level. Their establishment, organization, and competences shall be defined by law / regulation.
- (2) The CPCs shall be responsible for the implementation of the national child protection policy and the child protection measures provided by this Law. In cooperation with governmental and non-governmental child protection service providers, the Committees shall establish an operating system of child protection measures as provided for in Chapter 3 of this Law to implement and coordinate all activities, including but not limited to:
 - (a) Organizing a formal response system to receive and coordinate reported cases of child neglect, abuse, maltreatment, and exploitation, including through maintaining a helpline and /or website to advise and assist actual or potential child victims, and directing the investigation and intervention measures for the reported cases;
 - (b) Managing programs of support and assistance to parents, other family members, and guardians who are unfit, unwilling, or need help to protect children from neglect, abuse, maltreatment, and exploitation or to exercise appropriate care;

- (c) Administering a system of safe accommodation for actual or potential child victims and directing the system of alternative care in accordance with Chapter 3 of this Law;
 - (d) Operating centers of medical and psychological assistance for actual or potential child victims;
 - (e) Coordinating with the system of free legal assistance available to children; and
 - (f) Establishing programs of reintegration and rehabilitation for child victims.
- (3) Means of regular coordination with the subordinate governmental and non-governmental child protection service providers in charge of carrying out the measures in accordance with paragraph (2) shall be set up. To this end, the CPCs shall administer a network of child protection service providers, including representatives from organizations offering safe accommodation and alternative care, guardianship and adoption, medical services, psychological counseling, and legal aid to children as well as social workers, specialized law enforcement officers, court personnel, and representatives from schools and other educational institutions.
- (4) The CPCs shall report on all its activities to the HCPA on a regular basis.

Based on:

Egypt, Law No. 12 of 1996 Promulgating the Child Law as amended by Law No. 126, 2008

Article 97.

A General Committee for Childhood Protection shall be established in each Governorate, chaired by the Governor, and having as members the directors of the security, social affairs, education, and health directorates, as well as representatives from the civil society concerned with childhood affairs, as well as any other party as deemed necessary by the Governor. A decree shall be issued by the Governor in this regard. This committee shall formulate the general policy for childhood protection in the Governorate, and shall follow up the implementation of this policy.

Within the jurisdiction of each department or police district, a sub-committee for childhood protection shall be established. The sub-committee shall be established by virtue of a decree from the General Committee and shall include security, social, psychological, medical, and educational representatives. The number of members shall be at least five (5) and exceeding seven (7), including the chairman of the committee. The sub-committee may include among its members one or more representatives from the organizations of the civil society concerned with childhood affairs.

The sub-committees for childhood protection shall monitor all cases of children at risk and take the necessary preventive and therapeutic interventions for all these cases and shall follow up measures taken.

Taking into account Article 144 of this Law, the National Council for Childhood and Motherhood (NCCM) shall establish a General Department for Child Helpline, mandated to receive children and adults' complaints, and handle them efficiently to protect children from all forms of violence, risks, or neglect. The department shall include among its members representatives for the Ministries of Justice, Interior, Social Solidarity and Local Development selected by the concerned ministers, in addition to representatives from civil society organizations selected by NCCM Secretary General, as well as any other party as deemed necessary by the Secretary General.

The General Department for Child Helpline shall be empowered to investigate any complaint received, follow up the investigation results, and forward reports concerning the findings to the relevant authorities.

Article 99-bis (a).

The committees for childhood protection shall periodically monitor the procedures and results of implementing the measures undertaken concerning the child. The Committees for Childhood Protection shall recommend to the authorities, when necessary, to review those measures and replace or suspend them so as to keep as much as possible the child in his family environment and avoid depriving him from the family environment except as a measure of last resort and for the shortest appropriate period of time; in such a case, the child shall be taken back to his family environment as soon as possible.

Iceland, Child Protection Act, Act No. 80 of 2002

Article 8 – Monitoring of Child Protection Committees by the Government Agency for Child Protection.

Child protection committees shall by 1 May each year submit to the Government Agency for Child Protection a report on their work over the previous calendar year. This shall include, among other things, information on the number of cases dealt with by committees over the period, their nature and how they were resolved.

The Government Agency for Child Protection may also require child protection committees to produce all information and reports it deems necessary, both documents of individual cases and reports to be especially prepared by the child protection committees.

The Government Agency for Child Protection may, on the basis of complaints or other information received on the handling of individual cases, and if deemed necessary, gather necessary data, information and explanations from the child protection committee in question.

Should the Government Agency for Child Protection be of the view, after having gathered information and explanations as provided in paras. 2 and 3, that a child protection committee is not complying with the law in carrying out its work, it shall, as applicable, provide guidance to the child protection committee on procedure, and make suggestions for improvements. If the child protection committee does not comply with the suggestions and guidance of the Government Agency for Child Protection, the Agency may enjoin upon the committee to fulfil its duties. The Government Agency for Child Protection shall inform the municipal council and the Ministry of Social Affairs of such an enjoiner. Provisions of confidentiality shall be observed when giving such notice of enjoiner to the municipal council.

Article 12 – The Role of Child Protection Committees in General.

The role of child protection committees is as follows:

1. Monitoring. Child protection committees shall investigate the circumstances, behaviour and conditions of upbringing of children, and assess without delay the needs of those who are believed to be living in unacceptable conditions, to be mistreated, or to have serious social problems.
2. Measures. Child protection committees shall apply those child protection measures provided in this Act which are most applicable at any time, and which are deemed the most suitable to safeguard their interests and welfare.
3. Other tasks. Child protection committees shall undertake other tasks that are assigned to them under the terms of this Act and other legislation. A municipal council may assign a child protection committee other tasks relating to the circumstances of children and young persons in its jurisdiction.

The child protection committee must assist parents in fulfilling their duties of guardianship, and apply suitable measures as provided in this Act if necessary.

Article 9 – Child Protection Service Providers

- (1) Child protection service providers shall carry out the system of child protection measures established by the CPCs in accordance with this Law on the sub-regional and municipal levels. Service providers shall include governmental and non-governmental child protection organizations and institutions, support families, and individuals.
- (2) Law enforcement units specially trained in handling child protection cases and in dealing with children shall be established.
- (3) Services shall include education and leisure activities, programs of support and assistance to parents, other family members, and guardians, measures of investigation and intervention in cases where children are at risk of neglect, abuse, maltreatment, and exploitation and in need of medical assistance, psychological counseling, legal aid, and safe accommodation and alternative care for actual or potential child victims.

Based on:

Estonia, Child Protection Act, RT I 1992, 28, 370, as amended by Act RT I 2004, 27, 180

Section 6 – Child Protection by Local Governments.

- (1) Child protection provided by local governments is the organisation of and supervision over child protection and assistance by the social services departments of the local governments.
- (2) Child protection provided by social services departments shall be carried out by persons who have special qualifications and are suitable for such employment.

Section 7 – Child Protection by Non-Governmental Organizations.

Child protection is provided by non-governmental organisations in co-operation with the social services departments based on the provisions of this Act and of the statutes of the social services departments.

Iceland, Child Protection Act, Act No. 80 of 2002

Article 7 – Government Agency for Child Protection.

The Government Agency for Child Protection has authority over homes and institutions which the state is to ensure are available under Section XIII of this Act, and shall ensure that such homes and institutions be established. The Agency supervises the placement of children in such homes and institutions. The Government Agency for Child Protection shall also issue licences under the provisions of Sections XIII and XIV of this Act. ...

Turkey, Juvenile Protection Law, No. 5395, 2005

Article 10 – Carrying out Care and Shelter Measures.

- (1) The Social Services and Child Protection Agency shall take the necessary measures immediately with regard to events referred to it, and shall place the juvenile under the care of governmental or private organizations.

Vietnam, Law on Child Protection, Care and Education, Law No. 25/2004/QH11 of June 15, 2004

Article 48 – Tasks and Powers of Establishments Supporting Disadvantaged Children.

Establishments supporting disadvantaged children have the following tasks and powers:

1. To organize the realization of one or a number of the registered contents of supporting disadvantaged children such as providing consultancy, medical examination and treatment,

detoxification; rehabilitating functions, health and mental conditions for children, providing moral education; providing integration education, specialized education and vocational training; providing employment services; organizing social, cultural, sport and recreational activities for children; organizing child care and nurture;

2. To ensure the provision of convenient, safe and quality services;
3. To ensure funding for operation for the right purposes;
4. To undertake professional management and fostering; to manage the finance, equipment, facilities and assets;
5. To receive financial supports and supports in kind from domestic and foreign agencies, organizations and individuals so as to organize activities in support of disadvantaged children.

Article 50 – Service Activities of Child-Support Establishments.

1. Child-support establishments that provide on-demand services on function rehabilitation, drug detoxification, HIV/AIDS treatment or vocational training for juvenile offenders; upbringing of children addicted to narcotics or infected with HIV/AIDS, and other services on demand, may collect service charges according to regulations or contractual agreements reached with children’s families or guardians.
2. Children of poor households that have a demand for the said services may be considered by the heads of child-support establishments for service charge exemption or reduction on a case-by-case basis.

The Government shall specify the service charge rates and subjects entitled to service charge exemption and reduction.

Article 10 – Licensing and Training for Child Protection Service Providers

- (1) In order to establish a child protection institution or organization or to render individual child protection services, a license must be obtained from the CPCs in coordination with the HCPA. The requirements for the application to and the granting of licenses shall be specified by law/regulation.
- (2) In order to obtain a license, service providers must abide by certain minimum standards of safety and hygiene as specified by law/regulation to protect the safety, health, development, and well-being of children.
- (3) Any person to be employed by a child protection service provider shall provide documents showing that she/he has never been convicted of an offense of child sexual abuse, child sexual or economic exploitation, child trafficking, of violation of care and education obligations. Any person who committed an offence against a child in violation of this Law shall not be employed or retained in any way by a child protection organization or institution and may not offer services as part of a support family or as an individual.
- (4) All persons offering child protection services shall receive adequate and continuous training to prepare them for their work with children.

Based on:**UNODC, Justice in Matters involving Child Victims and Witnesses of Crime, Model Law and Related Commentary, New York 2009*****Article 4 – Protection of Children from Contact with Offenders.***

1. Any person who has been convicted in a final verdict of a qualifying criminal offence against a child shall not be eligible to work in a service, institution or association providing services to children.
2. Services, institutions or associations providing services to children shall take appropriate measures to ensure that persons who have been charged with a qualifying criminal offence against a child shall not come into contact with children.
3. For the purposes of paragraphs 1 and 2 of this article, [name of competent body] shall promulgate regulations that contain the following:
 - (a) A definition of a qualifying criminal offence with respect to the severity of the sentence that may be imposed by the court;
 - (b) A list of mandatory qualifying criminal offences;
 - (c) The mandate of the court to issue an order preventing an individual convicted of such criminal offences from working in services, institutions or associations providing services to children;
 - (d) A definition of services, institutions and associations providing services to children;
 - (e) Measures to be taken by services, institutions and associations providing services to children to ensure that persons charged with a qualifying criminal offence do not come into contact with children.
4. Any person who knowingly violates paragraph 1 or 2 of this article shall be guilty of an offence and shall be subject to the punishment specified in the regulations to be established pursuant to paragraph 3 of this article.

Brazil, Statute of the Child and Adolescent, Law No. 8,069, July 13, 1990***Article 91.***

Nongovernmental entities may only operate after being registered at the Municipal Council of Child and Adolescent Rights, which will communicate the record to the Council of Guardianship and the judicial authority of the respective locality.

Paragraph. Registration will be denied to the entity that:

- a) does not provide physical installations in adequate conditions of habitability, hygiene, health and safety;
- b) does not present a work plan compatible with the principles of this law;
- c) is irregularly constituted;
- d) has persons of ill repute on its staff.

Germany, Federal Child Protection Act, 2011***Article 18.***

Section 72a [of the Social Code, Book VIII, Child and Youth Services] shall read as follows:

“Section 72a Exclusion of Employment of Convicted Persons

- (1) The public youth welfare services shall not employ or provide any person for the provision of child and youth services, who has been convicted for a criminal offense under Sections 171, 174 to 174c, 176 to 180a, 181a, 182 to 184f, 225, 232 to 233a, 234, 235 or 236 of the Penal Code. For this purpose they should demand the presentation of a certificate pursuant to Section 30 paragraph 5 and Section 30a paragraph 1 of the Federal Central Register Act by the affected person in the recruitment or employment process and at regular intervals thereafter.

- (2) The public youth welfare services shall ensure through agreements with the private youth welfare services that those do not employ any person who has been convicted of an offense referred to in paragraph 1, sentence 1.
- (3) The public youth welfare services shall ensure that under their authority and supervision no person who has been convicted of an offense referred to in paragraph 1, sentence 1, may volunteer to supervise, care for, educate, or train, or have a similar contact to children or youth. The public youth welfare services shall decide which activities those mentioned in sentence 1 may conduct only after inspection of the certificate referred to in paragraph 1 sentence 2 depending on the nature, intensity, and duration of contact of these people with children and young people.
- (4) The public youth welfare services shall ensure through agreements with the private youth welfare services as well as with organizations within the meaning of Section 54 that under their authority and supervision no person who has been convicted of an offense referred to in paragraph 1, sentence 1, may volunteer to supervise, care for, educate, or train, or have a similar contact to children or youth. The public youth welfare services shall agree with the private youth welfare services which activities those mentioned in sentence 1 may conduct only after inspection of the certificate referred to in paragraph 1 sentence 2 depending on the nature, intensity, and duration of contact of these people with children and young people.

Latvia, Protection of the Rights of the Child Law, 1998, as amended March 2000

Section 20 – Examination of Matters Associated with the Protection of the Rights of the Child.

- (1) The State shall ensure that matters related to the protection of the rights of the child shall be examined by specialists who have relevant knowledge in the sphere of the rights of the child and who are especially trained to work with children. ...

Vietnam, Law on Child Protection, Care and Education, Law No. 25/2004/QH11 of June 15, 2004

Article 44 – Conditions for Setting Up Child-Support Establishments.

Agencies, organizations and individuals that wish to set up child-support establishments have to meet the following conditions:

1. Their material foundations and equipment are suitable to the contents of child support activities;
2. Their personnel have professional qualifications suitable to the contents of child-support activities;
3. Their financial sources are capable of covering expenses for child-support activities.

Article 45 – Dossiers of Application for Setting Up Child-Support Establishments.

1. Agencies, organizations and individuals that wish to set up child-support establishments must acquire operation licenses from competent State management agencies.
2. The dossier of application for setting up a child-support establishment includes:
 - a/ The application for setting up the child-support establishment;
 - b/ The scheme on setting up the child-support establishment;
 - c/ The papers and documents proving that the applicant fully meets the conditions for setting up a child-support establishment as prescribed in Article 44 of this Law;
 - d/ The draft operation regulation of the child-support establishment;
 - e/ The curriculum vitae of the person in charge of setting up the child-support establishment;

f/ The consent of the commune-level People's Committee of the locality where the child-support establishment is headquartered.

3. When changing names, addresses, owners or operation contents of child-support establishments, the agencies, organizations or individuals that have set up such establishments must fill in the procedures for change of their operation licenses.

Article 46 – Time Limit for Licensing the Setting Up of Child-Support Establishments.

1. Within 30 days as from the date of receiving dossiers of application for setting up child-support establishments, the competent State management agencies must process them. In case of refusal, the reasons therefor must be stated in writing.
2. Child-support establishments must operate strictly according to the contents in their operation licenses.

Article 47 – Competence to Set Up, Suspend Operation and Withdraw Operation Licenses of, Child-Support Establishments.

1. Competence to set up child-support establishments:
 - a/ The ministers, the heads of the ministerial-level agencies and the heads of the agencies attached to the Government shall decide to set up child-support establishments under their respective management;
 - b/ The presidents of the provincial-level People's Committees shall decide to set up child-support establishments under their management;
 - c/ The presidents of the People's Committees of rural districts, urban districts, provincial capital or towns shall decide to set up child-support establishments under their respective management.
2. Child-support establishments committing one of the following violations shall, depending on the nature and seriousness of their violations, have their operations suspended or operation licenses withdrawn:
 - a/ Failing to maintain their conditions as at the time of application for setting up the establishments;
 - b/ Violating the approved operation regulations of their own establishments;
 - c/ Using operation funding of the establishments for purposes other than child supports;
 - d/ Infringing upon children's rights.
3. Agencies that have granted operation licenses for child-support establishments may suspend operation or withdraw operation licenses of such establishments.

Article 11 – Financial Responsibilities for HCPA and Child Protection Committees

- (1) The State shall allocate a sufficient amount of its budget to fund the activities of the HCPA and the CPCs.
- (2) If a case of child protection requires the intervention of the CPCs, parents or guardians may be ordered to pay for the protection and maintenance of the child, specifically the costs of the child's stay in a place of safe accommodation or in alternative care, unless they do not have the necessary financial resources.

Based on:**Egypt, Law No. 12 of 1996 Promulgating the Child Law as amended by Law No. 126, 2008*****Article 144-bis.***

A fund shall be established affiliated to the NCCM, to be named the Childhood and Motherhood Care Fund. The Fund shall have the status of a legal person and a special budget. Its financial year will start with the beginning of the state's financial year, and will end with it. The surplus of the financial year shall be carried over to the next financial year.

Article 144-bis (a).

The Fund shall have a board of directors chaired by the Secretary General of the NCCM. The Prime Minister shall issue a decree determining the composition of the board of directors of the Fund and its operative system. The duration of the Fund's board of directors shall be three (3) years, renewable.

Article 144-bis (b).

The Board of Directors of the Fund shall be the party in control, particularly with regards to the following:

1. Undertake the necessary actions to develop the fund's resources
2. Establish shelter homes, schools, and hospitals for children
3. Establish services and productive projects, organize events, charity bazaars, exhibitions, and sports events, in order to achieve the objectives of NCCM, after obtaining the necessary permits from the concerned authorities
4. Provide assistance to the entities concerned with childhood and motherhood
5. Carry out any activity that would promote the rights of the child.

Estonia, Child Protection Act, RT I 1992, 28, 370, as amended by Act RT I 2004, 27, 180***Section 5 – State Child Protection.***

- (1) State child protection is legislative, investment and supervision activities financed from the state budget and the social fund for the organisation of children's health care, education, work, rest, recreational activities and welfare.
- (2) The Ministry of Social Affairs co-ordinates activities concerning state child protection.

Iceland, Child Protection Act, Act No. 80 of 2002***Article 88 – Financial Responsibility of the State.***

The state shall meet costs incurred by the work of the Child Protection Appeals Board, and also work carried out on behalf of the Government Agency for Child Protection, including the costs of operation of homes and institutions which the state must ensure are available under art. 79. The state shall pay a proportion of the cost of foster care on the basis of para. 4 art 65 as decided by the Government Agency for Child Protection. When a decision is made on the proportion of costs to be paid by the state, the Government Agency for Child Protection shall take account of costs incurred in meeting the special needs of a child placed in foster care under the article, and the special service, care and therapy which the foster parents are required to provide.

Article 89 – Parental Maintenance.

The parents of a child placed outside the home have an obligation to maintain the child. A child protection committee may require parents to pay maintenance for the child during the placement, taking account of the needs of the child and of both parents' financial standing and other

circumstances. The child protection committee shall rule on the amount of child maintenance to be paid. This ruling may be appealed to the Child Protection Appeals Board. A parent who has been deprived of custody of a child by a court order is not obliged to pay maintenance. With regard to decisions on maintenance and collection, the provisions of the Children Act shall otherwise apply.

Netherlands, Act regulating entitlement to, access to and funding of youth care (Youth Care Act), April 22, 2004, as of January 1, 2005

Section 69.

1. A parent with a duty of maintenance towards a young person, including one to whom a request has been made on the basis of Section 394 of Book 1 of the Civil Code, a step-parent with a duty of maintenance towards a young person and any other person who in a non-parental capacity shares custody of a young person with his parent shall be liable to pay the central government a contribution towards the cost of providing a young person with youth care of a form specified by Order in Council, which entails supportive care and accommodation and to which he is entitled under this Act.
2. Rules shall be laid down by or pursuant to Order in Council regarding the size of the contribution payable, which shall vary according to the age of the young person and the nature of the care provided.
3. If more than one person is liable for the parental contribution payable in respect of a young person, each shall be liable for the full amount, subject to the understanding that, if one has paid, the other is discharged from his liability.

Section 71.

1. No parental contribution shall be payable if:
 - a. pending adoption, the young person is no longer being cared for or brought up by his parents;
 - b. parental custody has been suspended or terminated;
 - c. the accommodation and the supportive care are made available in an emergency situation, for a period not exceeding six weeks;
 - d. if youth care, as referred to in Section 69, continues to be provided to a minor after the custodial parental or guardian has submitted a written objection to the National Parental Contribution Collection Office, except where the young person in question is the subject of a child protection order requiring or necessitating provision of the care in question;
 - e. the young person's income, as calculated by the method specified by Order in Council, is \geq 226.89 or more per month.
2. No parental contribution shall be payable by a parent or step-parent whom a court, acting in accordance with Articles 406 and 407 of Book 1 of the Civil Code, or with Article 822, clause 1, under c, of the Code of Civil Procedure, has ordered to periodically pay maintenance in respect of the care and upbringing of his child or step-child.

Norway, The Child Welfare Act, Act No. 100 of July 17, 1992, as amended by Act No. 45 of June 19, 2009

Section 9-7 – State Grants.

The state shall provide annual grants for partial coverage of municipalities' expenditure on the child welfare service.

United Kingdom, Children Act, 1989

82 – Financial Support by Secretary of State.

- (1) The Secretary of State may (with the consent of the Treasury) defray or contribute towards—
 - (a) any fees or expenses incurred by any person undergoing approved child care training;

- (b) any fees charged, or expenses incurred, by any person providing approved child care training or preparing material for use in connection with such training; or
 - (c) the cost of maintaining any person undergoing such training. ...
- (2) The Secretary of State may make grants to local authorities in respect of expenditure incurred by them in providing secure accommodation in community homes other than assisted community homes. ...
- (4) The Secretary of State may make grants to voluntary organisations towards—
- (a) expenditure incurred by them in connection with the establishment, maintenance or improvement of voluntary homes which, at the time when the expenditure was incurred—
 - (i) were assisted community homes; or
 - (ii) were designated as such; or
 - (b) expenses incurred in respect of the borrowing of money to defray any such expenditure.
- (5) The Secretary of State may arrange for the provision, equipment and maintenance of homes for the accommodation of children who are in need of particular facilities and services which—
- (a) are or will be provided in those homes; and
 - (b) in the opinion of the Secretary of State, are unlikely to be readily available in community homes.
- (6) In this Part— “child care training” means training undergone by any person with a view to, or in the course of—
- (a) his employment for the purposes of any of the functions mentioned in section 83(9) or in connection with the adoption of children or with the accommodation of children in a residential care home, nursing home or mental nursing home; or
 - (b) his employment by a voluntary organisation for similar purposes;
- “approved child care training” means child care training which is approved by the Secretary of State; and “secure accommodation” means accommodation provided for the purpose of restricting the liberty of children.

Article 12 – International Cooperation

The HCPA shall coordinate with child protection authorities from other countries to achieve the objectives of this Law. They shall –

- (a) Share best practices of child protection;
- (b) Exchange information and cooperate in the implementation of laws regarding cases of child protection with a cross border aspect, such as inter-country adoption or its functional equivalents or guardianship, international child abduction, wrongful removal or retention of children, and child trafficking, regarding the identity and whereabouts of children and their parents, and data on organized crime;
- (c) Cooperate with international organizations and participate in international efforts to promote respect for children’s rights.

Based on:

Convention on the Civil Aspects of International Child Abduction, Hague Conference on Private International Law, concluded October 25, 1980, entered into force December 1, 1983

Article 7.

Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children and to achieve the other objects of this Convention.

In particular, either directly or through any intermediary, they shall take all appropriate measures –

- a) to discover the whereabouts of a child who has been wrongfully removed or retained;
- b) to prevent further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;
- c) to secure the voluntary return of the child or to bring about an amicable resolution of the issues;
- d) to exchange, where desirable, information relating to the social background of the child;
- e) to provide information of a general character as to the law of their State in connection with the application of the Convention;
- f) to initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, in a proper case, to make arrangements for organising or securing the effective exercise of rights of access;
- g) where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers;
- h) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child;
- i) to keep each other informed with respect to the operation of this Convention and, as far as possible, to eliminate any obstacles to its application.

Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, concluded May 29, 1993, entered into force May 1, 1995

Article 7.

(1) Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their States to protect children and to achieve the other objects of the Convention.

(2) They shall take directly all appropriate measures to –

- a) provide information as to the laws of their States concerning adoption and other general information, such as statistics and standard forms;
- b) keep one another informed about the operation of the Convention and, as far as possible, eliminate any obstacles to its application.

Convention on Jurisdiction, Applicable Law, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, Hague Conference on Private International Law, concluded October 19, 1996, entered into force January 1, 2002

Article 29.

(1) A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention on such authorities. ...

Article 30.

- (1) Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their States to achieve the purposes of the Convention.
- (2) They shall, in connection with the application of the Convention, take appropriate steps to provide information as to the laws of, and services available in, their States relating to the protection of children.

Article 31.

The Central Authority of a Contracting State, either directly or through public authorities or other bodies, shall take all appropriate steps to –

- a) facilitate the communications and offer the assistance provided for in Articles 8 and 9 and in this Chapter;
- b) facilitate, by mediation, conciliation or similar means, agreed solutions for the protection of the person or property of the child in situations to which the Convention applies;
- c) provide, on the request of a competent authority of another Contracting State, assistance in discovering the whereabouts of a child where it appears that the child may be present and in need of protection within the territory of the requested State.

Article 32.

On a request made with supporting reasons by the Central Authority or other competent authority of any Contracting State with which the child has a substantial connection, the Central Authority of the Contracting State in which the child is habitually resident and present may, directly or through public authorities or other bodies,

- a) provide a report on the situation of the child;
- b) request the competent authority of its State to consider the need to take measures for the protection of the person or property of the child.

Article 33.

- (1) If an authority having jurisdiction under Articles 5 to 10 contemplates the placement of the child in a foster family or institutional care, or the provision of care by kafala or an analogous institution, and if such placement or such provision of care is to take place in another Contracting State, it shall first consult with the Central Authority or other competent authority of the latter State. To that effect it shall transmit a report on the child together with the reasons for the proposed placement or provision of care.
- (2) The decision on the placement or provision of care may be made in the requesting State only if the Central Authority or other competent authority of the requested State has consented to the placement or provision of care, taking into account the child's best interests.

Article 34.

- (1) Where a measure of protection is contemplated, the competent authorities under the Convention, if the situation of the child so requires, may request any authority of another Contracting State which has information relevant to the protection of the child to communicate such information. ...

Article 35.

- (1) The competent authorities of a Contracting State may request the authorities of another Contracting State to assist in the implementation of measures of protection taken under this Convention, especially in securing the effective exercise of rights of access as well as of the right to maintain direct contacts on a regular basis. ...

Article 36.

In any case where the child is exposed to a serious danger, the competent authorities of the Contracting State where measures for the protection of the child have been taken or are under consideration, if they are informed that the child's residence has changed to, or that the child is present in another State, shall inform the authorities of that other State about the danger involved and the measures taken or under consideration.

Article 37.

An authority shall not request or transmit any information under this Chapter if to do so would, in its opinion, be likely to place the child's person or property in danger, or constitute a serious threat to the liberty or life of a member of the child's family.

Belize, International Child Abduction Act, Revised 2000**Article 7.**

- Contains exact wording of the 1980 Hague Conference on Private International Law Convention on the Civil Aspects of International Child Abduction. –

Sweden, Ordinance (2007:1020) containing instructions for the Swedish Intercountry Adoptions Authority**Section 3.**

In particular, the Authority shall

- monitor that the work of the Swedish authorized associations with intercountry adoption mediation is conducted according to law and the principle of the best interests of the child as expressed in the United Nations Convention on the Rights of the Child and in the 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, and in an ethically acceptable way otherwise,
- observe international developments in its field and in that connection gather information on issues relating to adoption of foreign children
- observe the development of costs for adoption of foreign children
- conduct information operations and also provide information and assistance to authorities and organisations.

The Authority may also negotiate with authorities and organisations in other countries on issues within its sphere of activity.

Switzerland, Federal Act on International Child Abduction and the Hague Conventions on the Protection of Children and Adults of 21 December 2007**Article 10 – International Cooperation.**

1. The court shall cooperate as required with the authorities of the state in which the child had his or her habitual residence before abduction.
 2. The court, if necessary with the cooperation of the central authority, shall satisfy itself whether and in what way it is possible to execute the decision ordering the return of the child to the State in which he or she was habitually resident before abduction.
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Chapter 3

Child Protection Measures

Article 13 – Formal Response System and National Child Helpline

- (1) A formal response system shall be established to receive and coordinate reported cases of child neglect, abuse, maltreatment, and exploitation. This response system shall include measures of emergency medical and psychological assistance and possibilities to place the child in a safe environment. The response system shall be operated by specially trained child protection service providers.
- (2) A national child helpline free-of-charge to which children can turn to ask for advice and support shall be established. Its existence shall be widely publicized. Through the national helpline, children shall be informed about the possibility to submit their case to the formal response system.
- (3) Alternative mechanisms such as websites and the use of social media can be established instead or in addition to the national child helpline.

Based on:

Egypt, Law No. 12 of 1996 Promulgating the Child Law as amended by Law No. 126, 2008

Article 98.

If a child is found in a situation of being at risk, as stated in Article 96 of this Law, Items 1 and 2 and from 5 to 14, his case shall be referred to the sub-committee for childhood protection to take the necessary actions as set forth in Article 99-bis of this Law. The sub-committee shall, if it deems it necessary, request that the child prosecution, warn in writing, the child's guardian to remove the causes placing the child at risk. Objection to this warning may be made in front the Child Court, provided it is done within ten (10) days from receiving the warning notice. Examining this objection shall abide to the procedures set forth when objecting to criminal orders, and the ruling is final.

If the child is found in one of the situations of being at risk referred to in the previous paragraph after the ruling becomes final, the matter shall be referred to the sub-committee for child protection. The sub-committee, in addition to its powers as stated in the previous paragraph, shall have the right to take the child to the child prosecution so as to take one of the measures as set forth in Article 101 of this Law. If the child has not reached seven (7) years of age, the measures to be applied shall be either delivery to parents, guardians, or custodians, or placement in one of the specialized hospitals.

Article 98-bis.

Any person who finds that a child is at risk should provide urgent help that is adequate to shield or remove this child from danger.

Article 99.

The sub-committees for childhood protection shall receive complaints about cases of children at risk, and in such cases, they can - after investigating the seriousness of the complaint - summon the child, or his parents, or his guardian or the person in charge of the child to listen to what they have to say about all the facts pertaining to the complaint.

The sub-committee shall examine the complaint and endeavor to remove all its causes. If it fails to do so, it shall submit a report concerning the incident and the exact measures undertaken to the General Committee for Childhood Protection to take necessary legal measures.

Article 99-bis.

The sub-committees for childhood protection shall carry out any of the following measures and procedures as necessary:

1. Keep the child with his family and commit the parents to take the necessary measures to remove the dangerous environment within a specific deadline. The sub-committee shall carry out periodic supervision visits.
2. Keep the child with his family and regulate the social intervention methods of the bodies responsible for providing social, educational, and health services necessary for the child and for assisting his family.
3. Keep the child with his family while taking necessary precautions to prevent any contact between the child and the persons that could pose a threat to his health, physical, or moral well being.
4. Recommend to the relevant court to place the child temporarily, until the danger is removed, in a family or association, or social or educational institution or, when necessary, at a health or therapeutic institution, in accordance with the legal procedures.
5. Recommend to the relevant court to take urgent and necessary measures to place the child in a reception center or rehabilitation center or health care institution or with a reliable family or association or an appropriate social or educational institution for a period of time until the risk is removed; this is in cases where children are at risk or are neglected by the parents or guardians.
6. The sub-committee, if necessary, could raise the matter to the Family Court to compel the person in charge of the child to pay a temporary alimony. The Court's decision in this matter shall be implemented, and cannot be stayed if objected to.

In cases of imminent danger, the General Department for the Child Helpline at NCCM or the Committee for Childhood Protection, whoever is closer, shall take all necessary measures and urgent procedures to remove the child from the place where he is at risk and place him in a safe place, with the assistance of concerned officials, if necessary. Any positive or negative action that threatens the life of a child or his physical or moral safety to the extent that it cannot be cured with time shall be considered an imminent danger.

Article 99-bis (a).

The committees for childhood protection shall periodically monitor the procedures and results of implementing the measures undertaken concerning the child. The Committees for Childhood Protection shall recommend to the authorities, when necessary, to review those measures and replace or suspend them so as to keep as much as possible the child in his family environment and avoid depriving him from the family environment except as a measure of last resort and for the shortest appropriate period of time; in such a case, the child shall be taken back to his family environment as soon as possible.

Article 14 – Reporting Obligations

- (1) Any person who becomes aware of a situation or act which may amount to child neglect, abuse, maltreatment, and exploitation in the course of exercising their care for or work with children, shall and any other person may immediately report the same to the police or any other competent domestic authority irrespective of any requirement of occupational secrecy. At request of the authority, any such person is obligated to communicate all information that is likely to facilitate the investigation and to identify perpetrators or victims.
- (2) Anyone providing such information in good faith shall be exempt from civil or criminal liability which may be linked to the act of reporting. They shall have the right to special protection if necessary for their personal safety and security.
- (3) The confidentiality of the information provided in accordance with paragraphs (1) and (2) of this Article shall be guaranteed. The identity and other personal details of the family member, care-giver, professional, or other person who provides the information and those of the affected child shall not be revealed. Reports may be made anonymously.
- (4) The failure to report of persons who are under an obligation to do so according to paragraph (1) shall be established as an offense punishable by law.

Based on:

UNODC, *Justice in Matters involving Child Victims and Witnesses of Crime, Model Law and Related Commentary*, New York 2009

Article 3 – Duty to Report Offences Involving a Child Victim or Witness.

1. Teachers, doctors, social workers and other professional categories, as deemed appropriate, shall have a duty to notify [name of competent authority] if they have reasonable cause to suspect that a child is a victim of or a witness to a crime.
2. The persons referred to in paragraph 1 of this article shall assist the child to the best of their abilities until the child is provided with appropriate professional assistance.
3. The duty to report established in paragraph 1 of this article supersedes any obligation of confidentiality, except in the case of lawyer-client confidentiality.

Australia/Northern Territory, Care and Protection of Children Act, 2007**Section 26 – Reporting Obligations.**

- (1) A person is guilty of an offence if the person:
- (a) believes, on reasonable grounds, that a child:
 - (i) has been or is likely to be a victim of a sexual offence; or
 - (ii) otherwise has suffered or is likely to suffer harm or exploitation; and
 - (b) does not, as soon as possible after forming that belief, report (orally or in writing) to the CEO or a police officer:
 - (i) that belief; and
 - (ii) any knowledge of the person forming the grounds for that belief; and
 - (iii) any factual circumstances on which that knowledge is based.

Maximum penalty: 200 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.
- (3) This section has effect despite any other provision in this Act or another law of the Territory.

Section 27 – Protection of Person Making Report.

- (1) A person acting in good faith in making a report under section 26(1) is not civilly or criminally liable, or in breach of any professional code of conduct:
- (a) for making the report; or
 - (b) for disclosing any information in the report.

Australia/Southern Australia, Children’s Protection Act, 1993**11 – Notification of Abuse or Neglect.**

- (1) If—
- (a) a person to whom this section applies suspects on reasonable grounds that a child has been or is being abused or neglected; and
 - (b) the suspicion is formed in the course of the person’s work (whether paid or voluntary) or of carrying out official duties, the person must notify the Department of that suspicion as soon as practicable after he or she forms the suspicion.

Maximum penalty: \$10 000.

- (2) This section applies to the following persons:
- (a) a medical practitioner;
 - (ab) a pharmacist;
 - (b) a registered or enrolled nurse;
 - (c) a dentist;
 - (d) a psychologist;
 - (e) a police officer;
 - (f) a community corrections officer (an officer or employee of an administrative unit of the Public Service whose duties include the supervision of young or adult offenders in the community);
 - (g) a social worker;
 - (ga) a minister of religion;
 - (gb) a person who is an employee of, or volunteer in, an organisation formed for religious or spiritual purposes;

- (h) a teacher in an educational institution (including a kindergarten);
- (i) an approved family day care provider;
- (j) any other person who is an employee of, or volunteer in, a Government department, agency or instrumentality, or a local government or non-government organisation, that provides health, welfare, education, sporting or recreational, child care or residential services wholly or partly for children, being a person who—
 - (i) is engaged in the actual delivery of those services to children; or
 - (ii) holds a management position in the relevant organisation the duties of which include direct responsibility for, or direct supervision of, the provision of those services to children.
- (3) A notification under this section must be accompanied by a statement of the observations, information and opinions on which the suspicion is based.
- (4) This section does not require a priest or other minister of religion to divulge information communicated in the course of a confession made in accordance with the rules and usages of the relevant religion.
- (5) A person does not necessarily exhaust his or her duty of care to a child by giving a notification under this section.

Turkey, Juvenile Protection Law, No. 5395, 2005

Article 6 – Applying to the Agency.

- (1) Judicial and administrative authorities, law enforcement officers, health and education institutions and non-governmental organizations have the obligation to notify the Social Services and Child Protection Agency of any juveniles that are in need of protection. The juvenile and the persons who are responsible for the care of the juvenile can apply to the Social Services and Child Protection Agency to take the juvenile under protection.
- (2) The Social Services and Child Protection Agency shall immediately carry out the necessary enquiry regarding the events notified to it.

Article 15 – Investigation and Intervention Obligations; Order of Removal

- (1) The CPCs shall have a duty to timely investigate reported cases of child neglect, abuse, maltreatment, and exploitation and promptly intervene guaranteeing the maximum safety and protection of the actual or potential child victim. Investigation and intervention shall be conducted in cooperation with the specially trained law enforcement units and after consultation with all child protection providers familiar with the case.
- (2) A CPC official who is entitled by law/regulation with an obligation to intervene and who is led to believe on reasonable grounds that a child is being or is at imminent risk of being neglected, abused, maltreated, or exploited may search the location in which the child may be staying to verify the circumstances.

- (3) If after the investigation the CPC official is led to believe on reasonable grounds that the child is being neglected, abused, maltreated, or exploited or that there is an imminent risk for such harm in the place the child is staying, she/he may order the child to be removed, to be placed in alternative care, and to be temporarily kept in such place of safety (order of removal).
- (4) The decision on whether or not to intervene and with which measures shall be made on a case-by-case basis after carefully considering all available information and balancing the risks for the child.

Based on:

Cambodia, Law on the Prevention of Domestic Violence and The Protection of Victims 1005/031, 2005

Article 9.

The nearest authorities in charge have the duty to urgently intervene in case domestic violence occurs or is likely to occur in order to prevent and protect the victims. During the intervention, the authorities in charge shall make a clear record about the incident and then report it immediately to the prosecutors in charge.

Ghana, Act 560, The Children's Act, 1998

Section 19—Investigation by Department.

- (1) If the Department has reasonable grounds to suspect child abuse or a need for care and protection, it shall direct a probation officer or social welfare officer accompanied by the police to enter and search the premises where the child is kept to investigate.
- (2) The Department shall direct the probation officer or the social welfare officer to refer the matter to a Child Panel established under section 27 of this Act if the child is not in immediate need of care and protection.
- (3) If after investigation it is determined that the child has been abused or is in need of immediate care and protection the Department shall direct a probation officer or social welfare officer accompanied by the police to remove the child to a place of safety for a period of not more than seven days.
- (4) The child shall be brought before a Family Tribunal by the probation officer or social welfare officer before the expiry of the seven day period for an order to be made.
- (5) Until the Family Tribunal determines the order, the Family Tribunal may commit the child to an approved residential home or to the care of a probation officer, social welfare officer or other suitable person.

Lesotho, Children's Protection and Welfare Bill, 2004

Section 78 – Removal of a Child in Need of Rehabilitation to a Place of Safety.

- (1) Any social worker, police officer or chief who is satisfied on reasonable grounds that a child is in need of rehabilitation may order the child to be removed to a place of safety and the child shall be temporarily kept in such place of safety.
- (2) Any child who is temporarily kept under subsection (1) shall be brought before Children's Court within forty-eight hours exclusive of the time necessary for the journey from the place where the child was so removed to the Children's Court.

- (3) If it is not possible to bring a child before Children's Court within the time specified in subsection (2), the child shall be kept in a place of safety for a period not exceeding seven days within which the child shall be brought before a Children's Court.
- (4) If the Children's Court is satisfied that the child brought before it is in need of rehabilitation, the Children's Court may order the child to be kept in a place of safety until -
 - (a) an inquiry into the circumstances of the child's case under section 75 has been completed; and
 - (b) a report of the inquiry has been submitted to the Children's Court by the social worker under section 75 (4).
- (5) If the Children's Court is not satisfied that a child brought before it is in need of rehabilitation, the Children's Court shall order the child to be returned to the care of the parent or guardian.

New Zealand, Children, Young Persons, and Their Families Act, Public Act 1989 No. 24, 1989, as amended in 2009

Section 39 – Place of Safety Warrants.

- (1) Any District Court Judge or, if no District Court Judge is available, any Justice or any Community Magistrate or any Registrar (not being a constable), who, on application in writing made on oath, is satisfied that there are reasonable grounds for suspecting that a child or young person is suffering, or is likely to suffer, illtreatment, neglect, deprivation, abuse, or harm may issue a warrant authorising any constable or a social worker, either by name or generally, to search for the child or young person.
- (2) An application for a warrant under subsection (1) may be made by a constable or a social worker.
- (3) Any person authorised by warrant under this section to search for any child or young person may—
 - (a) enter and search, by force if necessary, any dwellinghouse, building, aircraft, ship, carriage, vehicle, premises or place:
 - (b) if that person believes, on reasonable grounds, that the child or young person has suffered, or is likely to suffer, illtreatment, serious neglect, abuse, serious deprivation, or serious harm,—
 - (i) remove or detain, by force if necessary, the child or young person and place the child or young person in the custody of the chief executive; or
 - (ii) where the child or young person is in a hospital, direct the medical superintendent of that hospital to keep that child or young person in that hospital.
- (4) Where any direction is issued pursuant to subsection (3)(b)(ii) in respect of any child or young person, that child or young person shall be deemed to have been placed in the custody of the chief executive pursuant to this section. ...

Section 42 – Search without Warrant.

- (1) Any constable who believes on reasonable grounds that it is critically necessary to protect a child or young person from injury or death may, without warrant, -
 - (a) enter and search, by force if necessary, any dwellinghouse, building, aircraft, ship, carriage, vehicle, premises or place:
 - (b) remove or detain, by force if necessary, the child or young person and place the child or young person in the custody of the chief executive.

- (2) Every constable who exercises any powers conferred by subsection (1) shall, on first entering any dwellinghouse, building, aircraft, ship, carriage, vehicle, premises or place, and if requested, at any subsequent time, -
- (a) produce evidence of identity; and
 - (b) disclose that those powers are being exercised under this section.
- (3) A constable who exercises the power conferred by subsection (1) shall, within 3 days after the day on which the power is exercised, forward to the Commissioner of Police a written report on the exercise of the power and the circumstances in which it came to be exercised.

Norway, The Child Welfare Act, Act No. 100 of July 17, 1992, as amended by Act No. 45 of June 19, 2009

Section 4-3 – Right and Duty of the Child Welfare Service to Make Investigations.

If there is reasonable cause to assume that circumstances obtain which may provide a basis for measures pursuant to this chapter, the child welfare service shall investigate the matter at the earliest opportunity, cf. time limits set out in section 6-9.

The investigation shall be carried out in such a way as to minimise the harm it causes to anyone affected, and it shall not have a wider scope than that justified by its purpose. Importance shall be attached to preventing the unnecessary spreading of information about the investigation. ...

The child welfare service, and experts whom it has appointed, may demand to speak with the child alone in a separate room. If there is suspicion that the child is being mistreated or subjected to other serious abuse at home, cf. section 4-12, first paragraph (c), the child welfare service may order that the child shall be taken to a hospital or elsewhere for examination.

Article 16 – Safety Order and Supervision Order

- (1) After an order of removal has been issued, the case shall be brought before a competent child court without undue delay. The court shall investigate the circumstances and issue a safety order. Pending further proceedings, this order shall decide whether or not the child be temporarily kept in the place of safety. The order shall also consider long-term solutions regarding the stay and custody of the child.
- (2) The court may order that parents or guardians pay for the accommodation of the child in the place of safety.
- (3) If the child is not ordered to stay in the place of safety, the court may issue a supervision order. The order shall place the child under the supervision of the CPC or a designated child protection service provider and it shall be aimed at preventing any significant harm being caused to a child whilst she/he remains at the family home in the custody of his parents or guardians.
- (4) Parents shall have the opportunity to respond to the charges. There shall be a full hearing about the issues in order to determine a long-term solution for the care of the child.

Based on:**Ghana, Act 560, The Children's Act, 1998*****Section 20—Care Order of Family Tribunal.***

- (1) A Family Tribunal may issue a care order to the Department on an application by a probation officer or social welfare officer under section 19(4).
- (2) The care order shall remove the child from a situation where he is suffering or likely to suffer significant harm and shall transfer the parental rights to the Department.
- (3) The probation officer or social welfare officer shall take custody of the child and shall determine the most suitable place for the child which may be—
 - (a) an approved residential home;
 - (b) with an approved fit person; or
 - (c) at the home of a parent, guardian or relative.
- (4) The maximum duration of a care order shall be three years or until the child attains eighteen years which ever is earliest and the Family Tribunal may make an interim order or may vary the order.
- (5) The Family Tribunal may make a further order that the parent, guardian or other person responsible for the child shall pay for the cost of maintaining the child.
- (6) A Family Tribunal shall not designate the manager of an institution as an approved fit person to whom the care of a child can be entrusted unless the institution is one which the Minister responsible for Social Welfare has approved by notice published in the Gazette or the institution is assigned that function by or under an Act of Parliament.

Section 21 — Supervision Order of Family Tribunal.

- (1) A Family Tribunal may issue a supervision order to the Department on an application by a probation officer or social welfare officer under section 19(4).
- (2) The supervision order shall be aimed at preventing any significant harm being caused to a child whilst he remains at his family home in the custody of his parent, guardian or relative.
- (3) The supervision order shall place a child under the supervision of the probation officer or social welfare officer while he remains in the custody of his parent, guardian or relative.
- (4) The maximum duration for a supervision order shall be one year or until the child attains eighteen years.

Norway, The Child Welfare Act, Act No. 100 of July 17, 1992, as amended by Act No. 45 of June 19, 2009***Section 4-12 – Care Orders.***

A care order may be made

- (a) if there are serious deficiencies in the everyday care received by the child, or serious deficiencies in terms of the personal contact and security needed by a child of his or her age and development,
- (b) if the parents fail to ensure that a child who is ill, disabled or in special need of assistance receives the treatment and training required,
- (c) if the child is mistreated or subjected to other serious abuses at home, or
- (d) if it is highly probable that the child's health or development may be seriously harmed because the parents are unable to take adequate responsibility for the child.

An order may only be made pursuant to the first paragraph when necessary due to the child's current situation. Hence such an order may not be made if satisfactory conditions can be created for the child by assistance measures pursuant to section 4-4 or by measures pursuant to section 4-10 or section 4-11.

An order pursuant to the first paragraph shall be made by the county social welfare board pursuant to the provisions of chapter 7.

Section 4-14 – Placement Alternatives after a Care Order.

When an order is made pursuant to section 4-12 or section 4-8, second and third paragraphs, the child shall be placed

- (a) in a foster home, cf. section 4-22,
- (b) in an institution, cf. section 5-1 and section 5-8, or
- (c) in a training or treatment institution when this is necessary because the child is disabled, or
- (d) in a care centre for minors, cf. chapter 5 A.

Article 17 – Right to Safe Accommodation and Alternative Care

- (1) Child victims and children at risk of neglect, abuse, maltreatment, and exploitation shall be entitled to find accommodation in a place of safety. This right shall include temporary and long-term accommodation of the child in such a place of safety and the relevant aftercare.
- (2) To guarantee this right, various forms of alternative care shall be established by law/regulation. They shall be operated by governmental or non-governmental child protection service providers or in cooperation of both. Funding shall be allocated by the State in accordance with Article 11 of this Law.
- (3) Alternative care shall comprise –
 - (a) Informal care, meaning any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or other persons close to the child in their individual capacity, at the initiative of the child, her/his parents, or other person without this arrangement having been ordered by the competent CPC or child court;
 - (b) Formal care, meaning all care provided in a family environment which has been ordered by the competent CPC or child court, and all care provided in a residential environment whether or not as a result of administrative or judicial measures;
 - (c) Family-based care, meaning –
 - (i) kinship care within the child’s extended family or other persons close to the child, and
 - (ii) foster care, where children are placed by the competent CPC or child court in the domestic environment of a family other than the child’s that has been selected, qualified, approved, and supervised for providing such care;

- (d) Residential care, meaning all residential care facilities and institutions, including emergency shelters and group homes; and
- (e) Supervised independent living arrangements for children, which shall include child-headed households.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 20.

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

United Nations Guidelines for the Alternative Care of Children, Human Rights Council, June 15, 2009, UN Doc. A/HRC/11/L.13

28. For the purposes of the present Guidelines, and subject notably to the exceptions listed in paragraph 29 below, the following definitions shall apply:

- (a) Children without parental care: all children not in the overnight care of at least one of their parents, for whatever reason and under whatever circumstances. Children without parental care who are outside their country of habitual residence or victims of emergency situations may be designated as:
 - (i) "Unaccompanied" if they are not cared for by another relative or an adult who by law or custom is responsible for doing so; or
 - (ii) "Separated" if they are separated from a previous legal or customary primary caregiver, but who may nevertheless be accompanied by another relative.
- (b) Alternative care may take the form of:
 - (i) Informal care: any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or friends (informal kinship care) or by others in their individual capacity, at the initiative of the child, his/her parents or other person without this arrangement having been ordered by an administrative or judicial authority or a duly accredited body;
 - (ii) Formal care: all care provided in a family environment which has been ordered by a competent administrative body or judicial authority, and all care provided in a residential environment, including in private facilities, whether or not as a result of administrative or judicial measures.
- (c) With respect to the environment where it is provided, alternative care may be:
 - (i) Kinship care: family-based care within the child's extended family or with close friends of the family known to the child, whether formal or informal in nature;

- (ii) Foster care: situations where children are placed by a competent authority for the purpose of alternative care in the domestic environment of a family other than the children's own family, that has been selected, qualified, approved and supervised for providing such care;
 - (iii) Other forms of family-based or family-like care placements;
 - (iv) Residential care: care provided in any non-family-based group setting, such as places of safety for emergency care, transit centres in emergency situations, and all other short and long-term residential care facilities including group homes;
 - (v) Supervised independent living arrangements for children.
- (d) With respect to those responsible for alternative care:
- (i) Agencies are the public or private bodies and services that organize alternative care for children;
 - (ii) Facilities are the individual public or private establishments that provide residential care for children.
29. The scope of alternative care as foreseen in the present Guidelines does not extend, however, to:
- (a) Persons under the age of 18 years who are deprived of their liberty by decision of a judicial or administrative authority as a result of being alleged as, accused of or recognized as having infringed the law, and whose situation is covered by the United Nations Standard Minimum Rules for the Administration of Juvenile Justice and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty;
 - (b) Care by adoptive parents from the moment the child concerned is effectively placed in their custody pursuant to a final adoption order, as of which moment, for the purposes of the present Guidelines, the child is considered to be in parental care. The Guidelines are, however, applicable to pre-adoption or probationary placement of a child with the prospective adoptive parents, as far as they are compatible with requirements governing such placements as stipulated in other relevant international instruments;
 - (c) Informal arrangements whereby a child voluntarily stays with relatives or friends for recreational purposes and reasons not connected with the parents' general inability or unwillingness to provide adequate care.

Article 18 – Administration and Monitoring of Alternative Care

- (1) All care facilities, institutions, and private persons must receive authorization from the competent CPC to provide alternative care. The CPCs shall administer a registry of all authorized providers of alternative care. Rendering services without the required authorization and registration shall constitute an offence punishable by law. The authorization shall be regularly reviewed by the competent CPC.
- (2) Personnel working in the care facilities or institutions and private care-givers, shall be adequately trained to care for and educate children. Training shall include the children's rights, including the specific vulnerability of children to abuse, maltreatment, and exploitation and their rights to be protected therefrom.

- (3) All facilities, institutions, and private homes providing alternative care shall abide by certain minimum standards of safety and hygiene as specified by law/regulation to protect the security and health of children. No authorization shall be granted to facilities, institutions, or private homes where personnel cannot guarantee the requirements set forth by Article 10 of this Law. In case of a violation of these requirements, an authorization previously granted shall be revoked.
- (4) Comprehensive and up-to-date records shall be maintained and periodically reviewed regarding the administration of alternative care services, including detailed files on all children in their care.
- (5) An independent inspection and monitoring mechanism for the operation of alternative care providers including regular on-site inspections, controlling the safety and hygiene standards and the staff performance, shall be established. A reporting procedure on allegations of misconduct by any staff member shall be in place.
- (6) Children in alternative care shall have access to a mechanism where they can file complaints or concerns regarding their treatment or conditions of placement. This mechanism shall be accessible to parents and those responsible for children in alternative care.

Based on:

United Nations Guidelines for the Alternative Care of Children, Human Rights Council, June 15, 2009, UN Doc. A/HRC/11/L.13

54. States should ensure that all entities and individuals engaged in the provision of alternative care for children receive due authorization to do so from a competent authority and be subject to the latter's regular monitoring and review in keeping with the present Guidelines. To this end, these authorities should develop appropriate criteria for assessing the professional and ethical fitness of care providers and for their accreditation, monitoring and supervision.

Iceland, Child Protection Act, Act No. 80 of 2002

Article 83 – Licence to Operate Institutions and Homes for Children.

Individuals, non-governmental organisations and municipalities may establish and operate institutions or homes which have the objective of providing the services defined in para. 1 art. 79.

Those who wish to establish a home or institution under para. 1 shall apply for a licence to the Government Agency for Child Protection, provided that the home or institution does not fall within the ambit of other legislation. Before a licence is granted, the views of the child protection committee where the home or institution is located shall be elicited.

The Minister shall, by regulations, lay down further rules on the operation of homes under this article, including conditions for granting of a licence, children's rights and monitoring, on receipt of proposals from the Government Agency for Child Protection.

If the Government Agency for Child Protection believes that the treatment a child receives at a home or institution licensed under para. 1 is unsatisfactory, the Agency shall seek to rectify this by means of guidance and admonition, granting a specified period of grace. The Government Agency for Child Protection may revoke the licence for further operations if rectification is not made within the period of grace allowed, or in the case of gross violation of the conditions of the licence.

Article 85 – Support Families.

Child protection committees shall have support families available. Those who wish to serve as support families shall apply for a licence to the child protection committee in their home district.

The Minister shall issue regulations [Regulation No. 652/2004], on receipt of proposals from the Government Agency for Child Protection, on support families, which shall specify, among other things, the maximum duration of placement, conditions of licences, and agreements with support families.

United Kingdom, Children Act, 1989**63 – Children Not to be Cared for and Accommodated in Unregistered Children's Homes.**

- (1) No child shall be cared for and provided with accommodation in a children's home unless the home is registered under this Part.
- (2) The register may be kept by means of a computer.
- (3) For the purposes of this Part, "a children's home" –
 - (a) means a home which provides (or usually provides or is intended to provide) care and accommodation wholly or mainly for more than three children at any one time; but
 - (b) does not include a home which is exempted by or under any of the following provisions of this section or by regulations made for the purposes of this subsection by the Secretary of State.
- (4) A child is not cared for and accommodated in a children's home when he is cared for and accommodated by –
 - (a) a parent of his;
 - (b) a person who is not a parent of his but who has parental responsibility for him; or
 - (c) any relative of his.
- (5) A home is not a children's home for the purposes of this Part if it is –
 - (a) a community home;
 - (b) a voluntary home;
 - (c) a residential care home, nursing home or mental nursing home;
 - (d) a health service hospital;
 - (e) a home provided, equipped and maintained by the Secretary of State; or
 - (f) a school (but subject to subsection (6)).
- (6) An independent school is a children's home if –
 - (a) it provides accommodation for not more than fifty children; and
 - (b) it is not approved by the Secretary of State under section 11(3)(a) of the [1981 c. 60.] Education Act 1981.
- (7) A child shall not be treated as cared for and accommodated in a children's home when –
 - (a) any person mentioned in subsection (4)(a) or (b) is living at the home; or
 - (b) the person caring for him is doing so in his personal capacity and not in the course of carrying out his duties in relation to the home.
- (8) In this Act "a registered children's home" means a children's home registered under this Part.
- (9) In this section "home" includes any institution.

- (10) Where any child is at any time cared for and accommodated in a children's home which is not a registered children's home, the person carrying on the home shall be—
- (a) guilty of an offence; and
 - (b) liable to a fine not exceeding level 5 on the standard scale, unless he has a reasonable excuse.

65 – Persons Disqualified from Carrying on, or Being Employed in, Children's Homes.

- (1) A person who is disqualified (under section 68) from fostering a child privately shall not carry on, or be otherwise concerned in the management of, or have any financial interest in, a children's home unless he has—
- (a) disclosed to the responsible authority the fact that he is so disqualified; and
 - (b) obtained their written consent.
- (2) No person shall employ a person who is so disqualified in a children's home unless he has—
- (a) disclosed to the responsible authority the fact that that person is so disqualified; and
 - (b) obtained their written consent.
- (3) Where an authority refuses to give their consent under this section, they shall inform the applicant by a written notice which states—
- (a) the reason for the refusal;
 - (b) the applicant's right to appeal against the refusal to a Registered Homes Tribunal under paragraph 8 of Schedule 6; and
 - (c) the time within which he may do so.
- (4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.
- (5) Where a person contravenes subsection (2) he shall not be guilty of an offence if he proves that he did not know, and had no reasonable grounds for believing, that the person whom he was employing was disqualified under section 68.
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Article 19 – Principles of Alternative Care

- (1) Removal of a child from the care of her/his family shall be seen as a measure of last resort and shall be temporary and for the shortest possible duration unless permanency is in the best interests of the child. Therefore –
- (a) Multiple placements of the child shall be avoided as much as possible;
 - (b) Preference shall be given to placing the child in informal and family-based care over residential care; and
 - (c) Siblings shall preferably be placed together.
- (2) Regular and continued contact with the child's family and other persons close to her/him shall be encouraged and facilitated unless it is not in the child's best interests such as in cases where a family member abused or exploited the child. This shall include

communicating, visiting, and otherwise spending time with the families, guardians, and other close persons. Special attention shall be paid to facilitating the contact of children with their parents when the children are in alternative care due to parental imprisonment or prolonged hospitalization.

- (3) In order to guard the principle of permanency and continuity, all decisions concerning alternative care shall aim to maintain the child as close as possible to her/his habitual place of residence in order to facilitate contact and potential reintegration with her/his family and to minimize disruption of her/his educational, cultural, and social life.
- (4) In choosing the appropriate place of alternative care, the child's views and wishes shall be heard and respected; the child's immediate safety and well-being, as well as her/his long-term care and development shall be carefully taken into consideration.
- (5) Care-givers shall ensure the safety, health, development, and well-being of the child and the child's rights to education and vocational training, to leisure and play, and to other means of protection in accordance with this Law.
- (6) Children in alternative care shall be prepared to assume an independent life and integrate fully into the community. The appropriate after-care and follow-up with children once they leave alternative care shall be ensured.
- (7) Appropriate measures shall be taken to ensure that children in alternative care are not stigmatized during or after their placement.
- (8) The State shall adopt an overall deinstitutionalization strategy which allows for the progressive elimination of large residential care facilities and the replacement by family-based care. Care standards ensuring the quality and conditions conducive to the child's development, such as individualized and small-group care, shall be established in residential care facilities and institutions.
- (9) Accommodation in a place of safety shall not involve the deprivation of liberty, meaning any form of detention or imprisonment or the placement of a child in a place of alternative care, from which this child is not permitted to leave at will.
- (10) Decisions to place a child in alternative care shall be periodically reviewed and the possibility of returning to the family shall be evaluated.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 9.

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, in accordance with applicable law and procedures, 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.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

**United Nations Guidelines for the Alternative Care of Children, Human Rights Council,
June 15, 2009, UN Doc. A/HRC/11/L.13**

5. Where the child's own family is unable, even with appropriate support, to provide adequate care for the child, or abandons or relinquishes the child, the State is responsible for protecting the rights of the child and ensuring appropriate alternative care, with or through competent local authorities and duly authorized civil society organizations. It is the role of the State, through its competent authorities, to ensure the supervision of the safety, well-being and development of any child placed in alternative care and the regular review of the appropriateness of the care arrangement provided
10. All decisions concerning alternative care should take full account of the desirability, in principle, of maintaining the child as close as possible to his/her habitual place of residence, in order to facilitate contact and potential reintegration with his/her family and to minimize disruption of his/her educational, cultural and social life.
11. Decisions regarding children in alternative care, including those in informal care, should have due regard for the importance of ensuring children a stable home and of meeting their basic need for safe and continuous attachment to their caregivers, with permanency generally being a key goal.
13. Removal of a child from the care of the family should be seen as a measure of last resort and should be, whenever possible, temporary and for the shortest possible duration. Removal decisions should be regularly reviewed and the child's return to parental care, once the original causes of removal have been resolved or have disappeared, should be in the child's best interests, in keeping with the assessment foreseen in paragraph 48 below
21. In accordance with the predominant opinion of experts, alternative care for young children, especially those under the age of 3 years, should be provided in family-based settings. Exceptions to this principle may be warranted in order to prevent the separation of siblings and in cases where the placement is of an emergency nature or is for a predetermined and very limited duration, with planned family reintegration or other appropriate long-term care solution as its outcome.
22. While recognizing that residential care facilities and family-based care complement each other in meeting the needs of children, where large residential care facilities (institutions) remain, alternatives should be developed in the context of an overall deinstitutionalization strategy, with precise goals and objectives, which will allow for their progressive elimination. To this end, States should establish care standards to ensure the quality and conditions that are conducive to the child's development, such as individualized and small-group care, and should evaluate existing facilities against these standards. Decisions regarding the establishment of, or permission to establish, new residential care facilities, whether public or private, should take full account of this deinstitutionalization objective and strategy.
56. Decision-making on alternative care in the best interests of the child should take place through a judicial, administrative or other adequate and recognized procedure, with legal safeguards, including, where appropriate, legal representation on behalf of children in any legal proceedings. It should be based on rigorous assessment, planning and review, through established structures and mechanisms, and carried out on a case-by-case basis,

by suitably qualified professionals in a multidisciplinary team, wherever possible. It should involve full consultation at all stages with the child, according to his/her evolving capacities, and with his/her parents or legal guardians. To this end, all concerned should be provided with the necessary information on which to base their opinion. States should make every effort to provide adequate resources and channels for the training and recognition of the professionals responsible for determining the best form of care so as to facilitate compliance with these provisions.

57. Assessment should be carried out expeditiously, thoroughly and carefully. It should take into account the child's immediate safety and well-being, as well as his/her longer term care and development, and should cover the child's personal and developmental characteristics, ethnic, cultural, linguistic and religious background, family and social environment, medical history and any special needs.

59. Frequent changes in care setting are detrimental to the child's development and ability to form attachments, and should be avoided. Short-term placements should aim at enabling an appropriate permanent solution to be arranged. Permanency for the child should be secured without undue delay through reintegration in his/her nuclear or extended family or, if this is not possible, in an alternative stable family setting or, where paragraph 20 above applies, in stable and appropriate residential care

Australia/Victoria, Children, Youth and Families Act, No. 96 of 2005, as amended in 2009

Section 10 – Best Interests Principles.

(3) ... in determining what decision to make or action to take in the best interests of the child, consideration must be given to the following, where they are relevant to the decision or action – ...

(g) that a child is only to be removed from the care of his or her parent if there is an unacceptable risk of harm to the child;

(h) if the child is to be removed from the care of his or her parent, that consideration is to be given first to the child being placed with an appropriate family member or other appropriate person significant to the child, before any other placement option is considered;

(i) the desirability, when a child is removed from the care of his or her parent, to plan the reunification of the child with his or her parent;

(j) the capacity of each parent or other adult relative or potential care giver to provide for the child's needs and any action taken by the parent to give effect to the goals set out in the case plan relating to the child;

(k) access arrangements between the child and the child's parents, siblings, family members and other persons significant to the child; ...

(m) where a child with a particular cultural identity is placed in out of home care with a care giver who is not a member of that cultural community, the desirability of the child retaining a connection with their culture; ...

(q) the desirability of siblings being placed together when they are placed in out of home care;

Belize, Families and Children Act, 2000

Section 4 – Child's Right to Stay with Parents.

(1) A child is entitled to live with his parents or guardian.

(2) Notwithstanding subsection (1) above, where a competent authority determines in accordance with the applicable laws and procedures that it is in the best interests of the child to separate the child from his parents or guardian, the best substitute alternative staying place shall be provided for the child.

Section 106 – Care Order.

- (1) The Family Court or a magistrate court may, on the application of the Department or an authorised person, make a care order or an interim care order placing a child in the care of foster parents or an approved children's home.
- (2) An application for a care order may only be made –
 - (a) after all possible alternative methods of assisting the child have been tried without success, and the harm from which the child is suffering or is likely to suffer requires his removal from where he is living; or
 - (b) the danger to which the child is exposed is so severe as to require his immediate removal from where he is living.

Section 107 – Purpose of a Care Order.

The object of a care order is –

- (a) to remove a child from a situation where he is suffering or is likely to suffer harm; and
- (b) to assist the child and those with whom he was living or wishes to live with to examine the circumstances that have led to the making of the order and to take steps to resolve or ameliorate the problem so as to ensure the child's return to the community.

Canada/Alberta, Child, Youth and Family Enhancement Act, Chapter C-12, Revised Statutes of Alberta 2000, as amended

2 – Matters to be Considered.

If a child is in need of intervention, a Court, an Appeal Panel and all persons who exercise any authority or make any decision under this Act relating to the child must do so in the best interests of the child and must consider the following as well as any other relevant matter:

- (a) the family is the basic unit of society and its well being should be supported and preserved;
- (b) the importance of stable, permanent and nurturing relationships for the child;
- (c) the intervention services needed by the child should be provided in a manner that ensures the least disruption to the child;
- (d) a child who is capable of forming an opinion is entitled to an opportunity to express that opinion on matters affecting the child, and the child's opinion should be considered by those making decisions that affect the child;
- (e) the family is responsible for the care, supervision and maintenance of its children and every child should have an opportunity to be a wanted and valued member of a family, and to that end
 - (i) if intervention services are necessary to assist the child's family in providing for the care of a child, those services should be provided to the family, insofar as it is reasonably practicable, in a manner that supports the family unit and prevents the need to remove the child from the family, and
 - (ii) a child should be removed from the child's family only when other less disruptive measures are not sufficient to protect the survival, security or development of the child;
- (f) subject to clauses (e) and (g), if a child has been exposed to domestic violence within the child's family, intervention services should be provided to the family in a manner that supports the abused family members and prevents the need to remove the child from the custody of an abused family member;
- (g) any decision concerning the removal of a child from the child's family should take into account the risk to the child if the child remains with the family, is removed from the family or is returned to the family;

- (h) if it is not inconsistent with protecting the survival, security or development of a child who is in need of intervention, and appropriate community services are available, the child or the child's family should be referred to the community for services to support and preserve the family and to prevent the need for any other intervention under this Act;
- (i) any decision concerning the placement of a child outside the child's family should take into account
 - (i) the benefits to the child of a placement within the child's extended family;
 - (ii) the benefits to the child of a placement within or as close as possible to the child's home community,
 - (iii) the benefits to the child of a placement that respects the child's familial, cultural, social and religious heritage,
 - (iv) the benefits to the child of stability and continuity of care and relationships,
 - (v) the mental, emotional and physical needs of the child and the child's mental, emotional and physical stage of development, and
 - (vi) whether the proposed placement is suitable for the child;
- (j) the provision of intervention services is intended to remedy or alleviate the condition that caused the child to be in need of intervention;
- (k) intervention services are most effective when they are provided through a collaborative and multi disciplinary approach;
- (l) if a child is being provided with care under this Act, the child should be provided with a level of care that is adequate to meet the needs of the child and consistent with community standards and available resources;
- (m) if a child is being provided with care under this Act, a plan for the care of that child should be developed that
 - (i) addresses the child's need for stability, permanence and continuity of care and relationships, and
 - (ii) in the case of a youth, addresses the youth's need for preparation for the transition to independence and adulthood;
- (n) a person who assumes responsibility for the care of a child under this Act should endeavour to make the child aware of the child's familial, cultural, social and religious heritage;
- (o) there should be no unreasonable delay in making or implementing a decision affecting a child;
- (p) if the child is an aboriginal child, the uniqueness of aboriginal culture, heritage, spirituality and traditions should be respected and consideration should be given to the importance of preserving the child's cultural identity.

Germany, Civil Code in the version promulgated on 2 January 2002 (Federal Law Gazette [Bundesgesetzblatt] I p. 42, 2909; 2003 I p. 738), last amended by statute of 28 September 2009 I 3161

Section 1666a – Principle of Proportionality; Priority of Public Support Measures.

- (1) Measures which entail a separation of the child from its parental family are admissible only if the danger cannot be countered in another way, not even through public support measures. This also applies if one parent is temporarily or for an indefinite period to be refused use of the family home. Where a parent or a third party is refused the use of the home in which the child also lives or of another home, then when the duration of the measure is assessed it should also be considered whether this person has the ownership, a heritable building right or usufruct in the plot of land on which the home is located; similar provisions apply to the ownership of an apartment, a permanent residential right and a right of habitation running with the land, or if the parent or third party is the lessee of the home.

- (2) The complete care for the person of the child may be revoked only if other measures have been unsuccessful or if it is to be assumed that they do not suffice to avert the danger.

Sweden, Social Services Act, 2001:453

Chapter 6 – Care in Family Homes and in Homes for Care or Residence.

Section 8 – Special Provisions on the Reception of Children.

If a child is being cared for, by authority of this Act, in a home which is not its own, the social welfare committee shall review the necessity of this care at least once every six months.

When the child has been placed in the same family home for a period of three years after the implementation of such a placement, the social welfare committee shall undertake a special consideration of whether there is reason to apply for a transfer of custody under Chap. 6 Section 8 of the Children and Parents Code.

Article 20 – Adoption and its Functional Equivalents

- (1) The State shall enact laws to provide for permanent legal care for children such as guardianship, adoption, and its functional equivalents.
- (2) The State shall provide for safeguards and standards that ensure the protection of the child whether through national or inter-country adoption.
- (3) In particular, the State shall provide laws/regulations for the accreditation of adoption agencies and the prohibition of improper financial gain in the adoption process.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 21.

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Optional Protocol to the CRC on the sale of children, child prostitution and pornography, adopted by UN GA resolution 54/263 of May 25, 2000, entered into force Jan. 18, 2002

Article 3.

5. States Parties shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments.

Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, concluded May 29, 1993, entered into force May 1, 1995

Article 4.

An adoption within the scope of the Convention shall take place only if the competent authorities of the State of origin –

- a) have established that the child is adoptable;
- b) have determined, after possibilities for placement of the child within the State of origin have been given due consideration, that an intercountry adoption is in the child's best interests;
- c) have ensured that
 - (1) the persons, institutions and authorities whose consent is necessary for adoption, have been counselled as may be necessary and duly informed of the effects of their consent, in particular whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin,
 - (2) such persons, institutions and authorities have given their consent freely, in the required legal form, and expressed or evidenced in writing,
 - (3) the consents have not been induced by payment or compensation of any kind and have not been withdrawn, and
 - (4) the consent of the mother, where required, has been given only after the birth of the child; and
- d) have ensured, having regard to the age and degree of maturity of the child, that
 - (1) he or she has been counselled and duly informed of the effects of the adoption and of his or her consent to the adoption, where such consent is required,
 - (2) consideration has been given to the child's wishes and opinions,
 - (3) the child's consent to the adoption, where such consent is required, has been given freely, in the required legal form, and expressed or evidenced in writing, and
 - (4) such consent has not been induced by payment or compensation of any kind.

Article 5.

An adoption within the scope of the Convention shall take place only if the competent authorities of the receiving State –

- a) have determined that the prospective adoptive parents are eligible and suited to adopt;
- b) have ensured that the prospective adoptive parents have been counselled as may be necessary; and
- c) have determined that the child is or will be authorised to enter and reside permanently in that State.

Article 8.

Central Authorities shall take, directly or through public authorities, all appropriate measures to prevent improper financial or other gain in connection with an adoption and to deter all practices contrary to the objects of the Convention.

Article 10.

Accreditation shall only be granted to and maintained by bodies demonstrating their competence to carry out properly the tasks with which they may be entrusted.

Article 11.

An accredited body shall –

- a) pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities of the State of accreditation;
- b) be directed and staffed by persons qualified by their ethical standards and by training or experience to work in the field of intercountry adoption; and
- c) be subject to supervision by competent authorities of that State as to its composition, operation and financial situation.

Article 21 – Medical and Psychological Assistance, Rehabilitation and Reintegration Measures

- (1) A child who has been victimized by a violation of this Law shall be provided with free medical assistance in order that the child regain physical and mental health and recover from the physical or mental trauma she/he may have experienced.
- (2) Medical assistance shall include the necessary physical emergency treatment and psychological counseling as well as long-term rehabilitative measures.
- (3) The child shall receive continued assistance to reintegrate into society. Such reintegration measures shall be tailored to the specific needs of the child and the type of suffering experienced with the goal of enabling a dignified return of the child to her/his family, community, and social life. Such measures shall include medical and psychological care as well as educational and vocational consultation and training. The child shall be afforded continued mentoring and guidance to avoid revictimization and social exclusion.
- (4) Measures as described in paragraphs (2) and (3) of this Article shall take place in an environment favorable to the safety, health, and well-being of a child and shall carefully guard the child's right to privacy. Measures shall include the protection of the child from confrontation with the alleged perpetrator, the accommodation of the child in a place of safety, and the psychological preparation for possible future encounters.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 39.

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.

Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, adopted by UN Economic and Social Council, Resolution 2005/20 of July 22, 2005

IX – The Right to Effective Assistance.

22. Child victims and witnesses and, where appropriate, family members should have access to assistance provided by professionals who have received relevant training as set out in paragraphs 40 to 42 below. This may include assistance and support services such as financial, legal, counselling, health, social and educational services, physical and psychological recovery services and other services necessary for the child's reintegration. All such assistance should address the child's needs and enable him or her to participate effectively at all stages of the justice process.
40. Adequate training, education and information should be made available to professionals, working with child victims and witnesses with a view to improving and sustaining specialized methods, approaches and attitudes in order to protect and deal effectively and sensitively with child victims and witnesses.
41. Professionals should be trained to effectively protect and meet the needs of child victims and witnesses, including in specialized units and services.
42. This training should include:
- (a) Relevant human rights norms, standards and principles, including the rights of the child;
 - (b) Principles and ethical duties of their office;
 - (c) Signs and symptoms that indicate crimes against children;
 - (d) Crisis assessment skills and techniques, especially for making referrals, with an emphasis placed on the need for confidentiality;
 - (e) Impact, consequences, including negative physical and psychological effects, and trauma of crimes against children;
 - (f) Special measures and techniques to assist child victims and witnesses in the justice process;
 - (g) Cross-cultural and age-related linguistic, religious, social and gender issues;
 - (h) Appropriate adult-child communication skills;
 - (i) Interviewing and assessment techniques that minimize any trauma to the child while maximizing the quality of information received from the child;
 - (j) Skills to deal with child victims and witnesses in a sensitive, understanding, constructive and reassuring manner;
 - (k) Methods to protect and present evidence and to question child witnesses;
 - (l) Roles of, and methods used by, professionals working with child victims and witnesses.

Estonia, Republic of Estonia Child Protection Act, RT I 1992, 28, 370, as amended by Act RT I 2004, 27, 180

Section 31 – General Principle of Treatment of Child.

- (3) A child who has suffered violent treatment or mistreatment shall be accorded necessary assistance. ...

Colombia, Law No. 1098/2006 Issuing the Code of Childhood and Adolescence, 2006

Article 19 – Right to Rehabilitation and Re-Socialization.

The children and adolescents who have committed a violation of the law are entitled to rehabilitation and re-socialization, through plans and programs guaranteed by the state and implemented by institutions and organizations is determined by the state executing related public policies.

Kenya, The Children’s Act, Act No. 8 of 2001

Section 13 – Protection from Abuse, etc.

- (1) A child shall be entitled to protection from physical and psychological abuse, neglect and any other form of exploitation including sale, trafficking or abduction by any person.
- (2) Any child who becomes the victim of abuse, in the terms of subsection (1), shall be accorded appropriate treatment and rehabilitation in accordance with such regulations as the Minister may make.

Latvia, Protection of the Rights of the Child Law, 1998

Section 51 – Protection of the Child from Illegal Activities.

- (2) A child who is a victim of a criminal offence, exploitation, sexual abuse, violence or any other unlawful, cruel or demeaning acts, shall, ... be provided with emergency assistance free of charge, in order that a child may regain physical and mental health and reintegrate into society. Such medical treatment and reintegration shall take place in an environment favourable to the health, self-esteem and honour of a child, carefully guarding the child’s intimate secrets.

Section 52 – Child Victims of Violence or other Illegal Acts.

- (1) Special institutions or sections in general medical institutions shall be established and special resources allocated in the State budget for the medical treatment and rehabilitation of a child who has suffered as a result of violence. Expenditures for the medical treatment and rehabilitation of the child shall be covered by the State and shall be collected from the persons at fault by subrogation procedures.
- (2) Special medical treatment shall be provided for a child who has become ill with a sexually transmitted disease. The adults at fault for the illness of the child shall be held liable as prescribed by law and the costs of the medical treatment shall be collected from them.
- (3) It is prohibited for a child who has been a victim of violence (illegal act):
 - 1) to be left alone, except in cases when the child himself or herself so wishes and this choice is considered appropriate by a psychologist who has undergone special preparation for work with children who have suffered from violence;
 - 2) to be left without psychological or other form of care;
 - 3) to be confronted by the possible perpetrator of the violence (illegal act) while the child is not sufficiently psychologically prepared for such a confrontation; or
 - 4) to be subjected to the use of any compulsory measures in order to obtain information or for any other purpose.

Vietnam, Law on Child Protection, Care and Education, Law No. 25/2004/QH11 of June 15, 2004

Article 56 – Sexually Abused Children.

1. Sexually-abused children are assisted by their families, the State and society through consultancy measures, physical and mental restoration, and given conditions to stabilize their life. ...

Article 22 – Legal Assistance and Access to Justice

- (1) A child who has been victimized by a violation of this Law shall be afforded legal assistance for the realization and protection of her/his rights. For the purpose of this Law, legal assistance shall include legal representation and advice on the rights of the child and on legal procedures in criminal and civil proceedings.
- (2) In order to ensure the child's access to justice, it shall be provided that –
 - (a) Professional legal assistance is free-of-charge if the child has no legal representation;
 - (b) No consent of the parents or guardians is required to obtain such legal representation;
 - (c) Legal assistance is afforded in a zealous and diligent manner and adheres to the principles of non-discrimination and the best interests of the child, including informing the child about the legal proceedings in a way that the child understands;
 - (d) Legal advisors operate independently from the child protection system;
 - (e) The privacy of the child is protected and the child's identity is not released to the public; and
 - (f) Other necessary protective measures for child victims and child witnesses are established in accordance with Chapter 8 of this Law.
- (3) Children accused of having violated the law shall have their cases heard by special children's courts and shall receive the required protection in accordance with Chapter 8 of this Law.

Based on:

Belarus, Act No. 2570-XII of Nov. 19, 1993, On Child's Rights, as amended in 2007

Article 13 – Protection of Rights and Interests by a Child.

A child at the age of 14 and older has the right to receive legal help for realization and protection of his rights and freedoms including the right to use the lawyer's help at any moment and other representatives in the court, other state bodies and in relations with officials and citizens without consent of parents or persons substituting them.

In cases provided by the legislation of the Republic of Belarus a child is provided with legal help by the Bar association free of charge.

In the case of violation of child's rights determined by the Convention of Organization of United Nations "On Child's Rights" and other acts of legislation of the Republic of Belarus the child has the right to submit the applications to the body of guardianship and trusteeship, Office of Public Prosecutor, and at reaching the age of 14 can submit the application on protection of his rights and interests to the Court, and also realize the protection of rights and interests through his own representatives.

Pakistan, Juvenile Justice System Ordinance, XXII of 2000

Section 3 – Legal Assistance.

- (1) Every child who is accused of the commission of an offence or is a victim of an offence shall have the right of legal assistance at the expense of the State.

- (2) A legal practitioner appointed by the state for providing legal assistance to a child accused of the commission of an offence, or victim of an offence, shall have at least five years standing at the Bar.

Peru, Law Approving the New Code of Children and Adolescents, 2000, as amended in 2007

Article 146 – Lawyers of Office.

The State, through the Ministry of Justice, indicates the number of public defenders who are responsible for providing full and free legal assistance to children or adolescents in need. In cases of sexual violence against children and teens, free legal assistance to the victim and his family is mandatory.

Article 147 – Beneficiaries.

The children, adolescents, their parents or guardians or any person who is affected by or knows of the violation of the rights of children and adolescents can turn to the ex officio attorney for advice on the legal actions to be taken.

Indonesia, Law No. 23 of 2002 on Child Protection

Article 64.

1. The special protection to be afforded to children who are the victims of criminal offenses as referred to in Section 1 above shall cover the following:
 - a. Rehabilitation efforts of both an institutional and non-institutional nature; ...

Article 23 – Sanctions for Crimes against Children

- (1) The penalties prescribed for any of the acts that are to be established as punishable offenses according to this Law shall be stringent and commensurate with those prescribed for comparably grave offenses.
- (2) The attempt to engage in any of the acts prohibited by this Law shall render the person so attempting subject to punishment under the law.
- (3) Participation in the form of procuring, facilitating, observing, allowing, or otherwise aiding or abetting any of the acts prohibited by this Law shall render a person doing the same subject to punishment under the law.
- (4) Enhanced penalties shall be applied in cases involving aggravated circumstances, including cases in which –
 - (a) The child suffers severe and /or long-lasting physical injury or psychological trauma as a consequence of the offense;
 - (b) The offence deliberately or by gross negligence endangers the life of the child or causes the death or suicide of the child;
 - (c) The child is especially vulnerable to the offense, such as immigrant children, very young children, and children with disabilities;
 - (d) The offense is committed on a regular basis or by an organized group or by a recidivist;

- (e) The offense is committed by a person in a position of trust or authority in relation to the child or a person who is legally responsible for the child, such as a parent, guardian, or care-giver;
- (f) The perpetration of any act prohibited by this Chapter is accomplished by means of threats, violence, other forms of coercion, or by taking advantage of a situation of necessity or other specific vulnerability of the child;
- (g) The offense is transnational in nature;
- (h) Weapons, drugs, or medication are used in the commission of the offence.

Based on:

Optional Protocol to the CRC on the sale of children, child prostitution and pornography, adopted by UN GA resolution 54/263 of May 25, 2000, entered into force Jan. 18, 2002

Article 3.

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:
 - (a) In the context of sale of children as defined in article 2:
 - (i) Offering, delivering or accepting, by whatever means, a child for the purpose of:
 - a. Sexual exploitation of the child;
 - b. Transfer of organs of the child for profit;
 - c. Engagement of the child in forced labour;
 - (ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;
 - (b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;
 - (c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.
2. Subject to the provisions of the national law of a State Party, the same shall apply to an attempt to commit any of the said acts and to complicity or participation in any of the said acts.
3. Each State Party shall make such offences punishable by appropriate penalties that take into account their grave nature.
4. Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article. Subject to the legal principles of the State Party, such liability of legal persons may be criminal, civil or administrative. ...

United Nations Convention against Transnational Organized Crime, adopted by UN GA resolution 55/25 of Nov. 15, 2000, entered into force Sep. 29, 2003

Article 3 – Scope of Application.

2. For the purpose of paragraph 1 of this article, an offence is transnational in nature if:
 - (a) It is committed in more than one State;
 - (b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;

(c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or

(d) It is committed in one State but has substantial effects in another State.

Council of Europe, Convention on Cybercrime, CETS No. 185 of Nov. 23, 2001, entered into force July 1, 2004

Article 11 – Attempt and Aiding or Abetting.

1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with Articles 2 through 10 [offences against the confidentiality, integrity and availability of computer data and systems, computer-related offences, content-related offences including offences related to child pornography, and offences related to infringements of copyright and related rights] of the present Convention with intent that such offence be committed.

2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, an attempt to commit any of the offences established in accordance with Articles 3 through 5, 7, 8, and 9.1.a and c. of this Convention.

Cambodia, Law on Suppression of Human Trafficking and Sexual Exploitation NS/RKM/0208/005, 2008

Article 26 – Procurement of Prostitution.

A person who commits procurement of prostitution shall be punished with imprisonment for 2 to 5 years.

Article 27 – Aggravated Procurement of Prostitution.

A person who commits procurement of prostitution shall be punished with imprisonment for 5 to 10 years:

- 1) when it is committed by a male or female procurer or head of prostitution who is an ascendant, descendant, either legitimate or illegitimate, natural or adoptive, of the prostitute;
- 2) when it is committed by a male or female procurer or head of prostitution who abuses his or her authority over the prostitute;
- 3) when a male or female procurer or head of prostitution uses violence or coercion against the prostitute;
- 4) when the procurement of prostitution is committed by an organized group;
- 5) when the procurement of prostitution is committed by several persons.

Article 29 – Procurement of Prostitution by Torture.

Procurement of prostitution shall be punished with 10 to 20 years when a male or female procurer or head of prostitution committed such offense by recourse to torture or barbarous act on the prostitute.

Article 30 – Management of Prostitution.

A person who, directly or through an intermediary, manages, exploits, operates or finances an establishment of prostitution shall be punished with imprisonment for 2 to 5 years.

Finland, Penal Code, Law No. 39/1889, as amended up to Law No. 650/2003

Chapter 20 – Sex Offences (563/1998).

Section 7 – Aggravated Sexual Abuse of a Child (563/1998).

- (1) If, in the sexual abuse of a child,

- (1) the victim is a child whose age or stage of development are such that the offence is conducive to causing special injury to him/her;
 - (2) the offence is committed in an especially humiliating manner; or
 - (3) the offence is conducive to causing special injury to the child owing to the special trust he/she has put in the offender or the special dependence of the child on the offender, and the offence is aggravated also when assessed as a whole, the offender shall be sentenced for aggravated sexual abuse of a child to imprisonment for at least one year and at most ten years.
- (2) An attempt is punishable.

Germany, Criminal Code, 1998, as amended in July 2009

Section 176a – Aggravated Child Abuse.

- (1) The sexual abuse of children under section 176 (1) and (2) shall entail a sentence of imprisonment of not less than one year if the offender was convicted of such an offence by final judgment within the previous five years.
- (2) The sexual abuse of children under section 176 (1) and (2) shall entail a sentence of imprisonment of not less than two years if
 1. a person over eighteen years of age performs sexual intercourse or similar sexual acts with the child which include a penetration of the body, or allows them to be performed on himself by the child;
 2. the offence is committed jointly by more than one person; or
 3. the offender by the offence places the child in danger of serious injury or substantial impairment of his physical or emotional development. ...
- (5) Whosoever under section 176 (1) to (3) seriously physically abuses the child or places the child in danger of death shall be liable to imprisonment of not less than five years.

Section 176b – Child Abuse Causing Death.

If the offender in cases under section 176 and section 176a causes the death of the child at least by gross negligence the penalty shall be imprisonment for life or not less than ten years.

Article 24 – Right to Full Compensation

- (1) A child who has been victimized by a violation of this Law has the right to be fully compensated for any damages suffered. This shall include fair and adequate compensation for –
 - (a) Moral damages, resulting from physical injury and psychological harm,
 - (b) Material damages, including expended work during the time of exploitation,
 - (c) Lost opportunities of education and vocational training, and
 - (d) Any other costs that the child may incur due to a violation of this Law such as for medical, physical, psychological, or psychiatric treatment, including long-term therapy or rehabilitation, for legal services, housing, and transportation.

- (2) A child whose rights have been violated according to this Law shall have the direct right to enforce her/his claims for compensation in criminal, civil, or administrative procedures.
- (3) The right of the child to full compensation shall not be subject to the statute of limitations when the child seeks compensation for a case involving sexual abuse or sexual exploitation.
- (4) A child victim shall be entitled to full compensation irrespective of her/his nationality and immigration status.
- (5) A child shall be informed about the right to full compensation in a manner and language that the child can understand.

Based on:

Optional Protocol to the CRC on the sale of children, child prostitution and pornography, adopted by UN GA resolution 54/263 of May 25, 2000, entered into force Jan. 18, 2002

Article 7.

States Parties shall, subject to the provisions of their national law:

- (a) Take measures to provide for the seizure and confiscation, as appropriate, of:
 - (i) Goods, such as materials, assets and other instrumentalities used to commit or facilitate offences under the present protocol;
 - (ii) Proceeds derived from such offences;
- (b) Execute requests from another State Party for seizure or confiscation of goods or proceeds referred to in subparagraph (a);
- (c) Take measures aimed at closing, on a temporary or definitive basis, premises used to commit such offences.

Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Adopted and proclaimed by UN General Assembly resolution 60/147 of December 16, 2005, UN Doc. A/RES/60/147 (2005)

20. Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as:

- (a) Physical or mental harm;
- (b) Lost opportunities, including employment, education and social benefits;
- (c) Material damages and loss of earnings, including loss of earning potential;
- (d) Moral damage;
- (e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services.

Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, adopted by UN Economic and Social Council, Resolution 2005/20 of July 22, 2005

XIII – The Right to Reparation.

35. Child victims should, wherever possible, receive reparation in order to achieve full redress, reintegration and recovery. Procedures for obtaining and enforcing reparation should be readily accessible and child-sensitive.
37. Reparation may include restitution from the offender ordered in the criminal court, aid from victim compensation programmes administered by the State and damages ordered to be paid in civil proceedings. Where possible, costs of social and educational reintegration, medical treatment, mental health care and legal services should be addressed. Procedures should be instituted to ensure enforcement of reparation orders and payment of reparation before fines.

UNODC, Justice in Matters involving Child Victims and Witnesses of Crime, Model Law and Related Commentary, New York 2009

Article 29 – Right to Restitution and Compensation.

Option 1. Common law countries

3. Upon conviction of the accused and in addition to any other measure imposed on him or her, the court may, at the request of the prosecutor, the victim, his or her parents or guardian or the victim's lawyer, or on its own motion, order that the offender make restitution or compensation to a child as follows:
- (a) In cases of damage to or loss or destruction of property of a child victim as a result of the commission of the offence or the arrest or attempted arrest of the offender, the court may order the offender to pay to the child or to his or her legal representative the replacement value in the event that the property cannot be returned in full;
- (b) In cases of bodily or psychological harm to a child as a result of the commission of the offence or the arrest or attempted arrest of the offender, the court may order the offender to financially compensate the child for all damages incurred as a result of the harm, including expenses related to social and education reintegration, medical treatment, mental health care and legal services;
- (c) In cases of bodily harm or threat of bodily harm to a child who was a member of the offender's household at the relevant time, the court may order the offender to pay the child compensation for the expenses incurred as a result of moving from the offender's household.]

Option 2. Countries where criminal courts have no jurisdiction in civil claims

3. After delivering the verdict, the court shall inform the child, his or her parents or guardian and the child's lawyer of the right to restitution and compensation in accordance with national law.]

Option 3. Countries where criminal courts have jurisdiction in civil claims

3. The court shall order full restitution or compensation to the child, where appropriate, and inform the child of the possibility of seeking assistance for enforcement of the restitution or compensation order.]

UNODC Model Law against Trafficking in Persons (2009)

Article 28 – Court-Ordered Compensation.

3. The aim of an order for compensation shall be to make reparation to the victim for the injury, loss or damage caused by the offender. An order for compensation may include payment for or towards:
- (a) Costs of medical, physical, psychological or psychiatric treatment required by the victim;

- (b) Costs of physical and occupational therapy or rehabilitation required by the victim;
- (c) Costs of necessary transportation, temporary childcare, temporary housing or the movement of the victim to a place of temporary safe residence;
- (d) Lost income and due wages according to national law and regulations regarding wages;
- (e) Legal fees and other costs or expenses incurred, including costs incurred related to the participation of the victim in the criminal investigation and prosecution process;
- (f) Payment for non-material damages, resulting from moral, physical or psychological injury, emotional distress, pain and suffering suffered by the victim as a result of the crime committed against him or her; and
- (g) Any other costs or losses incurred by the victim as a direct result of being trafficked and reasonably assessed by the court.

Cambodia, Law on Suppression of Human Trafficking and Sexual Exploitation NS/RKM/0208/005, 2008

Article 46 – Restitution of Unjust Enrichment.

A person who obtains enrichment without a legal cause knowing that the enrichment has been obtained from the act of selling/buying or exchanging of human being or sexual exploitation shall be liable for restitution of the whole unjust enrichment along with accrued interests. An aggrieved person (a person being exploited) may claim for damage in addition to the restitution of such unjust enrichment. A person who has made a contract of loan or any other provision to another person for the purpose of committing the act of selling/buying or exchanging of human being or sexual exploitation may not claim for restitution of the provision.

Article 47 – Preference to Confiscated Property.

Victims shall have preference over property confiscated by the state for their compensation and restitution.

United States, Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103-322, 1994, as amended

18 U.S.C. Section 2248 – Mandatory Restitution.

- (b) Scope and Nature of Order. —
 - (1) Directions. – The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court pursuant to paragraph (2).
 - (2) Enforcement. – An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.
 - (3) Definition. – For purposes of this subsection, the term “full amount of the victim’s losses” includes any costs incurred by the victim for –
 - (A) medical services relating to physical, psychiatric, or psychological care;
 - (B) physical and occupational therapy or rehabilitation;
 - (C) necessary transportation, temporary housing, and child care expenses;
 - (D) lost income;
 - (E) attorneys’ fees, plus any costs incurred in obtaining a civil protection order; and
 - (F) any other losses suffered by the victim as a proximate result of the offense.
 - (4) Order mandatory. –
 - (A) The issuance of a restitution order under this section is mandatory.
 - (B) A court may not decline to issue an order under this section because of –

- (i) the economic circumstances of the defendant; or
- (ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

United States, Adam Walsh Child Protection and Safety Act, Pub. L. 109-248, 2006

Section 211 – No Limitation for Prosecution of Felony Sex Offenses.

Chapter 213 of title 18, United States Code, is amended—

(1) by adding at the end the following:

“Section 3299. Child abduction and sex offenses

“Notwithstanding any other law, an indictment may be found or an information instituted at any time without limitation for any offense under section 1201 involving a minor victim, and for any felony under chapter 109A, 110 (except for section 2257 and 2257A), or 117, or section 1591.”;

Article 25 – Forfeiture of Assets

- (1) Anyone who violates a provision of this Law shall forfeit all revenues and assets acquired through such acts and omissions. The possibility of forfeiture of revenues and confiscation of any assets resulting from acts which violate this Law shall be established.
- (2) The state shall disburse forfeited assets in a fund to be used for programs providing for reintegration and rehabilitation measures for child victims according to Article 26 of this Law.

Based on:

Germany, Criminal Code, 1998, as amended until July 4, 2009

Section 184b – Distribution, Acquisition and Possession of Child Pornography.

(6) In cases under subsection (3) above section 73d shall apply.

Section 73d – Extended Confiscation.

(1) If an unlawful act has been committed pursuant to a law which refers to this provision, the court shall also order the confiscation of objects of the principal or secondary participant if the circumstances justify the assumption that these objects were acquired as a result of unlawful acts, or for the purpose of committing them. The 1st sentence shall also apply if the principal or secondary participant does not own or have a right to the object merely because he acquired the object as a result of an unlawful act or for the purpose of committing it. section 73 (2) shall apply mutatis mutandis.

(2) If the confiscation of a particular object has, after the act, become impossible in whole or in part section 73a [confiscation of monetary value] and section 73b [assessment of value] shall apply mutatis mutandis. ...

Namibia, Draft Child Care and Protection Bill, 2009

Section 176 – Worst Forms of Child Labor.

(3) The Minister must take all reasonable steps to assist in ensuring the enforcement of the prohibition on the worst forms of child labour, including steps providing for the confiscation

in terms of the Prevention of Organised Crime Act, 1998 (Act No. 29 of 2004), of assets acquired through the use of such child labour.

United States, Adam Walsh Child Protection and Safety Act, Pub. L. 109-248, 2006, amending 18 U.S.C. 2253-2254

18 U.S.C. Section 2253 – Criminal Forfeiture.

(a) Property Subject to Criminal Forfeiture.

A person who is convicted of an offense under this chapter involving a visual depiction described in section 2251 [Sexual exploitation of children], 2251A [Selling or buying of children], 2252 [Certain activities relating to material involving the sexual exploitation of minors], 2252A [Certain activities relating to material constituting or containing child pornography], or 2260 [Production of sexually explicit depictions of a minor for importation into the United States] of this chapter or who is convicted of an offense under section 2252B [Misleading domain names on the Internet] of this chapter or who is convicted of an offense under chapter 109A [Sexual abuse], shall forfeit to the United States such person's interest in –

- (1) any visual depiction described in section 2251, 2251A, or 2252, 2252A, 2252B, or 2260 of this chapter, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of this chapter;
- (2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and
- (3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense or any property traceable to such property. ...

Section 2254 – Civil Forfeiture.

Any property subject to forfeiture pursuant to section 2253 may be forfeited to the United States in a civil case in accordance with the procedures set forth in chapter 46.

Article 26 – Victim Compensation Fund

If compensation is not fully available from the offender and assets forfeited, the State is responsible for guaranteeing full compensation for the child victim. For this purpose, a victim compensation fund shall be established and it shall be administered by the HCPA. The court shall inform a child victim, her/his parents or guardian, and her/his lawyer about the procedures for claiming compensation.

Based on:

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted and proclaimed by General Assembly resolution 40/34 UN of November 29, 1985, Doc. A/RES/40/34 (1985)

12. When compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to:
- (a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;
 - (b) The family, in particular dependants of persons who have died or become physically or mentally incapacitated as a result of such victimization.
13. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

UNODC, Justice in Matters involving Child Victims and Witnesses of Crime, Model Law and Related Commentary, New York 2009

Article 29 – Right to Restitution and Compensation.

Option if a State victims fund exists:

1. The court shall inform a child victim, his or her parents or guardian and his or her lawyer about the procedures for claiming compensation.
2. A child victim who is not a national shall have to right to claim compensation.

Egypt, Law No. 12 of 1996 Promulgating the Child Law as amended by Law No. 126, 2008

Article 144-bis.

A fund shall be established affiliated to the NCCM, to be named the Childhood and Motherhood Care Fund. The Fund shall have the status of a legal person and a special budget. ...

Article 144-bis (c).

The fund's resources are composed of the following:

- a) The amounts allocated in the national budget for the Fund
 - b) Fines and reconciliation dues related to crimes set forth in this law
 - c) Investment proceeds from the Fund's capital and real estate allocated to the Fund or at its disposition
 - d) Donations, grants, contributions, and trusts which the Board of Directors of the Fund decides to accept. These donations, grants, contributions, and trusts shall be exempted from all types of taxes.
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Chapter 4

Protection of Children in the Family and Community

Article 27 – Family Responsibilities

- (1) The family, which shall include parents, siblings, all extended family members, and guardians, being the fundamental group of society and the natural environment for the growth, well-being, and protection of children, shall be primarily responsible for the care and upbringing of a child. The family shall ensure that children grow up in an atmosphere of happiness, love, and understanding which promotes the development of the child's full potential.
- (2) Parents, other family members, and guardians shall protect the child's life and development and respect the child's dignity, honor, and personality. Methods of upbringing shall value and protect the individuality of the child and the sex, sexual orientation and gender identity, health status and special abilities, and the ethnic, racial, religious, and cultural identity of the child. The views and wishes of the child shall be taken into account in accordance with her/his age and maturity and the child's evolving capacity to form decisions affecting her/his life.
- (3) Parents, other family members, and guardians are responsible for protecting children from all acts and situations that put the child at risk of neglect, abuse, maltreatment, and exploitation.
- (4) Parents, other family members, and guardians shall have the duty to –
 - (a) Provide good guidance, direction, and assistance for the child and prepare her/him for a self-dependent and responsible life in society;
 - (b) Respect and promote the child's right to education, health, and well-being;
 - (c) Defend the rights and interests of the child protected by law; and
 - (d) Ensure that in the temporary absence of a parent, the child shall be cared for by a competent person.

Bases on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Preamble.

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, ...

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,...

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,...

Article 5.

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Ghana, Children's Act, Act 560, 1998***Section 5 – Right to Grow Up with Parents.***

No person shall deny a child the right to live with his parents and family and grow up in a caring and peaceful environment unless it is proved in court that living with his parents would –

- (a) lead to significant harm to the child; or
- (b) subject the child to serious abuse; or
- (c) not be in the best interest of the child.

Kenya, The Children's Act, Act No. 8 of 2001***Section 6 – Right to Parental Care.***

(1) A child shall have a right to live with and to be cared for by his parents.

(2) Subject to subsection (1), where the court or the Director determines in accordance with the law that it is in the best interests of the child to separate him from his parent, the best alternative care available shall be provided for the child.

(3) Where a child is separated from his family without the leave of the court, the Government shall provide assistance for reunification of the child with his family.

Article 28 – State Responsibilities

- (1) The State shall ensure that families have access to forms of support in the care-giving role and inform them about available measures. Parents, other family members, or guardians who are unfit, unwilling, or need help to provide for the child's basic physical, mental, emotional, and social needs, or to exercise appropriate care, shall be afforded the necessary assistance.

- (2) Where the family puts the child at risk of being neglected, abused, maltreated, or exploited or of being exposed to acts of exploitation and abuse, the State shall be responsible for protecting the child and ensuring appropriate alternative care or permanent legal care in accordance with Articles 17 – 20 of this Law. Specifically, the State shall be responsible for protecting children from neglect, abuse, sexual abuse, maltreatment, economic and all other forms of exploitation, by parents, other family members, and guardians.
- (3) Only where the supporting measures available to families under paragraph (1) prove to be insufficient to prevent the child from being neglected, abused, maltreated, or exploited or being in imminent risk thereof, the State shall be responsible to intervene with the measures provided by this Law.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 19.

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, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 36.

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37.

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

Estonia, Republic of Estonia Child Protection Act, RT I 1992, 28, 370, as amended by Act RT I 2004, 27, 180

Section 24 – Support of Families with Children.

- (1) The natural environment for the development and growth of the child is the family. Families with children shall receive protection and support from the state.
- (2) The recording and support of families in need of assistance shall be organised by the social services departments.

Section 27 – Separation of Child from Family.

- (1) The child and his or her parents shall not be separated against their will except if such separation is in the best interests of the child, if the child is endangered and such separation is unavoidable, or if such separation is demanded by law or a judgment which has entered into force.

- (2) If a child is separated from his or her parents, the opinions and wishes of the child shall be heard and annexed to the documentation concerning the separation. The opinions of the child shall be heard and documented by a social services department.
 - (3) The justification for the separation of the child shall be monitored by the social services departments.
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Article 29 – Children Deprived of a Protective Family Environment

- (1) Children deprived of a stable and protective family environment shall be protected from neglect, abuse, maltreatment, and exploitation. This includes children whose parents or guardians cannot be found, are imprisoned or deprived of their liberty in any form, or are dead, and children living without the constant care of their parents or guardian, such as street children, children expelled from home, children who left their parental homes by their own choice, or unaccompanied migrant children.
- (2) These children shall have the right to be placed in alternative care. Article 27 of this Law shall apply to any person exercising temporary care or custody over a child.
- (3) Child protection services shall be provided to children irrespective of their nationality or immigration status.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 9.

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, in accordance with applicable law and procedures, 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.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

Article 20.

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Canada/Northwest Territories, Child and Family Services Act, 1997, as amended in 2007

Section 7 – Child who Needs Protection.

(3) A child needs protection where

- (a) the child has suffered physical harm inflicted by the child's parent or caused by the parent's inability to care and provide for or supervise and protect the child adequately;
- (b) there is a substantial risk that the child will suffer physical harm inflicted by the child's parent or caused by the parent's inability to care and provide for or supervise and protect the child adequately;
- (c) the child has been sexually molested or sexually exploited by the child's parent or by another person in circumstances where the child's parent knew or should have known of the possibility of sexual molestation or sexual exploitation and was unwilling or unable to protect the child;
- (d) there is a substantial risk that the child will be sexually molested or sexually exploited by the child's parent or by another person in circumstances where the child's parent knows or should know of the possibility of sexual molestation or sexual exploitation and is unwilling or unable to protect the child;
- (e) the child has demonstrated severe anxiety, depression, withdrawal, self-destructive behaviour, or aggressive behavior towards others, or any other severe behaviour that is consistent with the child having suffered emotional harm and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the harm;
- (f) there is a substantial risk that the child will suffer emotional harm of the kind described in paragraph (e), and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to prevent the harm;
- (g) the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development, and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the condition;
- (h) the child has been subject to a pattern of neglect that has resulted in physical or emotional harm to the child;
- (i) the child has been subject to a pattern of neglect and there is a substantial risk that the pattern of neglect will result in physical or emotional harm to the child;
- (j) the child has suffered physical or emotional harm caused by being exposed to repeated domestic violence by or towards a parent of the child and the child's parent fails or refuses to obtain services, treatment or healing processes to remedy or alleviate the harm;
- (k) the child has been exposed to repeated domestic violence by or towards a parent of the child and there is a substantial risk that the exposure will result in physical or emotional harm to the child and the child's parent fails or refuses to obtain services, treatment or healing processes to prevent the harm;
- (l) the child's health or emotional or mental well-being has been harmed by the child's use of alcohol, drugs, solvents or similar substances, and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the harm;

- (m) there is a substantial risk that the child's health or emotional or mental well-being will be harmed by the child's use of alcohol, drugs, solvents or similar substances, and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to prevent the harm;
- (n) the child requires medical treatment to cure, prevent or alleviate serious physical harm or serious physical suffering, and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, the treatment;
- (o) the child suffers from malnutrition of a degree that, if not immediately remedied, could seriously impair the child's growth or development or result in permanent injury or death;
- (p) the child has been abandoned by the child's parent without the child's parent having made adequate provision for the child's care or custody and the child's extended family has not made adequate provision for the child's care or custody;
- (q) the child's parents have died without making adequate provision for the child's care or custody and the child's extended family has not made adequate provision for the child's care or custody;
- (r) the child's parent is unavailable or unable or unwilling to properly care for the child and the child's extended family has not made adequate provision for the child's care or custody; or
- (s) the child is less than 12 years of age and has killed or seriously injured another person or has persisted in injuring others or causing damage to the property of others, and services, treatment or healing processes are necessary to prevent a recurrence, and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, the services, treatment or healing processes.

Norway, The Child Welfare Act, Act No. 100 of July 17, 1992, as amended by Act No. 45 of June 19, 2009

Section 4-4 – Assistance for Children and Families with Children.

The child welfare service shall contribute to provide the individual child with sound circumstances and opportunities for development by providing advice, guidance and assistance.

The child welfare service shall, when the child due to conditions at home or for other reasons is in particular need of assistance, initiate measures to assist the child and the family, e.g. by appointing a personal support contact, by ensuring that the child is given a place at a kindergarten, or by providing a respite home or respite measures at home or a stay in a centre for parents and children or other parental support measures. The child welfare service shall similarly seek to initiate measures designed to encourage the child to take part in leisure activities, or contribute to ensuring that the child is offered training or employment, or an opportunity to live away from home. Furthermore, the child welfare service may place the home under supervision by appointing a supervisor for the child.

The child welfare service may also provide assistance for the child in the form of financial support.

The county social welfare board may if necessary decide that measures such as a place at a kindergarten or other suitable day-care facilities shall be implemented by issuing the parents with an order to this effect. The county social welfare board may issue a supervision order when the conditions of section 4-12 are satisfied. In the case of children who have shown serious behavioural problems, cf. section 4-24, first paragraph, or who are developing such serious behavioural problems, the county social welfare board may decide that parental support measures aimed at reducing the child's behavioural problems may be implemented without the child's consent. Such parental support measures may also be implemented without the child's consent when the measures are carried out as part of the final stage of a stay in an institution pursuant to section 4-24. Parental support measures implemented without the child's consent may not be maintained for more than six months after the decision was made by the county social welfare board.

When the conditions in the second paragraph are satisfied, and provided the needs cannot be met by other assistance measures, the child welfare service may also arrange for a place in a foster home, an institution or a care centre for minors. However, if it must be assumed that the parents will be unable to take proper care of the child for an extended period, consideration should be given to deciding immediately that the child welfare service shall take the child into care pursuant to section 4-12, first paragraph, rather than prescribe voluntary placement pursuant to this section.

Section 4-5 – Follow-Up of Assistance.

When a decision is made to provide assistance measures, the child welfare service shall draw up a time-limited plan of measures. The child welfare service shall closely monitor the progress of the child and the parents, and assess whether the assistance provided is appropriate, and if relevant whether new measures are necessary, or whether there are grounds for taking the child into care. The plan of measures shall be evaluated on a regular basis.

Section 4-6 – Interim Orders in Emergencies.

If a child is without care because the parents are ill or for other reasons, the child welfare service shall implement such assistance as is immediately required. Such measures may not be maintained against the will of the parents.

If there is a risk that a child will suffer material harm by remaining at home, the head of the child welfare administration or the prosecuting authority may immediately make an interim care order without the consent of the parents. ...

Article 30 – School and Vocational Training

- (1) It shall be prohibited to deprive a child of her/his right to education.
- (2) The HCPA and CPCs shall cooperate with the educational institutions to develop curricula that promote the harmonious physical, mental, emotional, and social development of the child to achieve her/his full potential through –
 - (a) An education based upon the individual child’s interests and talents, which includes the creation of special conditions for the advancement of children with disabilities and children with unusual talents or outstanding abilities;
 - (b) An education which creates favorable conditions for the development of the child’s personality and prepares her/him to lead a responsible life; and
 - (c) An education which develops respect for human rights and fundamental freedoms, for the child her/himself and for others, and for the natural environment.
- (3) Children attending school, other educational or vocational facilities, kindergarten or nursery shall be protected against physical, mental, and emotional maltreatment, sexual abuse, violence, humiliation, and exploitation from school and school-related personnel and schoolmates. In particular –
 - (a) All school and school-related personnel may not use corporal punishment in violation of Article 31 of this Law and methods of maintaining discipline and order shall be based on a sense of mutual respect and justice;

- (b) Instruction shall not promote hate, violence, intolerance, or discrimination;
 - (c) All school and school-related personnel shall obviate hostile and unfriendly relations between schoolmates and any other condition which may hinder a child's ability to fully participate in the school or vocational training institution and to develop her/his specific talents; and
 - (d) A child shall not be forced or allowed to engage in any activity that is dangerous to her/his personal safety or health.
- (4) The principles established under this Article shall also apply to institutions of private education.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 28.

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
 - (d) Make educational and vocational information and guidance available and accessible to all children;
 - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29.

1. States Parties agree that the education of the child shall be directed to:
 - (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
 - (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the

country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State. China, Law of the People's Republic of China on the Protection of Minors, 1992

Article 13.

Schools shall comprehensively implement the State policy for education and conduct moral, intellectual, physical, aesthetic and labour education among the minor students, and give them guidance in social life as well as education in puberty knowledge.

Schools shall show concern for and take good care of the minor students; with respect to those who have shortcomings in conduct or difficulties in study, schools shall give patient education and help, and may not discriminate against them.

Article 15.

Teaching and administrative staff in schools and kindergartens shall respect the personal dignity of the minors, and may not enforce corporal punishment or corporal punishment in disguised forms, or any other act that humiliates the personal dignity of the minors.

Article 16.

Schools may not let the minor students engage in any activity in school buildings or in any other educational and teaching facilities that are dangerous to their personal safety and health.

No organization or individual may disrupt the order of teaching in schools, occupy or damage school ground, housing and installations.

Article 19.

Kindergartens shall do a good job in nursing care and education so as to promote the harmonious development of the children in physique, intellectual ability and moral values.

Article 36.

The State shall protect according to law the intellectual achievements and the right of honour of minors from encroachment.

For minors who have shown unusual talent or made outstanding achievements, the State, society, families and schools shall create conditions favourable to their sound development.

Estonia, Republic of Estonia Child Protection Act, RT I 1992, 28, 370, as amended by Act RT I 2004, 27, 180

Section 39 – Right of Child to Education.

Every child has the right to an education which develops the child's mental and physical abilities and forms a healthy personality, including:

1. develops respect for the child's parents, fellow human beings, himself or herself and all living things;
2. develops respect for the child's native language, the Estonian national culture and other languages and cultures;

3. prepares the child for responsible life in a free society in the spirit of tolerance, equality and respect for human rights;
4. teaches the child to protect nature, the environment and his or her health.

Section 40 – Freedom of Study.

- (1) Instruction shall not involve physical violence or mental abuse.
- (2) Instruction shall not be ideologically biased or promote hate or violence.

Indonesia, Law on Child Protection, No. 23 of 2002

Article 9.

- (1) Every child shall have the right to an education and training in the context of his personal and intellectual development based upon his interests and talents.
- (2) Every child, as referred to in section (1) above, particularly disabled children and gifted children, shall be entitled to receive special-needs education.

Article 50.

Education as referred to in Article 48 herein shall be focused on the following objectives:

- a. Developing the behavior, personal capacities, talents, and intellectual and physical capabilities of the child so that he may achieve his full potential;
- b. Developing respect for human rights and freedoms;
- c. Developing respect for elders, cultural identity, language and values, the national values of the place where the child lives and the place where he originated, and respect for cultures that are different from his own;
- d. Preparing the child to lead a responsible life; and
- e. Developing a sense of respect and love for the environment.

Article 52.

A gifted child shall be given the opportunity to receive and have access to a special education.

Article 53.

- (1) The government shall be responsible for providing free education, or assistance, or special services to children from families of limited means, neglected and/or abandoned children, and children who live in remote areas.
- (2) The responsibility of the government as referred to in Section (1) shall also include encouraging the community to be actively involved.

Article 54.

Children attending school must be protected against violence and abuse from teachers, school managers, and schoolmates both in schools and in other educational institutions.

Lithuania, Law on Fundamentals of Protection of the Rights of the Child, Act No. I-1234, 1996

Article 34 – General Provisions of Rights of the Child to Education.

1. The child shall have the right to an education, which would develop his general cultural knowledge, intellect, abilities, views, moral and social responsibility, and would create conditions for development of his personality.
2. Every child must be assured the opportunities of learning to respect his parents, educators, teachers, other people, his native language, the state language and culture and other languages and cultures and nature, of preparing for an independent existence and work and of becoming a useful member of society.

Article 36 – Development of Talent and Abilities of the Child.

Every child shall have the right to the support of educational and other state institutions in unfolding and developing his talents and abilities. For this purpose the State and its corresponding institutions shall:

- 1) create the necessary conditions and grant all children equal opportunities to unfold and develop their talents;
- 2) establish personal and increased grants for very gifted (talented) children and encourage and support them by other means;
- 3) encourage international co-operation within this realm.

Philippines, The Child and Youth Welfare Code, Presidential Decree No. 603, 1974**Article 3 – Rights of the Child.**

- (6) Every child has the right to an education commensurate with his abilities and to the development of his skills for the improvement of his capacity for service to himself and to his fellowmen.

Article 75 – School Plants and Facilities.

Local school officials and local government officials shall see to it that school children and students are provided with adequate schoolrooms and facilities including playground, space, and facilities for sports and physical development activities. Such officials should see to it that the school environment is free from hazards to the health and safety of the students and that there are adequate safety measures for any emergencies such as accessible exits, firefighting equipment, and the like. All children shall have the free access to adequate dental and medical services.

Turkmenistan, Law on the Guarantees of the Rights of the Child, 2002**Article 13 – Right to Education.**

Every child has the right to education that shall promote his or her cultural and intellectual development, abilities, form his or her convictions, moral and social commitments.

Article 31 – Prohibition of Corporal Punishment

- (1) It shall be prohibited to subject a child to torture or other cruel, inhuman, or degrading treatment or punishment.
- (2) Corporal punishment and disciplinary measures that weaken the child's dignity, including all forms of physical and mental violence, and other behavior likely to humiliate the child, shall be prohibited. All disciplinary measures shall be reasonable and proportionate according to the age, physical and mental conditions, and maturity of the child.
- (3) The HCPA, in cooperation with the CPCs, shall ensure the promulgation of –
 - (a) Education and awareness-raising programs concerning the deleterious effects of corporal punishment; and
 - (b) Programs and parental training promoting non-violent ways of discipline at home and in schools.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 19.

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, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 37.

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

Costa Rica, Code of Children and Adolescents, No. 7739, 1998, as amended by Law No. 8654, 2008

Article 24 bis.

Paragraph one: Children and adolescents have a right to receive counseling, education, care and discipline from their mother, father or tutor, as well as from their caretakers or the personnel from educational and health centers, shelters, youth detention or any other type of centers, that in no way represents an authorization of any sort to these parties for the use of corporal punishment or degrading treatment.

Ghana, Act 560, Children's Act, 1998

Section 13 – Protection from Torture and Degrading Treatment.

- (1) No person shall subject a child to torture or other cruel, inhuman or degrading treatment or punishment including any cultural practice which dehumanizes or is injurious to the physical and mental well-being of a child.
- (2) No correction of a child is justifiable which is unreasonable in kind or in degree according to the age, physical and mental condition of the child and no correction is justifiable if the child by reason of tender age or otherwise is incapable of understanding the purpose of the correction.

Liechtenstein, The Children and Youth Act, 2008

Article 3.

- (1) Children and young people have the rights outlined in the Convention on the Rights of the Child and to the following measures:
 - a. Protection notably against discrimination, neglect, violence, abuse and sexual abuse
 - b. Education/upbringing without violence: corporal punishment, psychological harm and other degrading treatment are not accepted
 - c. Participation in social, political, economic and cultural situations concerning them
 - d. Being heard, expressing their opinions according to their maturity and age, in particular in dealings with Court and administration
 - e. Their best interests will be given priority

Namibia, Draft Child Care and Protection Bill, 2009

Section 174 – Corporal Punishment.

(1) A person who has control of a child, including a person who has parental responsibilities and rights in respect of the child, must respect the child’s right to physical integrity as conferred by section 12(1)(c), (d) and (e) of the Constitution.

(3) A person may not administer corporal punishment to a child at any place of safety, shelter, children’s home, place of care or an educational and vocational centre.

(4) The minister responsible for education must take all reasonable steps to ensure that –

- (a) education and awareness-raising programmes concerning the effect of subsections (1), (2) and (3) are implemented across the country; and
- (b) programmes promoting appropriate discipline at home and at school are available across the country.

Sierra Leone, The Child Right Act, 2007

Section 33 – Protection from Torture and Degrading Punishment.

(1) No person shall subject a child to torture or other cruel, inhuman or degrading treatment or punishment including any cultural practice which dehumanises or is injurious to the physical and mental welfare of a child.

(2) No correction of a child is justifiable which is unreasonable in kind or in degree according to the age, physical and mental condition of the child and no correction is justifiable if the child by reason of tender age or otherwise is incapable of understanding the purpose of the correction.

(3) The Corporal Punishment Act is repealed.

Tunisia, Law n. 40 of 2010 of July 26, 2010, modifying the dispositions of article 319 of the penal code

Single Article.

The expression “However, the correcting of a child by persons having in authority over him is not punishable” mentioned in Article 319 of the Penal Code is repealed.

Article 32 – Protection of the Right to Privacy

- (1) The child’s right to privacy shall be protected from malicious, arbitrary, or unlawful interference which is likely to harm the child’s dignity, honor, or reputation.
- (2) Privacy shall include the child’s right to maintain opinions, beliefs, and a religion without the undue influence of others, including parents or guardians. The child’s written and oral correspondence, school records, and her/his medical records and health-status shall remain confidential unless disclosure of such information is in the best interests of the child.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 16.

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Belarus, On Child's Rights, Act No. 2570-XII of Nov. 19, 1993

Article 28 – Right to Protection from Illegal Interference to Private Life, Infringement of Correspondence Privacy.

Every child has the right to protection from illegal interference to his private life including the infringement of correspondence privacy, telephonic and other communication

China, Law of the People's Republic of China on the Protection of Minors, 1992

Article 30.

No organization or individual may disclose the personal secrets of minors.

Article 31.

No organization or individual may conceal, destroy or discard mail of any minor. Except when the inspection of mail in accordance with legal procedures by the public security organs or the people's procuratorates is necessary for the investigation of a criminal offence, or when the opening of mail of a minor without capacity is done on his or her behalf by the parents or other guardians, no organization or individual may open mail of any minor.

Estonia, Republic of Estonia Child Protection Act, RT I 1992, 28, 370, as amended by Act RT I 2004, 27, 180

Section 13 – Right of Child to Privacy.

- (1) Every child has the right to privacy, acquaintances and friends.
- (2) The right of the child to privacy shall not be subjected to arbitrary or unlawful interference which harms the child's honor, dignity, convictions or reputation.
- (3) Repeated blatant interference in the privacy of the child may provide grounds for administrative or disciplinary measures or for the deprivation of parental rights.

Lithuania, Law on Fundamentals of Protection of the Rights of the Child, Act No. I-1234, 1996

Section 10 – Right of the Child to Personal Life, Personal Inviolability and Freedom.

1. The child shall have a right to personal life, associations, privacy in correspondence, personal inviolability and freedom. These rights and freedoms shall be protected and defended by the Constitution of the Republic of Lithuania, this Law and other laws and legal acts. ...

Thailand, Child Protection Act, 2003

Article 27.

It is forbidden for anyone to advertise or disseminate by means of the media or any other kind of information technology any information on a child or the child's guardian, with the intention of causing damage to the mind, reputation, prestige or any other interests of the child or seeking benefit for oneself or others in an unlawful manner.

Turkmenistan, Law on the Guarantees of the Rights of the Child, 2002

Article 10 – Right to Private Life.

The right of the child to private life shall not be violated by forceful or illegal interference offending his or her honour, dignity, affections and good name of the child.

Article 33 – Leisure and Play

- (1) The child's right to leisure, recreation, and play, appropriate to her/his age, physical and mental development shall be protected. The child's participation in sports, cultural events, art, and other leisure activities shall be promoted.
- (2) Any forced or harmful involvement of children in political or religious activities, in social, cultural, and sporting events, and in contests in which the child's appearance is evaluated shall be prohibited. Details shall be regulated by law / regulation.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 31.

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Bulgaria, Child Protection Act, 2002, as amended in 2005

Article 11.

- (1) Every child has a right to protection against involvement in activities that are harmful to his or her physical, mental, moral and educational development.
- (4) Every child has a right to protection against forcible involvement in political, religious and trade union activities.

Iceland, Child Protection Act, Act No. 80 of 2002

Article 93 – Monitoring of Shows and Social Events.

A child protection committee shall, as it deems necessary, monitor theatrical performances, public shows and social events intended for children. ... If the committee believes that the social event is in some manner harmful to children, it may prohibit access to children under a specified age. Those who organise the events shall, at their own expense, state the age limit in advertisements, and be responsible for the prohibition being observed.

Those who organise or are responsible for modelling and beauty contests, and other similar contests with participants under the age of 18, must notify the Government Agency for Child Protection of the event. The Minister may issue further rules on participation in such events by children, on receipt of proposals from the Government Agency for Child Protection.

Children aged under 18 may not participate in nude shows or other shows of a sexual nature. Organisers of such shows are responsible for ensuring that the age limit is observed.

Kenya, The Children's Act, Act No. 8 of 2001

Section 17 – Leisure and Recreation.

A child shall be entitled to leisure, play and participation in cultural and artistic activities.

Latvia, Protection of the Rights of the Child Law, 1998

Section 50.1 – Restrictions on Involvement of the Child in Events.

It is prohibited to involve a child in events (contests, modelling agency work and the like), in which their outer appearance is evaluated.

Article 34 – Harmful Customary Practices

- (1) A child shall be protected against any social, cultural, ritual, or traditional practice that is harmful to the safety, health, development, or well-being of the child.
- (2) In particular, customs and practices discriminatory to the child on the grounds of sex or other status in violation of Article 4 (3) of this Law shall be prohibited.
- (3) The performance of all forms of female genital mutilation and the participation in or facilitation of it shall be prohibited and established as a punishable offense irrespective of whether or not consent has been given and whether or not it is performed by medical personnel.
- (4) A minimum age for marriage shall be established by law. Child marriage, including executing the marriage contract, giving away a child in marriage, and brokering or otherwise facilitating the marriage shall be established as a punishable offense. The prescribed penalties shall be stringent and commensurate with those prescribed for comparably grave offenses.
- (5) Every child who underwent such harmful customary practices shall have access to the measures available under Chapter 3.
- (6) Research and prevention activities conducted in accordance with Article 7 of this Law shall involve organizations at the community level to develop awareness-raising and training programs aimed at ending the performance of harmful customary practices and at providing healthy and positive alternatives to replace these practices.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 24.

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) To diminish infant and child mortality;
 - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
 - (d) To ensure appropriate pre-natal and post-natal health care for mothers;

- (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
 - (f) To develop preventive health care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
 4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Convention on Consent to Marriage, Minimum age for Marriage and Registration of Marriages, adopted by UN GA resolution 1763 A of Nov. 7, 1962, entered into force Dec. 9, 1964

Article 2.

States Parties to the present Convention shall take legislative action to specify a minimum age for marriage. No marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses.

African Union, African Charter on the Rights and Welfare of the Child, 1990, entered into force Nov. 29, 1999

Article 21 – Protection against Harmful Social and Cultural Practices.

1. States Parties to the present Charter shall take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular:
 - (a) those customs and practices prejudicial to the health or life of the child; and
 - (b) those customs and practices discriminatory to the child on the grounds of sex or other status.
2. Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.

China, Law of the People’s Republic of China on the protection of minors, 1992

Article 8.

... Infanticide and infant-abandoning shall be forbidden.

Article 11.

The parents or other guardians of minors may not permit of force the minors to marry, nor may they undertake an engagement for the minors.

Ghana, Children’s Act, Act 560, 1998

Section 13 – Protection from Torture and Degrading Treatment.

- (1) No person shall subject a child to torture or other cruel, inhuman or degrading treatment or punishment including any cultural practice which dehumanises or is injurious to the physical and mental well-being of a child.

Section 14 – Right to Refuse Betrothal and Marriage.

- (1) No person shall force a child –
 - (a) to be betrothed;

- (b) to be the subject of a dowry transaction; or
- (c) to be married.

(2) The minimum age of marriage of whatever kind shall be eighteen years.

Indonesia, Law on Child Protection, No. 23 of 2002

Article 26.

- (1) Parents shall be responsible and accountable for:
- c. Preventing underage marriages.

Kenya, The Children's Act, Act No. 8 of 2001,

Section 14 – Protection from Harmful Cultural Rites, etc.

No person shall subject a child to female circumcision, early marriage or other cultural rites, customs or traditional practices that are likely to negatively affect the child's life, health, social welfare, dignity or physical or psychological development.

Sierra Leone, The Child Right Act, 2007

Section 34 – Minimum Age of Marriage and Right to Refuse Betrothal or Marriage.

- (1) The minimum age of marriage of whatever kind shall be eighteen years.
- (2) No person shall force a child –
- (a) to be betrothed;
 - (b) to be the subject of a dowry transaction; or
 - (c) to be married.
- (3) Notwithstanding any law to the contrary, no certificate, licence or registration shall be granted in respect of any marriage unless the registrar or other responsible officer is satisfied that the parties to the marriage are of the age of maturity.

Section 46 – Customary Practices Prohibited for Child.

- (1) Subject to subsection (1) of section 34, no person or association shall subject a child to any of the following customary practices: –
- (a) early marriage;
 - (b) child betrothal.

South Africa, Children's Act, Law No. 38 of 2005

Section 12 – Social, Cultural and Religious Practices.

- (1) Every child has the right not to be subjected to social, cultural and religious practices which are detrimental to his or her well-being.
- (2) A child –
- (a) below the minimum age set by law for a valid marriage may not be given out in marriage or engagement; and
 - (b) above that minimum age may not be given out in marriage or engagement without his or her consent.
- (3) Genital mutilation or the circumcision of female children is prohibited.
- (4) Virginity testing of children under the age of 16 is prohibited.
- (5) Virginity testing of children older than 16 may only be performed –
- (a) if the child has given consent to the testing in the prescribed manner;
 - (b) after proper counseling of the child; and
 - (c) in the manner prescribed.

- (6) The results of a virginity test may not be disclosed without the consent of the child.
- (7) The body of a child who has undergone virginity testing may not be marked.
- (8) Circumcision of male children under the age of 16 is prohibited, except when –
 - (a) circumcision is performed for religious purposes in accordance with the practices of the religion concerned and in the manner prescribed; or
 - (b) circumcision is performed for medical reasons on the recommendation of a medical practitioner.
- (9) Circumcision of male children older than 16 may only be performed –
 - (a) if the child has given consent to the circumcision in the prescribed manner;
 - (b) after proper counseling of the child; and
 - (c) in the manner prescribed.
- (10) Taking into consideration the child's age, maturity and stage of development, every male child has the right to refuse circumcision.

Uganda, The Children Act, 1997

Section 7 – Harmful Customary Practices.

It shall be unlawful to subject a child to social or customary practices that are harmful to the child's health.

Article 35 – Health

- (1) The physical, mental, and emotional health of children shall be protected. Access to health, medical assistance, care, information, and treatment shall be guaranteed.
- (2) Parents and guardians shall not be allowed to intentionally refuse any required preventive or necessary medical exam and treatment for their child regardless of their religious and moral beliefs. A list of the required preventive or necessary medical exams and treatments shall be created by the HCPA and it shall at a minimum include the recommended immunizations and any essential medical, surgical, or other remedial treatment that is necessary to prevent serious harm to the health of the child.
- (3) In case of such refusal, a court may order the parents or guardians to provide the child with the required treatment. The court shall also be competent to order the child to be removed from the parents' or guardian's home and to be provided with the required treatment.
- (4) The State shall make the exams and treatments required under paragraph (2) accessible and available to all children.
- (5) Without prejudice to the progress of science, any type of scientific experimentation that is detrimental to the child's life, health, or personal development shall be prohibited even if the child and/or her/his parents or guardians consent to the procedure.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 24.

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) To diminish infant and child mortality;
 - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
 - (d) To ensure appropriate pre-natal and post-natal health care for mothers;
 - (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
 - (f) To develop preventive health care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Canada/Alberta, Child, Youth and Family Enhancement Act, Chapter C-12, Revised Statutes of Alberta 2000, as amended

Section 1.

- (2.1) For the purposes of subsection (2)(c), a child is neglected if the guardian
- a) is unable or unwilling to provide the child with the necessities of life,
 - b) is unable or unwilling to obtain for the child, or to permit the child to receive, essential medical, surgical or other remedial treatment that is necessary for the health or well being of the child, or
 - c) is unable or unwilling to provide the child with adequate care or supervision.

Congo, Democratic Republic, Law No. 09/001 of January 10, 2009 Regarding the Protection of Children

Article 196.

Any parent, guardian or legal guardian who willfully refuses to provide their child with medical care, especially preventive vaccinations, is punishable by imprisonment for up to five days and a fine of fifty thousand Congolese francs, or one of these penalties.

Lithuania, Law on Fundamentals of Protection of the Rights of the Child, Act No. I-1234, 1996

Article 7 – Right of the Child to Life and Growth.

2. All types of scientific experimentation or other experimentation involving a child, that may be detrimental to his life, health, or normal personal development, shall be prohibited. This prohibition shall also apply even in the presence of an agreement by the child, his parents or other legal representatives of the child.

Article 36 – Narcotic Drugs and Other Harmful Substances

- (1) Children shall be protected from the use of narcotic drugs, alcohol, tobacco products, toxics, psychotropic substances, and other substances that are declared harmful by the HCPA.
- (2) The use or engagement of children in the production, distribution, or trafficking of such substances, and the bringing of a child to places where such substances are sold, shall be prohibited.
- (3) Prevention and training activities carried out in accordance with Article 7 of this Law shall include programs advocating a healthy way of living and discouraging any kind of substance abuse.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 33.

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Jamaica, Child Care and Protection Act, 2004

Section 40 – Prohibition of Sale of Intoxicating Liquor.

- (1) An owner or operator of an establishment that sells or serves intoxicating liquor or tobacco products shall ensure that –
 - (a) no intoxicating liquor or tobacco products is sold or served by the establishment to any child; and
 - (b) no child is employed by the establishment to sell or assist in the selling of intoxicating liquor or tobacco products.
- (2) A person commits an offence if that person –
 - (a) contravenes subsection (1);
 - (b) employs a child to sell or assist in selling intoxicating liquor or tobacco products; or
 - (c) purchases intoxicating liquor or tobacco products from a child:

Provided that no person shall be guilty of an offence under this section if he proves to the satisfaction of the court that at the time of sale, or purchase in the case of paragraph (c), he took all reasonable steps to ascertain, and reasonably believed, that the person employed, or the person to or by whom, the intoxicating liquor or tobacco product was sold or served, as the case may require, was not a child.

(3) In this section, "tobacco product" means cigarettes, cigars, cheroots or cigarillos.

Latvia, Protection of the Rights of the Child Law, 1998

Section 48 – Protection of the Child from Smoking and the Influence of Alcoholic Beverages.

- (1) A child shall be protected from smoking and the influence of alcoholic beverages.
- (2) A negative attitude towards smoking and the use of alcoholic beverages shall be instilled in a child. A child shall not be permitted to work at jobs that are associated with alcoholic beverage or tobacco product manufacturing, sale or advertising.
- (3) In accordance with the Law On Restrictions Regarding Manufacture, Sale, Advertising and Smoking of Tobacco Products, and the Trade in Alcohol Law, alcoholic beverages and tobacco products shall not be sold to a child.
- (4) For inducing a child to drink alcoholic beverages, persons at fault shall be held liable as prescribed by law.
- (5) A child who has become ill as a result of excessive use of alcoholic beverages, shall be ensured mandatory medical treatment and reintegration into society. Resources shall be allocated in the State budget for this.

Section 49 – Protection of the Child from the Use of Narcotic, Toxic and Other Intoxicating Substances.

- (1) A child shall be protected from the use of narcotic, toxic and other such intoxicating substances as have a negative influence on the organism and from the manufacture, sale and any form of distribution of such substances.
- (2) For encouraging a child to use narcotic, toxic or other intoxicating substances or inducing the child to use or distribute such, persons at fault shall be held liable as prescribed by law.
- (3) A child who has become dependent on narcotic, toxic or other intoxicating substances shall be ensured mandatory special medical treatment and reintegration into society. Resources shall be allocated in the State budget for this.

Myanmar, The Child Law, 9/1993

Section 30.

Every child shall abide by the following ethics and discipline, according to his age: -

- (f) abstaining from taking alcohol, smoking, using narcotic drugs or psychotropic substances, gambling and other acts which tend to affect the moral character .

Section 65.

Whoever commits any of the following acts shall, on conviction be punished with imprisonment for a term which may extend to 6 months or with fine which may extend to kyats 1000 or with both: -

- (b) taking a child to or allowing him to enter a place where only alcohol is sold; sending the child to buy alcohol, selling alcohol to the child, permitting the child to take alcohol, employing or permitting the child to work in the business which trades in alcohol; ...

Rwanda, Law Relating to Rights and Protection of the Child Against Violence, Law No. 27 of 2001

Article 42.

Whoever gives illicit drugs to a child or uses him/her in illicit drugs or arms trafficking or in fraudulent practices, shall be sentenced to imprisonment of between five years and twenty five years and pay a fine of between one hundred thousand and five hundred thousand francs.

Thailand, Child Protection Act, 2003

Article 26.

Under the provisions of other laws, regardless of a child's consent, a person is forbidden to act as follows:

- (10) Sell, exchange or give away liquor or cigarettes to a child, other than for medical purposes.

Article 45.

A child is forbidden to purchase or consume liquor or cigarettes, or enter a place which has the particular purpose of selling or permitting the consumption of liquor or cigarettes. In case of violation, a competent official shall question the child with a view to obtaining information about the child and issue a letter summoning the child's guardian to meet and consult on admonishing, putting the child under bond of good behaviour, or producing a joint agreement concerning procedures and a timeframe for arranging for the child to undertake social service or public utility work, or imposing any other conditions to rectify the situation or prevent the child from repeating the offence. ...

Turkmenistan, Law on the Guarantees of the Rights of the Child, 2002

Article 28 – Protection of the Child from Illicit Use of Narcotic Drugs and Psychotropic Substances.

1. The State shall take all appropriate measures to advocate healthy way of living and protect the child from illicit use of narcotic drugs and psychotropic substances and shall oppose illicit narcotic drugs and psychotropic substances circulation.
2. The State shall ensure the drug-abused with medical assistance.
3. Engagement of children into production, circulation, distribution and use of narcotic drugs and psychotropic substances shall be considered as criminal in accordance with the legislature of Turkmenistan.

Vietnam, Law on Child Protection, Care and Education, Law No. 25/2004/QH11 of June 15, 2004

Article 7 – Prohibited Acts.

The following acts are strictly prohibited:

3. Seducing, deceiving, forcing children to illegally buy, sell, transport, store and/or use drugs; enticing children to gamble; selling to children or letting them use liquors, beers, cigarettes or other stimulants harmful to their health; ...

Article 57 – Children Addicted to Narcotics.

1. Agencies and organizations involved in drug prevention and combat activities have to organize detoxification for addicted children at home or detoxification establishments exclusively for addicted children according to the provisions of the Law on Drug Prevention and Combat.
2. Detoxification establishments have the responsibility to create conditions for addicted children to take part in healthy and beneficial activities and make arrangement for them to stay in separate areas.
3. Addicted children being detoxified at compulsory detoxification establishments are not considered children subject to the handling of administrative violations.

Zambia, Chapter 53 of the Laws of Zambia, The Juveniles Act 1956

Section 51 – Giving Intoxicating or Spirituous Liquor to Children.

If any person gives or causes to be given –

- (a) to any child under the age of five years any intoxicating liquor;

- (b) without the consent of his parent or guardian, to any child over the age of five years any intoxicating liquor;
 - (c) to any child any spirituous liquor; except upon the order of a duly qualified medical practitioner, or in the case of sickness, apprehended sickness or other urgent cause, he shall be guilty of an offence and liable to a fine not exceeding one hundred and fifty penalty units.
-

Article 37 – Public Locations and Entertainment Events

- (1) The circumstances and times at which children may be present in restaurants, bars, movie theaters, and similar public locations, when the presence may be harmful to children's safety, health, development, or well-being, for example, during night hours, shall be regulated by law / regulation.
- (2) Children shall not be allowed to access night clubs and comparable entertainment establishments, gambling rooms and other gambling facilities, including online gambling, which may be harmful to children's safety, health, development, or well-being. Participation in public lotteries shall be restricted to fun-fairs, folklore festivals, community carnivals, and comparable events.
- (3) The competent CPC may impose on an operator of a public event the requirement to restrict access for children in general, or for children below a certain age, if the event has the potential to negatively impact the physical, mental, or emotional well-being of children.

Based on:

Germany, Protection of Young Persons Act 2002, as amended in October 2008

Section 4 – Restaurants.

- (1) Children and Adolescents below the age of 16 years shall not be present in a restaurant unless they are accompanied by a Custodial Person or a Person with Parental Power or for one meal or drink between 5 a.m. and 11 p.m. Adolescents as of the age of 16 years shall not be present in a restaurant between midnight and 5 a.m. unless they are accompanied by a Custodial Person or a Person with Parental Power.
- (2) Sub-Clause 1 shall not apply to Children or Adolescents who are travelling or who attend an event sponsored by a youth welfare body.
- (3) Children and Adolescents must not be permitted to be present in restaurants of night club nature or in comparable entertainment establishments.
- (4) Exceptional permits regarding Sub-Clause 1 may be granted by the applicable authority.

Section 5 – Dances.

- (1) Children as well as Adolescents below the age of 16 years must not be permitted to attend public dance events unless they are accompanied by a Custodial Person or Person with Parental Power. The time limit for Adolescents as of 16 years of age shall be midnight.
- (2) Presence of Children until 10 p.m. and of Adolescents below the age of 16 until midnight may be permissible for dance events sponsored by a youth welfare body or for artistic participation or folklore programmes.

(3) Exceptional permits may be granted by the applicable authority.

Section 6 – Gambling Rooms, Games of Chance.

(1) Children and Adolescents must not be permitted to be present in gambling rooms or comparable gambling facilities.

(2) Participation of Children and Adolescents in games with prizes run in the public shall be restricted to fun-fairs, folklore festivals and comparable events under the condition of low-value prizes in kind.

Section 7 – Events or Premises of Undesirable Impact on Young People.

Operators of public or company-related events with a potential of undesirable impact on the physical, spiritual or psychic wellbeing of Children or Adolescents may be ordered by the applicable authority to prevent Children and Adolescents from presence and/or participation. Such public orders may be qualified by age or time limits or other provisions to rule out or minimise the risk.

Section 8 – Places with Undesirable Impact on Young People.

If a Child or Adolescent is present at a place at which she/he may be exposed to a direct risk for her/his physical, spiritual or psychic wellbeing, the applicable authority shall take all measures necessary to avert the risk. The following measures may have to be taken:

1. The Child or Adolescent may be asked to leave the place.
2. The Child or Adolescent may be transferred to the Person with Parental Power, in compliance with Section 7, Sub-Clause 1, No. 6, Eighth Edition, Social Security Code, or, if a Person with Parental Power is temporarily not available, may be taken into the care of the local Youth Welfare Office.

In difficult cases, the local authority shall provide the Youth Welfare Office with more specific information on the place concerned.

Article 38 – Media

- (1) Children shall be protected from publications, films, video games, music, broadcasts, or other kinds of electronic or written media that are harmful to their safety, health, development, or well-being.
- (2) No individual or organization shall show, sell, rent, or disseminate by any other means to children books, newspapers, magazines, and other types of publications, including films and recordings of pornographic, erotic, or violent content, or which promote cruelty or discrimination, including racial, religious, sexual, national, and ethnic discrimination, unless it is for purely educative purposes, when such content is considered harmful to children's physical, mental, emotional, and social development by the HCPA.
- (3) The mass media, including print media, television, radio, and online media, as well as social media networks shall actively engage children to further their media literacy and healthy use of media and contribute to promoting the protection of children through awareness-raising activities in accordance with Article 7 of this Law and by advising the public on the potential negative impacts an exposure to media can have on children.

Based on:**China, Law of the People's Republic of China on the Protection of Minors, 1992*****Article 25.***

It shall be strictly prohibited for any organization or individual to sell, rent, or disseminate by any other means to minors, books, newspapers, magazines or audio-visual products of pornography, violence, wanton killing and terror that are pernicious to minors.

Article 51.

Whoever sells, rents or disseminates by any other means to minors pornographic books, newspapers, magazines or audio-visual products shall be given heavier punishment according to law.

Estonia, Republic of Estonia Child Protection Act, RT I 1992, 28, 370, as amended by Act RT I 2004, 27, 180***Section 48 – Inadmissibility of Promotion of Violence.***

(1) It is prohibited in the Republic of Estonia to manufacture or sell toys which imitate objects used to destroy people and other living beings. Exceptions may be made for sports equipment and equipment for games of skill if used for the intended purpose.

(2) It is prohibited to manufacture or show printed matter, films, audio and video recordings and objects which promote cruelty and violence, intended for children.

France, Penal Code, as amended in July 2005***Article 227-24.***

The manufacture, transport, distribution by whatever means and however supported, of a message bearing a pornographic or violent character or a character seriously violating human dignity, or the trafficking in such a message, is punished by three years' imprisonment and a fine of €75,000, where the message may be seen or perceived by a minor.

Where the offences under the present article are committed through the press or by broadcasting, the specific legal provisions governing those matters are applicable to define the persons who are responsible.

Germany, Criminal Code 1998, as amended in July 2009***Section 184 – Distribution of Pornography.***

(1) Whosoever with regard to pornographic written materials (section 11 (3))

1. offers, gives or makes them accessible to a person under eighteen years of age;
2. displays, presents or otherwise makes them accessible at a place accessible to persons under eighteen years of age, or which can be viewed by them;
3. offers or gives them to another in retail trade outside the business premises, in kiosks or other sales areas which the customer usually does not enter, through a mail-order business or in commercial lending libraries or reading circles;
 - 3a. offers or gives them to another by means of commercial rental or comparable commercial supply for use, except for shops which are not accessible to persons under eighteen years of age and which cannot be viewed by them;
4. undertakes to import them by means of a mail-order business;
5. publicly offers, announces, or commends them at a place accessible to persons under eighteen years of age or which can be viewed by them, or through dissemination of written materials outside business transactions through the usual trade outlets;
6. allows another to obtain them without having been requested to do so;
7. shows them at a public film showing for an entry fee intended entirely or predominantly for this showing;

8. produces, obtains, supplies, stocks, or undertakes to import them in order to use them or copies made from them within the meaning of Nos 1 to 7 above or to facilitate such use by another; or
9. undertakes to export them in order to disseminate them or copies made from them abroad in violation of foreign penal provisions or to make them publicly accessible or to facilitate such use, shall be liable to imprisonment of not more than one year or a fine. ...

Section 184d – Distribution of pornographic performances by broadcasting, media services or telecommunications services.

Whosoever disseminates pornographic performances via broadcast, media services, or telecommunications services shall be liable pursuant to sections 184 to 184c. In cases under section 184 (1) the 1st sentence above shall not apply to dissemination via media services or telecommunications services if it is ensured by technical or other measures that the pornographic performance is not accessible to persons under eighteen years of age.

Section 11 – Definitions.

- (3) Audiovisual media, data storage media, illustrations and other depictions shall be equivalent to written material in the provisions which refer to this subsection.

Latvia, Protection of the Rights of the Child Law, 1998

Section 50 – The Child and Games, Films and Mass Media.

- (1) It is prohibited to show, sell, give as a gift, rent or promote to a child toys or video recordings, newspapers, magazines and other types of publications, in which cruel behaviour, violence, erotica and pornography are promoted and which pose a threat to the psychological development of a child.
- (2) Restrictions on radio and television programmes for the purposes of protection of the rights of the child shall be as determined by the Radio and Television Law.
- (3) It is prohibited for a child to be located in places where materials of an erotic and pornographic nature are manufactured or shown.
- (4) It is prohibited to involve a child in the manufacture, distribution and public showings of materials of erotic and pornographic nature.
- (5) The Cabinet shall determine restrictions on the distribution and advertising of materials of an erotic and pornographic nature.
- (6) For violation of the prohibitions and restrictions referred to in this Section, the persons at fault shall be held liable as prescribed by law.

Turkmenistan, Law on the Guarantees of the Rights of the Child, 2002

Article 30 – Protection of the Child from Information and Materials Harmful for his or her Spiritual and Moral Development.

1. The State shall promote the child to have access to information and materials from various sources.
2. Demonstration, release, sale, presenting and copying toys, films, audio and video recordings, literature, magazines, newspapers and other printing materials that directly encourage and propagandise war, cruel treatment, violence, and all forms of discrimination including racial, religious, sex and age discrimination and are harmful for spiritual and moral development of the child, are prohibited.
3. Expertise of all means and materials that are likely to be harmful to the spiritual and moral development of the child shall be performed in accordance with the procedure defined by the Cabinet of Ministers of Turkmenistan to ensure security to life and protect health and moral nature of the child from negative influences.

Article 39 – Children belonging to Minority Groups

- (1) Children belonging to national, ethnic, religious, and linguistic minorities shall be protected from neglect, abuse, maltreatment, and exploitation. This requires inter alia –
 - (a) Promoting respect for all children irrespective of their origin and background and acceptance for their diversity;
 - (b) Allowing and facilitating the maintenance of a child’s language, culture, religion, tradition, and customs, provided that this is not in violation of Article 34 of this Law; and
 - (c) Providing special assistance to children belonging to minority groups and their parents or guardians, enabling them to enjoy the same opportunities as other children regarding their social integration and personal development.
- (2) Any kind of stigmatization or discrimination of children belonging to a minority group shall be prohibited. In cooperation with the HCPA, the State shall promote the elimination of prejudices and stereotypes.
- (3) In particular, it shall be prohibited to –
 - (a) Restrict or exclude the child from full, active, and effective participation and inclusion in society; and
 - (b) Deny opportunities for education, development, health, and self-realization equal to those of children not belonging to a minority group.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 30.

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Lithuania, Law on Fundamentals of Protection of the Rights of the Child, Act No. I-1234, 1996

Article 17 – Rights of Children Belonging to Ethnic Communities.

Children belonging to ethnic communities (minorities) of the Republic of Lithuania shall have the right to develop their own language, culture, customs and traditions. This right shall be ensured by the Constitution of the Republic of Lithuania, laws and other legal acts.

Myanmar, The Child Law, 9/1993

Section 18.

Every child shall have the right to maintain his or her own cherished language, literature and culture, to profess his or her own religion and to follow his or her own traditions and customs.

Article 40 – Children with Disabilities

- (1) Children with disabilities shall be protected from neglect, abuse, maltreatment, and exploitation. This requires *inter alia* –
 - (a) Promoting respect for differences and acceptance of persons with disabilities as part of human diversity and humanity, and for the evolving capacities of children with disabilities;
 - (b) Guaranteeing the availability of free or affordable health care for children with disabilities of the same range, quality, and standard as other health care programs;
 - (c) Assuring qualified medical assistance and treatment, including appropriate corrective and rehabilitative methods and devices;
 - (d) Providing early identification and intervention programs, as well as services designed to minimize and prevent further disabilities;
 - (e) Supplying treatments, devices, and programs enabling a child with disabilities to maintain her/his maximum personal mobility and independence;
 - (f) Promoting alternative means of communication for children with disabilities;
 - (g) Dismantling physical barriers that hinder the enjoyment of rights by children with disabilities in the public sphere; and
 - (h) Providing special assistance and care in accordance with the child’s specific needs to the child and her/his parents or guardians.
- (2) Any kind of abuse, maltreatment, exploitation, stigmatization, or discrimination of children with disabilities shall be prohibited. In cooperation with the HCPA and the CPCs, the State shall promote the elimination of prejudices and stereotypes.
- (3) In particular, it shall be prohibited to –
 - (a) Restrict or exclude the child from full, active, and effective participation and inclusion in the society;
 - (b) Restrict her/his right to live with her/his parents and in the community; or
 - (c) Deny opportunities for education, development, health, and self-realization equal to children without disabilities.
- (4) The education of children with disabilities shall be equal in quality, scope, and duration to the education of other children. Integration with other children shall be the primary goal. It shall be guaranteed that –
 - (a) Children with disabilities are not excluded from free and compulsory primary education and from secondary education on the basis of disability;

- (b) Children with disabilities receive the adequate technical support to facilitate their communication and free mobility to ensure participation and inclusion in the school community;
 - (i) Forms of communication used shall include alternative scripts, Braille, sign language, and any other means of communication necessary for the child;
 - (ii) Forms of mobility used shall include the use of crutches, wheelchair access in schools, or any apparatus which provides the child with the ability to move;
- (c) Effective individualized support measures are provided in an environment that maximizes academic and social development, consistent with the goal of full inclusion, such as assigning a trained professional to remain with one child or a group of children throughout the school day;
- (d) Children with disabilities have equal access with other children to participation in play, recreation, leisure, and sporting activities.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 23.

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Convention on the Rights of Persons with Disabilities, adopted by UN GA resolution 61/106 of Dec. 13, 2006, entered into force May 3, 2008

Article 7 – Children with Disabilities.

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.
3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

Article 24 – Education.

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:
 - (a) The full development of human potential and sense of dignity and selfworth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
 - (b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
 - (c) Enabling persons with disabilities to participate effectively in a free society.
2. In realizing this right, States Parties shall ensure that:
 - (a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
 - (b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
 - (c) Reasonable accommodation of the individual's requirements is provided;
 - (d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
 - (e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.
3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:
 - (a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
 - (b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
 - (c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.
4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.
5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

Article 30 – Participation in Cultural Life, Recreation, Leisure and Sport.

1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:
 - (a) Enjoy access to cultural materials in accessible formats;
 - (b) Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;
 - (c) Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.
2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.
3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.
4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.
5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:
 - (a) To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;
 - (b) To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;
 - (c) To ensure that persons with disabilities have access to sporting, recreational and tourism venues;
 - (d) To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;
 - (e) To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

Belarus, On Child's Rights, Act No. 2570-XII of Nov. 19, 1993, as amended in 2007**Article 31 – The Rights of Invalid Children and Children with the Peculiarities of Psychophysical Development.**

The state guarantees free special medical, defectological and psychological help for the invalid children, choice of the educational establishment by them and their parents, getting the school education and professional training, placing in a job in accordance with their abilities, social rehabilitation, full life in conditions providing their dignity and promoting active inclusion to the life of the society.

Belize, Families and Children Act, 2000**Section 8 – Children with Disabilities.**

- (1) The parents of children with disabilities shall take appropriate steps to see that those children are –

- (a) assessed as early as possible as to the extent and nature of their disabilities; and
 - (b) offered appropriate treatment.
- (2) The State shall take appropriate steps to ensure that children with disabilities are afforded equal opportunities to education. ...

Estonia, Republic of Estonia Child Protection Act, RT I 1992, 28, 370, as amended by Act RT I 2004, 27, 180

Section 52 – Right of Disabled Child to Active Life and Opportunity Equal to those of Able Children.

- (1) The physically or mentally disabled child has the right to life in conditions which promote dignity, self-reliance and development.
- (2) The disabled child shall have opportunities for education, development and self-realization equal to those of able children.

Section 53 – Care for Disabled Child.

- (1) The disabled child has the right to special care in accordance with the child's specific needs. The child and his or her caregiver shall have access to multifaceted social, medical and spiritual assistance. ...

Section 54 – Satisfaction of Needs of Disabled Child.

- (1) Public buildings, roads and means of transportation used by disabled children shall be adapted to accommodate movement by wheelchair, crutches or other aids.
- (2) Buildings intended for use by the child shall include special facilities to satisfy the sanitary needs of the disabled child.

Ghana, Children's Act, Act 560, 1998

Section 10 – Treatment of the Disabled Child.

- (1) No person shall treat a disabled child in an undignified manner.
- (2) A disabled child has a right to special care, education and training wherever possible to develop his maximum potential and be self-reliant.

Latvia, Protection of the Rights of the Child Law, 1998

Section 10 – Rights of the Child to Wholesome Living Conditions.

- (2) A child with physical or mental disabilities also has the right to everything that is necessary for the satisfaction of his or her special needs.

Section 54 – The Right of the Child with Special Needs to Live a Full Life.

A child with special needs has the same right to an active life, the right to develop and acquire a general and professional education corresponding to the physical and mental abilities and desires of the child, and the right to take part in social life, as any other child.

Section 55 – Special Care for the Child with Special Needs.

- (1) A child with special needs has the right to special parental care.
- (2) The State and the local governments shall assist a child with special needs to integrate into society and ensure for him or her medical and social services in accordance with the Law On Medical and Social Protection of Disabled Persons. ...

Section 56 – Preparation of Pedagogical and Social Workers for Work with Children with Special Needs.

Pedagogical and social workers shall be specially trained for work with children with special needs. For this purpose the Ministry of Education and Science and the Ministry of Welfare shall develop special training programmes.

Lithuania, Law on Fundamentals of Protection of the Rights of the Child, Act No. I-1234, 1996

Article 28 – Right of the Disabled Child to Experience a Full-Valued Life.

A disabled child shall have equal rights with normal children to lead an active life, develop and acquire an education befitting his physical and mental potential and desires, to be engaged in work that suits him and to participate in creative and social activity.

Article 29 – Special Care of the Disabled Child.

1. Recognising his special needs, a disabled child shall have the right to obtain special (extraordinary) care. The person who cares for him, shall be rendered social, medical and other assistance.
2. A disabled child shall have the right to privileged services by treatment providing institutions, sanatoriums and resorts, as provided by laws and other legal acts. He shall be given qualified medical assistance based on early diagnosis, and provided appropriate corrective and rehabilitative treatment methods. This assistance shall be provided by physician specialists, prosthetics experts, rehabilitation experts and other medical specialists and, when dictated by necessity, treatment will be scheduled in institutions of specialised medicine.

Article 30 – Adaptation of Environment for the Disabled Child.

1. Public buildings, streets and transportation means, which are to be used by a disabled child, shall be adapted to the special needs of a disabled child.
2. Specially adapted accommodations shall be installed within institutions intended for these children.
3. State and municipal executive institutions shall ensure according to their competence and potential, that requirements indicated in parts one and two of this Article, would be implemented.

Article 31 – Funds for Disabled Children.

1. Parents and other legal representatives of the child, who are raising and caring for a disabled child at home, shall have the right to obtain required assistance from the state budget.
2. The laws and other legal acts shall establish the amount of assistance, procedure of payment and other conditions.

Article 32 – Guarantees of Social Activity (Employment) of the Disabled Child.

1. State and municipal institutions must create the necessary conditions for education of the disabled child, his professional preparedness and, in accordance to work opportunities and also, by taking into account the health, special needs and talents of such a child.
2. Allowances and privileges established by laws and other legal acts shall be applied to people, institutions and organisations, employing a disabled child.

Article 33 – Preparation of Teachers, Educators and Social Workers for Work with Physically or Mentally Disabled Children.

Teachers, educators and social workers shall receive special training for work with children having physical and mental disabilities. The Ministry of Education and Science along with the Ministry of Social Security and Labour, shall be responsible for special purpose programmes intended for this type of work.

Indonesia, Law on Child Protection, No. 23 of 2002

Article 9.

- (1) Every child shall have the right to an education and training in the context of his personal and intellectual development based upon his interests and talents.

- (2) Every child, as referred to in section (1) above, particularly disabled children and gifted children, shall be entitled to receive special-needs education.

Article 12.

Every child who suffers from a handicap shall be entitled to rehabilitation, social assistance and have his level of social well being maintained.

Article 51.

A physically or mentally disabled child shall be given the same opportunities to receive and have access to both a normal and a special education.

Article 70.

- (1) The special protection of disabled children as referred to in Article 59 hereof shall include the following:

- a. Ensuring the humane treatment of these children in accordance with their dignity and rights as children;
- b. Meeting the special requirements of these children;
- c. Ensuring that such children enjoy the same treatment as other children regarding their social integration and personal development.

- (2) All persons shall be prohibited from discrimination against disabled children, including stigmatization, and shall be required to ensure equality of educational opportunities for disabled children.

Myanmar, The Child Law, 9/1993

Section 18.

- (a) A mentally or physically disabled child:
- (i) has the right to acquire basic education (primary level) or vocational education at the special schools established by the Social Welfare department or by a voluntary social worker or by a non-governmental organization;
 - (ii) has the right to obtain special care and assistance from the State.
- (b) The Social Welfare Department shall lay down and carry out measures as may be necessary in order that mentally or physically disabled children may participate with dignity in the community, stand on their own feet and promote self-reliance.

Philippines, The Child and Youth Welfare Code, Presidential Decree No. 603, 1974

Article 3 – Rights of the Child.

- (3) Every child has the right to a well-rounded development of his personality to the end that he may become a happy, useful and active member of society. ...The physically or mentally handicapped child shall be given the treatment, education and care required by his particular condition.

Rwanda, Law Relating to Rights and Protection of the Child Against Violence Law No. 27 of 2001

Article 15.

A handicapped child should be particularly taken care of for his/her health, education and social welfare. This special care is the responsibility of both the parents and the Ministry having the Social Affairs in its attributions.

Sierra Leone, The Child Right Act, 2007

Section 30 – Treatment of Disabled Child.

- (1) No person shall treat a disabled child in an undignified manner.

- (2) A disabled child has a right to special care, education and training wherever possible to develop his maximum potential and be self-reliant.

South Africa, Children's Act, Law No. 38 of 2005

Section 11 – Children with Disability or Chronic Illness.

- (1) In any matter concerning a child with a disability due consideration must be given to -
- (a) providing the child with parental care, family care or special care as and when appropriate;
 - (b) making it possible for the child to participate in social, cultural, religious and educational activities, recognizing the special needs that the child may have;
 - (c) providing the child with conditions that ensure dignity, promote self-reliance and facilitate active participation in the community; and
 - (d) providing the child and the child's care-giver with the necessary support services.
- (2) In any matter concerning a child with chronic illness due consideration must be given to -
- (a) providing the child with parental care, family care or special care as and when appropriate;
 - (b) providing the child with conditions that ensure dignity, promote self-reliance and facilitate active participation in the community; and
 - (c) providing the child with the necessary support services.
- (3) A child with a disability or chronic illness has the right not to be subjected to medical, social, cultural or religious practices that are detrimental to his or her health, well-being or dignity.

Turkmenistan, Law on the Guarantees of the Rights of the Child, 2002

Article 31 – Protection of the Disabled Child Rights.

1. Disabled children shall have the right to enjoy a full and decent life and active participation in the community.
2. The State promotes social support and adaptation of the disabled children through the educational, medical and rehabilitation institutions that the disabled children have access to education, professional training and upbringing adequate to their health. Employment of the children having professional limitations due to their health shall be performed by the state employment services.
3. The parents (legal representatives) upbringing the disabled child shall have advantages envisaged by the legislature of Turkmenistan.

Uganda, The Children Act, 1997

Section 9 – Children with Disabilities.

The parents of children with disabilities and the State shall take appropriate steps to see that those children are –

- (a) assessed as early as possible as to the extent and nature of their disabilities;
 - (b) offered appropriate treatment; and
 - (c) afforded facilities for their rehabilitation and equal opportunities to education.
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Article 41 – Prohibition of the Abduction, Sale of, and Trafficking in Children

- (1) The abduction, sale of, and trafficking in children for any purpose or in any form shall be prohibited and established as punishable offenses. The prescribed penalties shall be stringent and commensurate with those prescribed for comparably grave offenses.
- (2) Abduction of children shall mean –
 - (a) Unlawfully removing a child from her/his place of residence by means of force, threat, deception, abuse of power, or enticement to a place under the actor's or a third person's control, or
 - (b) Unlawfully taking a child away from the legal custody of the child's parents, guardian or care-giver, whether committed, facilitated, or coordinated inside the territory of the State or involving transit to or through the State. This includes cases of abduction in which one of the actors is a parent of the child.
- (3) Sale of children shall mean any act or transaction, including the offering, delivering, or accepting of a child by whatever means, whereby the custody over the child is transferred by a person or group of persons to another for remuneration or any other consideration for the purposes named under paragraph (4).
- (4) Trafficking in children shall mean the recruitment, transportation, transfer, harboring or receipt of children, whether or not by means of threat or use of force, other forms of coercion, abduction, fraud, deception, the abuse of power or a position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of the parents, guardian, care-giver or any other person having control over the child, for the purpose of exploitation, including for the purpose of –
 - (i) Economic exploitation and forced or compulsory labor, including the worst forms of child labor, children's work not in accordance with the regulations of this Law, child begging, child domestic work, and exploitative participation in sporting events;
 - (ii) Sexual exploitation, child prostitution, child sex tourism, child pornography, and participation in sexually oriented performances and establishments;
 - (iii) Organ removal;
 - (iv) Child marriage;
 - (v) Illegal adoption;
 - (vi) Illegal drug production and distribution;
 - (vii) Illegal scientific experiments; and
 - (viii) Any other illicit purpose.

- (5) Article 23 of this Law shall apply regarding attempt and aggravated circumstances of these offences. Jurisdiction for these offenses shall be established in accordance with Articles 48 of this Law.
- (6) Child victims of abduction, sale, or trafficking shall have access to the means of protection established in Chapter 3 of this Law. Prevention activities carried out in accordance with Article 7 of this Law shall include conducting research into the root causes of child abduction, sale, and trafficking and raising awareness on the issue.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 11.

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 35.

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted by UN GA resolution 55/25 of Nov. 15, 2000, entered into force Dec. 25, 2003

Article 3 – Use of Terms.

For the purposes of this Protocol:

- (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) “Child” shall mean any person under eighteen years of age.

Optional Protocol to the CRC on the sale of children, child prostitution and pornography, adopted by UN GA resolution 54/263 of May 25, 2000, entered into force Jan. 18, 2002

Article 1.

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

Article 2.

For the purposes of the present Protocol: ...

- (a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration; ...

Article 3.

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:

- (a) In the context of sale of children as defined in article 2:

- (i) Offering, delivering or accepting, by whatever means, a child for the purpose of:

- a. Sexual exploitation of the child;
- b. Transfer of organs of the child for profit;
- c. Engagement of the child in forced labour;

- (ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption; ...

2. Subject to the provisions of the national law of a State Party, the same shall apply to an attempt to commit any of the said acts and to complicity or participation in any of the said acts.

3. Each State Party shall make such offences punishable by appropriate penalties that take into account their grave nature.

4. Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article. Subject to the legal principles of the State Party, such liability of legal persons may be criminal, civil or administrative.

5. States Parties shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments.

Cambodia, Law on Suppression of Human Trafficking and Sexual Exploitation NS/RKM/0208/005, 2008

Article 8 – Definition of Unlawful Removal.

The act of unlawful removal in this law shall mean to:

- 1) remove a person from his/her current place of residence to a place under the actor's or a third person's control by means of force, threat, deception, abuse of power, or enticement, or
- 2) without legal authority or any other legal justification to do so, take a minor or a person under general custody or curatorship or legal custody away from the legal custody of the parents, care taker or guardian.

Article 9 – Unlawful Removal, Inter Alia, of Minor.

A person who unlawfully removes a minor or a person under general custody or curatorship or legal custody shall be punished with imprisonment for 2 to 5 years. ...

Article 13 – Definition of the Act of Selling, Buying or Exchanging of Human Being.

The act of selling, buying or exchanging a human being shall mean to unlawfully deliver the control over a person to another, or to unlawfully receive the control over a person from another, in exchange for anything of value including any services and human beings. The act of procuring the act of selling, buying or exchanging a human being as an intermediary shall be punished the same as the act of selling, buying or exchanging a human being. ...

Article 15 – The Act of Selling, Buying or Exchanging of Human Being with Purpose.

A person who sells, buys or exchanges another person for the purpose of profit making, sexual aggression, production of pornography, marriage against will of the victim, adoption or any form of exploitation shall be punished with imprisonment for 7 years to 15 years.

The offence stipulated in this article shall be punished with imprisonment for 15 to 20 years when:

- the victim is a minor
- the offence is committed by a public official who abuses his/her authority over the victim,
- the offence is committed by an organized group.

Article 16 – The Act of Selling, Buying or Exchanging of Human Being for Cross-Border Transfer.

A person who sells, buys or exchanges another person for the purpose of delivering or transferring that person to outside of the Kingdom of Cambodia shall be punished with imprisonment for 7 to 15 years. A person who sells, buys or exchanges another person in a country outside of the Kingdom of Cambodia for the purpose of delivering or transferring that person to another country shall be punished the same as set out in the above-stated paragraph 1.

The offence stipulated in this article shall be punished with imprisonment for 15 to 20 years when:

- the victim is a minor
- the offence is committed by a public official who abuses his/her authority over the victim,
- the offence is committed by an organized group.

Article 17 – Transportation with Purpose.

A person who transports another person knowing that he or she has been unlawfully removed, recruited, sold, bought, exchanged or transported for the purpose of profit making, sexual aggression, production of pornography, marriage against will of the victim, adoption, or any form of exploitation shall be punished with imprisonment for 7 to 15 years. ...

Article 19 – Receipt of Person with Purpose.

A person who receives, harbors, or conceals another person who has been unlawfully removed, recruited, sold, bought, exchanged, or transported for the purpose of profit-making, sexual aggression, production of pornography, marriage against the will of the victim, adoption or any form of exploitation shall be punished with imprisonment for 7 to 15 years.

The offence stipulated in this article shall be punished with imprisonment for more than 15 to 20 years when:

- the victim is a minor
- the offence is committed by a public official who abuses his/her authority over the victim,
- the offence is committed by an organized group.

Ecuador, Code of Childhood and Adolescence, Law No. 100, Official Register 737, 2003**Article 70 – Definition of Trafficking in Children.**

Trafficking in children and adolescents, means theft, removal or retention, inside or outside the country and by any means, in order to use them in prostitution, sexual or labor exploitation, pornography, drug trafficking, organ trafficking, slavery, illegal adoptions or other illegal activities.

Means of traffic are, inter alia, the replacement of persons, fraudulent or coerced consent and the giving or receiving of payments or undue benefits to achieve the consent of parents, persons or institution who are in charge of the child or adolescent.

Germany, Criminal Code, 1998, as amended in July 2009

Section 236 – Child Trafficking.

- (1) Whosoever in gross neglect of his duties of care and education leaves his child, ward or foster child under eighteen years of age with another for an indefinite period for material gain or with the intent of enriching himself or a third person shall be liable to imprisonment of not more than five years or a fine. Whosoever in cases under the 1st sentence above takes the child, ward or foster child into his home for an indefinite period and awards compensation for it shall incur the same penalty.
- (2) Whosoever unlawfully
 1. procures the adoption of a person under eighteen years of age; or
 2. engages in procurement activity with the aim of a third person taking a person under eighteen years of age into his home for an indefinite period, and acts for consideration or with the intent of enriching himself or a third person shall be liable to imprisonment of not more than three years or a fine. Whosoever, as an agent for the adoption of a person under eighteen years of age, grants a financial reward to a person in exchange for the required consent to the adoption shall incur the same penalty. If the offender in cases under the 1st sentence above causes the procured person to be brought into Germany or abroad the penalty shall be imprisonment of not more than five years or a fine.
- (3) The attempt shall be punishable.
- (4) The penalty shall be imprisonment from six months to ten years if the offender
 1. seeks profit or acts on a commercial basis or as a member of a gang whose purpose is the continued commission of child trafficking or
 2. by the act places the child or the procured person in danger of a substantial impairment of his physical or mental development.

Jamaica, Child Care and Protection Act, 2004

Section 10 – Prohibition Against Sale or Trafficking Children.

- (1) No person shall sell or participate in the trafficking of any child.
- (2) Any person who commits an offence under of subsection (1) shall be liable on conviction or indictment before a Circuit Court, to a fine or to imprisonment with hard labour for a term not exceeding ten years, or to both such fine and imprisonment.

Japan, Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children, Act No. 52 of May 26, 1999, as amended 2004

Article 8 – Trafficking in Children for the Purpose of Child Prostitution.

- (1) Any person who buys or sells a child for the purpose of having the child be a party to sexual intercourse in child prostitution, or for the purpose of producing child pornography by depicting the pose of a child, which falls under any of the items of paragraph 3 of Article 2, shall be sentenced to imprisonment with work for not less than one year and not more than ten years.
- (2) Any Japanese national who transports a child residing in a foreign state, who has been kidnapped by enticement or force or sold, out of that state shall be sentenced to imprisonment with work for a definite term of not less than two years.
- (3) Any person who attempts the crimes prescribed in the two preceding paragraphs shall be punished.

Indonesia, Law on Child Protection, No. 23 of 2002**Article 67.**

- (1) The special protection afforded to children who become the victims of the misuse of narcotics, alcohol, psychotropic substances and other addictive substances as referred to in Article 59 hereof, or who are involved in the production or distribution of such substances, shall cover supervision, prevention, care and rehabilitation efforts on the part of both the government and the community.
- (2) All persons shall be prohibited from permitting, undertaking, ordering to be undertaken or participating in the exploitation of children through the misuse, production or distribution of addictive substances as referred to in the Section (1) above.

Kenya, The Children's Act, Act No. 8 of 2001**Section 16 – Protection from Drugs.**

Every child shall be entitled to protection from the use of hallucinogens, narcotics, alcohol, tobacco products or psychotropic drugs and any other drugs that may be declared harmful by the Minister responsible for health and from being involved in their production, trafficking or distribution.

Singapore, Chapter 38, Children and Young Persons Act, 1993, as amended in 2001**Section 12 – Unlawful Transfer of Possession, Custody or Control of Child.**

- (1) Every person who takes any part in any transaction the object or one of the objects of which is to transfer or confer, wholly or partly, temporarily or permanently, the possession, custody or control of a child for any valuable consideration shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 4 years.
- (2) Every person who, without lawful authority or excuse harbours or has in his possession, custody or control any child with respect to whom the temporary or permanent possession, custody or control has been transferred or conferred for valuable consideration by any other person within or outside Singapore shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 4 years.
- (3) It shall be a defence in any prosecution under this section to prove that the transfer took place in contemplation of or pursuant to a bona fide marriage or adoption and that at least one of the natural parents of the child or the legal guardian was a consenting party to the marriage or to the adoption by the adopting party, and had expressly consented to the marriage or adoption.

Section 13 – Importation of Child by False Pretences.

Any person who, by or under any false pretence, false representations or fraudulent or deceitful means made or used either within or outside Singapore, brings or assists in bringing any child into Singapore shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 4 years or to both.

South Africa, Children's Act, Law No. 38 of 2005**Section 1 (1) – Interpretation.**

“trafficking”, in relation to a child –

- (a) means the recruitment, sale, supply, transportation, transfer, harbouring or receipt of children, within or across the borders of the Republic –
 - (i) by any means, including the use of threat, force or other forms of coercion, abduction, fraud, deception, abuse of power or the giving or receiving of payments or benefits to achieve the consent of a person having control of a child; or

(ii) due to a position of vulnerability,

(b) includes the adoption of a child facilitated or secured through illegal means; ...

United States, 18 U.S.C., as added by Pub. L. 100-690, 1988

Section 2251A – Selling or Buying of Children.

(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor either –

(1) with knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

(2) with intent to promote either –

(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 30 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

(b) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor either –

(1) with knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

(2) with intent to promote either –

(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 30 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

(c) The circumstances referred to in subsections (a) and (b) are that –

(1) in the course of the conduct described in such subsections the minor or the actor traveled in or was transported in or affecting interstate or foreign commerce;

(2) any offer described in such subsections was communicated or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means including by computer or mail; or

(3) the conduct described in such subsections took place in any territory or possession of the United States.

Chapter 5

Protection of Children from Sexual Exploitation

Article 42 – Protection of Children from Sexual Abuse and Sexual Exploitation

- (1) Children shall be protected from all forms of sexual abuse and sexual exploitation. All forms of sexual abuse and sexual exploitation of children shall be established as punishable offenses in accordance with this Chapter. This shall include but not be limited to the following acts –
- (a) Engaging in sexual activities with a child under the age established by law as the age at which a child is understood to be able to consent to sexual activities (age of consent);
 - (b) Enticing a child under the age of consent to undertake or participate in sexual activities;
 - (c) Intentionally exposing a child under the age of consent to sexual activities or pornography, such as engaging in sexual activity in the presence of a child or causing a child to watch sexual activities for the purpose of the sexual gratification of another person;
 - (d) Engaging in sexual activities with a child in abuse of a position of trust or authority, such as that of parent, guardian, or care-giver;
 - (e) Using a child for the purpose of commercial sexual exploitation in the form of child prostitution, child sex tourism, child pornography, child trafficking for these purposes, or participation in sexually-oriented performances and establishments.
- (2) The competent domestic authorities shall establish the age at which children may consent to sexual activities.

- (3) The intentional proposal, through information and communication technologies, of an adult to meet a child for the purpose of committing any of the offences established in accordance with this Chapter shall be prohibited.
- (4) In addition to the cases in accordance with Article 23 of this Law, enhanced penalties shall be applied when at the time the offense is committed the child has not reached the age of consent.
- (5) Education, training, and awareness-raising activities in accordance with Article 7 of this Law shall be carried out in cooperation with schools and other service providers to provide children with education on a healthy sexual development according to their age and capacity. Prevention activities on sexual abuse and sexual exploitation shall be conducted and corresponding informational material shall be developed.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 34.

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

Optional Protocol to the CRC on the sale of children, child prostitution and pornography, adopted by UN GA resolution 54/263 of May 25, 2000, entered into force Jan. 18, 2002

Article 1

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

Article 2

For the purposes of the present Protocol:

- (a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;
- (b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;
- (c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

Article 3

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:
 - (a) In the context of sale of children as defined in article 2:

- (i) Offering, delivering or accepting, by whatever means, a child for the purpose of:
 - a. Sexual exploitation of the child;
 - b. Transfer of organs of the child for profit;
 - c. Engagement of the child in forced labour;
- (ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;
- (b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;
- (c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2. ...

Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, CETS No. 201 of Oct. 25, 2007, entered into force July 1, 2010

Article 18 – Sexual Abuse.

1. Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:
 - a. engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities;
 - b. engaging in sexual activities with a child where:
 - use is made of coercion, force or threats; or
 - abuse is made of a recognised position of trust, authority or influence over the child, including within the family; or
 - abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.
2. For the purpose of paragraph 1 above, each Party shall decide the age below which it is prohibited to engage in sexual activities with a child.

Article 23 – Solicitation of Children for Sexual Purposes.

Each Party shall take the necessary legislative or other measures to criminalise the intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the age set in application of Article 18, paragraph 2, for the purpose of committing any of the offences established in accordance with Article 18, paragraph 1.a, or Article 20, paragraph 1.a, against him or her, where this proposal has been followed by material acts leading to such a meeting.

Canada, Criminal Code, C-46, 1985, as current to Mar. 2010

Section 151 – Sexual Interference.

Every person who, for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of a person under the age of fourteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

Section 152 – Invitation to Sexual Touching.

Every person who, for a sexual purpose, invites, counsels or incites a person under the age of fourteen years to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the person under the age of fourteen years, is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

Section 153 – Sexual Exploitation.

Every person who is in a position of trust or authority towards a young person or is a person with whom the young person is in a relationship of dependency and who

- (a) for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person, or
 - (b) for a sexual purpose, invites, counsels or incites, a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the young person,
- is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years or is guilty of an offence punishable on summary conviction.

- (2) In this section, “young person” means a person fourteen years of age or more but under the age of eighteen years.

Cambodia, Law on Suppression of Human Trafficking and Sexual Exploitation NS/RKM/0208/005, 2008

Article 42 – Sexual Intercourse with Minors under Fifteen Years.

A person who has sexual intercourse with another person of the age of less than fifteen years shall be punished with imprisonment for 5 to 10 years.

Article 43 – Indecent Act against Minors under Fifteen Years.

‘Indecent act’ in this law shall mean an act of touching or exposing a genital or other sexual part of another, or of having another touch the actor’s or a third person’s genital or other sexual part, with the intent to stimulate or satisfy the actor’s sexual desire. A person who commits an indecent act against another person of the age of less than 15 years shall be punished with imprisonment for 1 to 3 years and a fine of 2,000,000 to 6,000,000 riels. A person who repeatedly commits any offense stipulated in Article 42 or this article shall be punished with double the prison punishment.

Ecuador, Code of Childhood and Adolescence, Law No. 100, Official Register 737, 2003

Article 69 – Concept of Sexual Exploitation.

Child prostitution and child pornography constitute sexual exploitation. Child prostitution is the use of a child or adolescent in sexual activities for remuneration or any other consideration. Child pornography is any representation, by whatever means of a child or adolescent in explicit sexual activities, real or simulated, or of her/his genitals, with the intention to promote, suggest or evoke sexual activity.

Finland, Penal Code, Law No. 39/1889, as amended up to Law No. 650/2003

Chapter 20 – Sex Offences (563/1998).

Section 6 – Sexual Abuse of a Child.

- (1) A person who

- 1. has sexual intercourse with a child younger than sixteen years of age,

- (2) by touching or otherwise performs a sexual act to a child younger than sixteen years of age, said act being conducive to impairing his/her development,

- 2. or gets him/her to perform an act referred to in subparagraph (2),

shall be sentenced for sexual abuse of a child to imprisonment for at most four years.

- (2) However, an act referred to in paragraph (1) is not deemed sexual abuse of a child if there is no great difference in the ages or the mental and physical maturity of the persons involved.

- (3) A person shall also be sentenced for sexual abuse of a child if he/she commits an act referred to in paragraph (1) with a person over sixteen but younger than eighteen years of age, if the offender is the parent of the child or, if living in the same household with the child, the offender is in a position comparable to that of a parent.

(4) An attempt is punishable.

Germany, Criminal Code, 1998, as amended in July 2009

Section 176 – Child Abuse.

- (1) Whosoever engages in sexual activity with a person under fourteen years of age (child) or allows the child to engage in sexual activity with himself shall be liable to imprisonment from six months to ten years.
- (2) Whosoever induces a child to engage in sexual activity with a third person or to allow third persons to engage in sexual activity with the child shall incur the same penalty.
- (3) In especially serious cases the penalty shall be imprisonment of not less than one year.
- (6) The attempt shall be punishable

Section 182 – Abuse of Juveniles.

- (1) Whosoever abuses a person under eighteen years of age by taking advantage of an exploitative situation by
 1. engaging in sexual activity with the person or suffering the person to engage actively in sexual activity with him or
 2. inducing the person to engage in sexual activity with a third person or to suffer sexual acts committed on their own body by a third person,
 shall be liable to imprisonment of not more than five years.
- (2) The same penalty shall apply to a person over eighteen years of age who abuses a person under eighteen years of age by engaging in sexual activity with him or to by inducing the person to suffer sexual acts committed by him on their own body for a financial reward.
- (3) A person over twenty-one years of age who abuses a person under sixteen years of age by
 1. engaging in sexual activity with the person or causing the person to engage actively in sexual activity with him or
 2. inducing the person to engage in sexual activity with a third person or to suffer sexual acts committed on their own body by a third person,
 and thereby exploits the victims lack of capacity for sexual self-determination shall be liable to imprisonment of not more than three years or a fine.
- (4) The attempt shall be punishable.

Italy, Penal Code, 1938, as amended in Feb. 2009

Article 609-quarter – Sexual Acts with Minors.

Subject to the punishment laid down in Article 609-bis [sexual violence] is anyone who, apart from the cases provided for in that article, performs sexual acts with a person who at the time of the act:

- 1) has not completed fourteen years;
- 2) has not completed sixteen years, when the offender is an ancestor, parent, including adoptive, or their partner, the guardian or other person whom the child is given to, for reasons of care, education, instruction, supervision or custody, or who has, with the latter, a relationship of cohabitation.

Apart from the cases provided for in Article 609-bis, an ancestor, parent, including adoptive or their partner, or the guardian who in abuse of the power stemming from their position, performs sexual acts with a minor who has completed sixteen years, shall be punished with imprisonment from three to six years.

A minor who, apart from the cases provided for in Article 609-bis, performs sexual acts with a minor who has completed thirteen years, is not punishable if the age difference between the persons is not more than three years.

In less grave cases the punishment shall be decreased by two thirds.

The penalty under Article 609-ter, second paragraph, is applicable if the offended person has not completed ten years.

Article 609-quinquies – Corruption of minors.

Whoever performs sexual acts in the presence of persons under fourteen years, inducing the minor to assist, is punished with imprisonment from six months to three years.

Article 609-sexies – Ignorance of the age of the offended person.

When the crimes prescribed in Articles 609-bis, 609-ter, 609-quater and 609-octies are committed against persons under fourteen years ... the offender cannot invoke ignorance of the age of the offended person as an excuse.

Malaysia, Child Act, Act 611, 2001

Section 17 – Meaning of Child in Need of Care and Protection.

(2) For the purposes of this Part, a child is –

- (c) sexually abused if he has taken part, whether as a participant or an observer, in any activity which is sexual in nature for the purposes of –
 - (i) any pornographic, obscene or indecent material, photograph, recording, film, videotape or performance; or
 - (ii) sexual exploitation by any person for that person's or another person's sexual gratification.

Mali, Order No. 02-062, 2002

Article 57.

It is considered “sexual exploitation” of a child whether boy or girl, requiring intervention, a child's submission to acts of prostitution, molestation, pornography and pedophilia be it remunerated or free, directly or indirectly.

Article 64.

Sexual abuse of a child requiring intervention means submission of a child to sexual contacts or by any person in a situation of authority or trust, or by any person in respect of which there is a situation of dependence. It is considered sexual contact, any person mentioned above initiating or encouraging the child to touch that person, to touch her/himself or to touch a third person, directly or indirectly with a body part or an object for sexual purposes.

Singapore, Chapter 38, Children and Young Persons Act, 1993, as amended in 2001

Section 7 – Sexual Exploitation of Child or Young Person.

Any person who, in public or private –

- (a) commits or abets the commission of or procures or attempts to procure the commission by any person of any obscene or indecent act with any child or young person; or
- (b) procures or attempts to procure the commission of any obscene or indecent act by any child or young person,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 4 years or to both.

South Africa, Children's Act, Law No. 38 of 2005

Section 1 (1) – Interpretation.

“commercial sexual exploitation”, in relation to a child, means –

- (a) the procurement of a child to perform sexual activities for financial or other reward, including acts of prostitution or pornography, irrespective of whether that reward is claimed by, payable to or shared with the procurer, the child, the parent or care-giver of the child, or any other person; or
 - (b) trafficking in a child for use in sexual activities, including prostitution or pornography;
- “sexual abuse”, in relation to a child, means –
- (a) sexually molesting or assaulting a child or allowing a child to be sexually molested or assaulted;
 - (b) encouraging, inducing or forcing a child to be used for the sexual gratification of another person;
 - (c) using a child in or deliberately exposing a child to sexual activities or pornography; or
 - (d) procuring or allowing a child to be procured for commercial sexual exploitation or in any way participating or assisting in the commercial sexual exploitation of a child; ...

Sweden, Penal Code, 1999

Chapter 6 – On Sexual Crimes.

Section 4.

A person who engages in a sexual act with someone under eighteen years of age and who is that person's offspring or for whose upbringing he or she is responsible, or for whose care or supervision he or she is responsible by decision of a public authority, shall be sentenced for sexual exploitation of a minor to imprisonment for at most four years. This also applies to a person who, in circumstances other those mentioned previously in this Chapter, engages in a sexual act with a child under fifteen years. If the person who committed the act exhibited particular lack of regard for the minor or if the crime by reason of the minor's young age or otherwise is regarded as gross, imprisonment for at least two and at most eight years shall be imposed for gross sexual exploitation of a minor.

Section 7.

If a person sexually touches a child under fifteen years of age otherwise than as previously provided in this Chapter, or induces the child to undertake or participate in an act with sexual implication a fine or imprisonment for at most two years shall be imposed for sexual molestation. A sentence for sexual molestation shall also be imposed on a person who by coercion, seduction or other improper influence induces a person who has attained the age of fifteen but not eighteen to undertake or participate in an act with sexual implication if the act is an element in the production of pornographic pictures or constitutes pornographic posing in circumstances other than those relating to the production of a picture. This shall also apply if a person exposes himself or herself in such a manner that the nature thereof gives offence or otherwise manifestly behaves indecently by word or deed towards the latter in a way that flagrantly violates a sense of propriety.

Section 10.

A person who, by promising or giving recompense, obtains or tries to obtain casual sexual relations with someone under eighteen years of age, shall be sentenced for seduction of youth to a fine or imprisonment for at most six months.

United Kingdom, The Sexual Offences (Northern Ireland) Order, 2008

22 – Meeting a Child Following Sexual Grooming etc.

- (1) A person aged 18 or over (A) commits an offence if—
 - (a) A has met or communicated with another person (B) on at least two occasions, and subsequently—
 - (i) A intentionally meets B, or
 - (ii) A travels with the intention of meeting B in any part of the world or arranges to meet B in any part of the world, or

- (iii) B travels with the intention of meeting A in any part of the world,
 - (b) A intends to do anything to or in respect of B, during or after the meeting mentioned in sub-paragraph (a)(i) to (iii) and in any part of the world, which if done will involve the commission by A of a relevant offence,
 - (c) B is under 16, and
 - (d) A does not reasonably believe that B is 16 or over.
- (2) In paragraph (1)—
- (a) the reference to A having met or communicated with B is a reference to A having met B in any part of the world or having communicated with B by any means from, to or in any part of the world;
 - (b) “relevant offence” means—
 - (i) an offence under this Order, or
 - (ii) an offence under any of sections 57 to 59 of the Sexual Offences Act 2003 (c.42), or
 - (iii) anything done outside Northern Ireland which is not an offence under paragraph (i) or (ii) but would be an offence within paragraph (i) or (ii) if done in Northern Ireland.

United Kingdom, Sexual Offences Act 2003, Chapter 42, 2003

9 – Sexual Activity with a Child.

- (1) A person aged 18 or over (A) commits an offence if—
- (a) he intentionally touches another person (B),
 - (b) the touching is sexual, and
 - (c) either—
 - (i) B is under 16 and A does not reasonably believe that B is 16 or over, or
 - (ii) B is under 13.
- (2) A person guilty of an offence under this section, if the touching involved—
- (a) penetration of B’s anus or vagina with a part of A’s body or anything else,
 - (b) penetration of B’s mouth with A’s penis,
 - (c) penetration of A’s anus or vagina with a part of B’s body, or
 - (d) penetration of A’s mouth with B’s penis,
- is liable, on conviction on indictment, to imprisonment for a term not exceeding 14 years.
- (3) Unless subsection (2) applies, a person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

10 – Causing or Inciting a Child to Engage in Sexual Activity.

- (1) A person aged 18 or over (A) commits an offence if—
- (a) he intentionally causes or incites another person (B) to engage in an activity,
 - (b) the activity is sexual, and
 - (c) either—
 - (i) B is under 16 and A does not reasonably believe that B is 16 or over, or
 - (ii) B is under 13.
- (2) A person guilty of an offence under this section, if the activity caused or incited involved—

- (a) penetration of B's anus or vagina,
 - (b) penetration of B's mouth with a person's penis,
 - (c) penetration of a person's anus or vagina with a part of B's body or by B with anything else, or
 - (d) penetration of a person's mouth with B's penis, is liable, on conviction on indictment, to imprisonment for a term not exceeding 14 years.
- (3) Unless subsection (2) applies, a person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

11 – Engaging in Sexual Activity in the Presence of a Child.

- (1) A person aged 18 or over (A) commits an offence if—
- (a) he intentionally engages in an activity,
 - (b) the activity is sexual,
 - (c) for the purpose of obtaining sexual gratification, he engages in it—
 - (i) when another person (B) is present or is in a place from which A can be observed, and
 - (ii) knowing or believing that B is aware, or intending that B should be aware, that he is engaging in it, and
 - (d) either—
 - (i) B is under 16 and A does not reasonably believe that B is 16 or over, or
 - (ii) B is under 13.
- (2) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years.

12 – Causing a Child to Watch a Sexual Act.

- (1) A person aged 18 or over (A) commits an offence if—
- (a) for the purpose of obtaining sexual gratification, he intentionally causes another person (B) to watch a third person engaging in an activity, or to look at an image of any person engaging in an activity,
 - (b) the activity is sexual, and
 - (c) either—
 - (i) B is under 16 and A does not reasonably believe that B is 16 or over, or
 - (ii) B is under 13.
- (2) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years.

14 – Arranging or Facilitating Commission of a Child Sex Offence.

- (1) A person commits an offence if—
- (a) he intentionally arranges or facilitates something that he intends to do, intends another person to do, or believes that another person will do, in any part of the world, and

- (b) doing it will involve the commission of an offence under any of sections 9 to 13.
- (2) A person does not commit an offence under this section if—
 - (a) he arranges or facilitates something that he believes another person will do, but that he does not intend to do or intend another person to do, and
 - (b) any offence within subsection (1)(b) would be an offence against a child for whose protection he acts.
- (3) For the purposes of subsection (2), a person acts for the protection of a child if he acts for the purpose of—
 - (a) protecting the child from sexually transmitted infection,
 - (b) protecting the physical safety of the child,
 - (c) preventing the child from becoming pregnant, or
 - (d) promoting the child's emotional well-being by the giving of advice,
 and not for the purpose of obtaining sexual gratification or for the purpose of causing or encouraging the activity constituting the offence within subsection (1)(b) or the child's participation in it.
- (4) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

15 – Meeting a Child Following Sexual Grooming etc.

- (1) A person aged 18 or over (A) commits an offence if—
 - (a) having met or communicated with another person (B) on at least two earlier occasions, he—
 - (i) intentionally meets B, or
 - (ii) travels with the intention of meeting B in any part of the world,
 - (b) at the time, he intends to do anything to or in respect of B, during or after the meeting and in any part of the world, which if done will involve the commission by A of a relevant offence,
 - (c) B is under 16, and
 - (d) A does not reasonably believe that B is 16 or over.
- (2) In subsection (1)—
 - (a) the reference to A having met or communicated with B is a reference to A having met B in any part of the world or having communicated with B by any means from, to or in any part of the world;
 - (b) “relevant offence” means—
 - (i) an offence under this Part,
 - (ii) an offence within any of paragraphs 61 to 92 of Schedule 3, or
 - (iii) anything done outside England and Wales and Northern Ireland which is not an offence within sub-paragraph (i) or (ii) but would be an offence within sub-paragraph (i) if done in England and Wales.
- (3) In this section as it applies to Northern Ireland—
 - (a) subsection (1) has effect with the substitution of “17” for “16” in both places;
 - (b) subsection (2)(b)(iii) has effect with the substitution of “sub-paragraph (ii) if done in Northern Ireland” for “sub-paragraph (i) if done in England and Wales”.

- (4) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years.

Article 43 – Prohibition of the Use of Children in Prostitution

- (1) Child prostitution shall mean the use of a child in sexual activities accomplished by the giving or promising of financial remuneration or any other form of compensation, irrespective of whether that reward is claimed by, given to or shared with the child, the procurer or any other person who intermediates sexual activities with the child, or the parent, guardian or care-giver of the child.
- (2) It shall be prohibited to engage in child prostitution and to receive any benefits therefrom. This shall include but not be limited to the following acts –
- (a) Patronizing a child for prostitution;
 - (b) Offering, procuring, or providing a child for prostitution;
 - (c) Soliciting or advertising a child for prostitution; or
 - (d) Inciting, encouraging, or facilitating the prostitution of children.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 34.

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (b) The exploitative use of children in prostitution or other unlawful sexual practices; ...

Optional Protocol to the CRC on the sale of children, child prostitution and pornography, adopted by UN GA resolution 54/263 of May 25, 2000, entered into force Jan. 18, 2002

Article 2.

For the purposes of the present Protocol:

- (b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration; ...

Article 3.

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:

- (b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2; ...

Belgium, Penal Code, 1867, as amended in Feb. 2010

Article 379.

Anyone who offends morals by inciting, encouraging or facilitating, for the gratification of the passions of others, the debauchery, corruption or prostitution of a minor of one or the other sex, shall be punished with imprisonment of five to ten years and a fine of five hundred up to twenty-five thousand francs. He will be punished by imprisonment of ten to fifteen years and a fine of five hundred up to fifty thousand francs if the minor has not attained the age of sixteen. The penalty is imprisonment of fifteen to twenty years and a fine of one thousand up to one hundred thousand francs, if the minor has not attained the age of fourteen years.

Cambodia, Law on Suppression of Human Trafficking and Sexual Exploitation NS/RKM/0208/005, 2008

Article 24 – Soliciting.

A person who willingly solicits another in public for the purpose of prostituting himself or herself shall be punished with imprisonment for 1 to 6 days and a fine of 3,000 to 10,000 riel. A minor shall be exempted from punishment of the offense stipulated in this article.

Article 25 – Definition of Procuring Prostitution.

The act of procuring prostitution in this law shall mean:

- (1) drawing a financial profit from the prostitution of others;
- (2) assisting or protecting the prostitution of others;
- (3) recruiting, inducing or training a person with a view to practice prostitution;
- (4) exercising pressure upon a person to become a prostitute.

The following acts shall be deemed equivalent to the act of procuring prostitution:

- (1) serving as an intermediary between one person who engages in prostitution and a person who exploits or remunerates the prostitution of others;
- (2) facilitating or covering up resources knowing that such resources were obtained from a procurement;
- (3) hindering the act of prevention, assistance or re-education undertaken either by a public agency or by a competent private organization for the benefit of persons engaging in prostitution or being in danger of prostitution.

Article 28 – Procurement with Regard to Child Prostitution.

Procurement of prostitution shall be punished with imprisonment for 7 to 15 years when the prostitute is a minor. ...

Article 33 – Offense with Regard to Child Prostitution.

A person who commits any of the offenses set forth in Articles 30 [Management of Prostitution], 31 [Management of Establishment for Prostitution] and 32 [Provision of Premise for Prostitution] of this law shall be punished with imprisonment for 7 to 15 years when the offense is committed with regard to child prostitution.

Article 34 – Purchase of Child Prostitution.

A person who has sexual intercourse or other sexual conduct of all kinds with a minor who is 15 years of age or above by providing, or promising to provide, anything of value to the minor, an intermediary, a parent, a guardian or any other person who keeps the child under his or her supervision or control shall be punished with imprisonment for 2 to 5 years. Any person who commits the above stated offense with a minor under the age of 15 years shall be punished with imprisonment for 7 to 15 years.

Article 35 – Soliciting for Child Prostitution.

A person who solicits another for child prostitution, or advertises child prostitution, for the purpose of acting as intermediary of the child prostitution shall be punished with imprisonment for 2 to 5 years and fine of 4,000,000 to 10,000,000 riels. A person who commits the above offense as business shall be punished with imprisonment for 5 to 10 years.

Dominican Republic, Code for the Protection of Fundamental Rights of Children and Adolescents, Law 136 of 2003**Article 410 – Penalty for Commercial Sexual Exploitation of Children and Adolescents.**

Individuals, companies or institutions that use a child or adolescent in sexual activities for money, favors in kind, or any other remuneration which is commercial sexual exploitation in the form of prostitution of children and adolescents, and those who help, facilitate or conceal those guilty of this offense shall be punished by imprisonment for three (3) to ten (10) years and a fine of ten (10) to thirty (30) of the minimum salary officially established valid when they committed the offense.

Finland, Penal Code, Law No. 39/1889, as amended up to Law No. 650/2003**Chapter 20 - Sex Offences (563/1998).****Section 8 - Buying Sexual Services from a Young Person (563/1998).**

(1) A person who, by promising or giving remuneration, gets a person younger than eighteen years of age to have sexual intercourse or to perform another sexual act shall be sentenced for buying sexual services from a young person to a fine or to imprisonment for at most six months.

(2) An attempt is punishable.

France, Penal Code, as amended in July 2005**Article 225-12-1.**

Soliciting, accepting or obtaining, in exchange for a remuneration or a promise of a remuneration, sexual relations with a minor who is engaging in prostitution, even if not regularly, is punished by three years' imprisonment and a fine of € 45,000.

Article 225-12-2.

The penalty is increased to five years' imprisonment and to € 75,000:

1. where the offence is committed habitually or against more than one minor;
2. where the minor was put in contact with the offender by the use, for the dissemination of messages to an unrestricted public, of a communication network;
3. where the offence was committed by a person abusing the authority conferred upon him by his position.

The penalty is increased to seven years' imprisonment and to a fine of € 100,000 where the minor is under fifteen years of age.

Japan, Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children, Act No. 52 of May 26, 1999, as amended 2004**Article 2 – Definitions.**

(2) The term “child prostitution” as used in this Act shall mean sexual intercourse (sexual intercourse or any conduct similar to sexual intercourse, or touching genital organs, (i.e., genital organs, anus and nipples; the same shall apply hereinafter) of a child or having a child touch one's own genital organs for the purpose of satisfying one's sexual curiosity; the same shall apply hereinafter) with a child in return for giving or promising remuneration to any person who falls under any of the following items:

- (i) The child;
- (ii) Any person who intermediates sexual intercourse with the child;
- (iii) The protector of the child (a person with parental rights, the guardian of the minor or any other individual, who is taking actual care of the child; the same shall apply hereinafter) or any person who has the child under his/her control.

Article 44 – Prohibition of Child Sex Tourism

- (1) It shall be a punishable offense –
 - (a) To travel and engage in child prostitution or in sexual activities with a child; and
 - (b) To travel with the intent to engage in child prostitution or in sexual activities with a child.
- (2) Any engagement in sexual activities with a child under the age of consent outside the territory of this State shall be a punishable offense in this State. Liability of a person for any act committed in violation of paragraph (1) shall be imposed regardless of whether such offense is punishable in the state where the act has been committed.
- (3) The organizing, advertising, or facilitating of travels that include the patronization of child prostitution or the engagement in sexual activities with children under the age of consent shall be a punishable offense. In application of Article 23 of this Law, any participation in or facilitation of such acts shall be a punishable offense. In application of Article 48 (2) of this Law, the legal person organizing, advertising, or facilitating such travels shall be liable in addition to the natural person.
- (4) Activities conducted in accordance with Article 7 of this Law shall aim to involve companies working in the tourism and travel industry to raise awareness among their customers about the issue of child sex tourism.

Based on:

Optional Protocol to the CRC on the sale of children, child prostitution and pornography, adopted by UN GA resolution 54/263 of May 25, 2000, entered into force Jan. 18, 2002

Article 10.

1. States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.
2. States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.
3. States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the

vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.

4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

Australia, Crimes (Child Sex Tourism) Amendment Act, No. 105 of 1994

50BA – Sexual Intercourse with Child under 16.

A person must not, while outside Australia, engage in sexual intercourse with a person who is under 16. Penalty: Imprisonment for 17 years.

50BB – Inducing Child under 16 to Engage in Sexual Intercourse.

A person must not induce a person who is under 16 to engage in sexual intercourse with a third person outside Australia and in the presence of the first-mentioned person.

Penalty: Imprisonment for 17 years.

50BC – Sexual Conduct Involving Child under 16.

A person ('the first person') contravenes this section if, while the first person is outside Australia:

- (a) the first person commits an act of indecency on a person who is under 16; or
- (b) the first person submits to an act of indecency committed by a person who is under 16; or
- (c) the first person commits an act of indecency in the presence of a person who is under 16 ('the child'), and the first person intends to derive gratification from the child's presence during the act; or
- (d) the first person submits to an act of indecency committed in the presence of a person who is under 16 ('the child'), and the first person intends to derive gratification from the child's presence during the act; or
- (e) the first person engages in sexual intercourse with another person in the presence of a person who is under 16 ('the child'), and the first person intends to derive gratification from the child's presence during the sexual intercourse.

Penalty: Imprisonment for 12 years.

50BD – Inducing Child under 16 to be Involved in Sexual Conduct.

- (1) A person ('the first person') must not induce a person who is under 16 to commit, to submit to, or to be present while a third person commits, an act of indecency that:
 - (a) is committed outside Australia and in the presence of the first person; and
 - (b) is not committed by or on the first person.
- (2) A person ('the first person') must not induce a person who is under 16 to be present while a third person engages in sexual intercourse with a fourth person outside Australia and in the presence of the first person. Penalty: Imprisonment for 12 years.

Italy, Penal Code, 1938, as amended in Feb. 2009

Article 600-d – Tourism Initiatives for the Exploitation of Child Prostitution.

Whoever organizes or advertizes travels intending the realization of prostitution activities harming minors or otherwise involving such activity shall be punished with imprisonment from six to twelve years and a fine between 15,493 and 154,937 Euros.

United States, 18 U.S. Code, as amended by PROTECT Act, Pub. L. 108-21, 2003

Section 2423 – Transportation of Minors.

- (b) Travel with intent to engage in illicit sexual conduct.

A person who travels in interstate commerce or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign

commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(c) Engaging in illicit sexual conduct in foreign places.

Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

Article 45 – Prohibition of Child Pornography

- (1) Child pornography shall mean any representation of a child engaged in real or simulated sexual activities or any representation of the sexual parts of a child for the purpose of sexual gratification recorded by any means including but not limited to print publications, films, audio recordings, games, electronic data, digital images, internet broadcasts, and photographs. This shall include pictures, drawings, and computer-generated images that are indistinguishable from that of a child.
- (2) It shall be prohibited to produce, consume, or participate in child pornography, or to receive any benefits therefrom. This shall include but not be limited to the following acts –
 - (a) Producing, reproducing, distributing, disseminating, offering or selling;
 - (b) Facilitating or assisting with the production of;
 - (c) Possessing, intentionally watching or downloading, or in any other form consuming; and
 - (d) Trading, importing, exporting, or transporting child pornography.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 34.

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (c) The exploitative use of children in pornographic performances and materials.

Optional Protocol to the CRC on the sale of children, child prostitution and pornography, adopted by UN GA resolution 54/263 of May 25, 2000, entered into force Jan. 18, 2002

Article 2.

For the purposes of the present Protocol:

- (c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

Article 3.

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:

- (c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.

Council of Europe, Convention on Cybercrime, CETS No. 185 of Nov. 23, 2001, entered into force July 1, 2004**Article 9 – Offences Related to Child Pornography.**

1. Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct:

- a. producing child pornography for the purpose of its distribution through a computer system;
 - b. offering or making available child pornography through a computer system;
 - c. distributing or transmitting child pornography through a computer system;
 - d. procuring child pornography through a computer system for oneself or for another person;
 - e. possessing child pornography in a computer system or on a computer-data storage medium.

2. For the purpose of paragraph 1 above, the term “child pornography” shall include pornographic material that visually depicts:

- a. a minor engaged in sexually explicit conduct;
 - b. a person appearing to be a minor engaged in sexually explicit conduct;
 - c. realistic images representing a minor engaged in sexually explicit conduct.

3. For the purpose of paragraph 2 above, the term “minor” shall include all persons under 18 years of age. A Party may, however, require a lower age-limit, which shall be not less than 16 years.

4. Each Party may reserve the right not to apply, in whole or in part, paragraphs 1, sub-paragraphs d. and e, and 2, sub-paragraphs b. and c.

Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, CETS No. 201 of Oct. 25, 2007, entered into force July 1, 2010**Article 20 – Offences Concerning Child Pornography.**

1. Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct, when committed without right, is criminalised:

- a. producing child pornography;
 - b. offering or making available child pornography;
 - c. distributing or transmitting child pornography;
 - d. procuring child pornography for oneself or for another person;
 - e. possessing child pornography;
 - f. knowingly obtaining access, through information and communication technologies, to child pornography.

2. For the purpose of the present article, the term “child pornography” shall mean any material that visually depicts a child engaged in real or simulated sexually explicit conduct or any depiction of a child’s sexual organs for primarily sexual purposes.

3. Each Party may reserve the right not to apply, in whole or in part, paragraph 1.a and e to the production and possession of pornographic material:

consisting exclusively of simulated representations or realistic images of a non-existent child;

involving children who have reached the age set in application of Article 18, paragraph 2, where these images are produced and possessed by them with their consent and solely for their own private use.

4. Each Party may reserve the right not to apply, in whole or in part, paragraph 1.f.

Article 21 – Offences Concerning the Participation of a Child in Pornographic Performances.

1. Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:

- a. recruiting a child into participating in pornographic performances or causing a child to participate in such performances;
- b. coercing a child into participating in pornographic performances or profiting from or otherwise exploiting a child for such purposes;
- c. knowingly attending pornographic performances involving the participation of children.

2. Each Party may reserve the right to limit the application of paragraph 1.c to cases where children have been recruited or coerced in conformity with paragraph 1.a or b.

Cambodia, Law on Suppression of Human Trafficking and Sexual Exploitation NS/RKM/0208/005, 2008

Article 40 – Definition of Child Pornography.

‘Child pornography’ in this law shall mean a visible material such as a photograph or videotape, including a material in electronic form, depicting a minor’s naked figure which excites or stimulates sexual desire.

Congo, Democratic Republic, Law No. 09/001 of January 10, 2009 Regarding the Protection of Children

Section 179.

Producing, distributing, disseminating, importing, exporting, offering, making available, selling, acquiring or providing to others, possessing pornographic material depicting a child is punished with five to fifteen years of penal servitude and a fine of 200’000 to one million Congolese francs.

The judge also orders the confiscation of the pornographic material in question.

The term pornography depicting children means any representation by any means whatsoever of a child engaged in explicit sexual activities, real or simulated, or any depiction of sexual organs of a child for primarily sexual purposes.

Section 180.

Exposure of children to pornography in all its forms is punishable by five to twenty years of penal servitude and a fine of one million Congolese francs.

Dominican Republic, Code for the Protection of Fundamental Rights of Children and Adolescents, Law 136 of 2006

Article 411 – Sanction for Photographing, Filming or Publishing.

The persons or firms whose delegates or employees photograph, film, or publish sexual or pornographic scenes, involving children or adolescents, shall be punished with imprisonment of two (2) to four (4) years and a fine of three (3) to ten (10) minimum wages as officially established, in force at the moment the infraction is committed.

France, Penal Code, as amended in July 2005**Article 227-23.**

Taking, recording or transmitting a picture or representation of a minor with a view to circulating it, where that image or representation has a pornographic character, is punished by three years' imprisonment and a fine of €45,000.

Attempting to do so is subject to the same penalties.

The same penalty applies to offering or distributing such a picture or representation by any means, and to importing or exporting it, or causing it to be imported or exported.

The penalties are increased to five years' imprisonment and a fine of €75,000 where use was made of a communication network for the circulation of messages to an unrestricted public in order to circulate the image or representation of a minor.

Possessing such an image or representation is punished by two years' imprisonment and a fine of €30,000.

The offences set out in the second, third and fourth paragraphs are punished by ten years' imprisonment and by a fine of €500,000 where they are committed by an organized gang.

The provisions of the present article also apply to the pornographic images of a person whose physical appearance is that of a minor unless it is proved that the person was over eighteen on the day his picture was taken or recorded.

Germany, Criminal Code, 1998, as amended in July 2009**Section 184b – Distribution, Acquisition and Possession of Child Pornography.****(1) Whosoever**

1. disseminates;
2. publicly displays, presents, or otherwise makes accessible; or
3. produces, obtains, supplies, stocks, offers, announces, commends, or undertakes to import or export in order to use them or copies made from them within the meaning of Nos 1 or 2 above or facilitates such use by another pornographic written materials (section 11 (3)) related to sexual activities performed by, on or in the presence of children (section 176 (1)) (child pornography)

shall be liable to imprisonment from three months to five years. [cf. section 184c for juvenile pornography]

(2) Whosoever undertakes to obtain possession for another of child pornography reproducing an actual or realistic activity shall incur the same penalty.

(3) In cases under subsection (1) or subsection (2) above the penalty shall be imprisonment of six months to ten years if the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of such offences and the child pornography reproduces an actual or realistic activity.

(4) Whosoever undertakes to obtain possession of child pornography reproducing an actual or realistic activity shall be liable to imprisonment of not more than two years or a fine. Whosoever possesses the written materials set forth in the 1st sentence shall incur the same penalty.

(5) Subsections (2) and (4) above shall not apply to acts that exclusively serve the fulfillment of lawful official or professional duties.

(6) In cases under subsection (3) above section 73d [referring to confiscation] shall apply. Objects to which an offence under subsection (2) or (4) above relates shall be subject to a deprivation order. Section 74a shall apply.

Section 184d – Distribution of Pornographic Performances by Broadcasting, Media Services or Telecommunications Services.

Whosoever disseminates pornographic performances via broadcast, media services, or telecommunications services shall be liable pursuant to sections 184 to 184c. ...

Ireland, Child Trafficking and Pornography Act, 1998

Section 2.

“child pornography” means—

(a) any visual representation—

(i) that shows or, in the case of a document, relates to a person who is or is depicted as being a child and who is engaged in or is depicted as being engaged in explicit sexual activity,

(ii) that shows or, in the case of a document, relates to a person who is or is depicted as being a child and who is or is depicted as witnessing any such activity by any person or persons, or

(iii) whose dominant characteristic is the depiction, for a sexual purpose, of the genital or anal region of a child,

(b) any audio representation of a person who is or is represented as being a child and who is engaged in or is represented as being engaged in explicit sexual activity,

(c) any visual or audio representation that advocates, encourages or counsels any sexual activity with children which is an offence under any enactment, or

(d) any visual representation or description of, or information relating to, a child that indicates or implies that the child is available to be used for the purpose of sexual exploitation within the meaning of section 3, irrespective of how or through what medium the representation, description or information has been produced, transmitted or conveyed and, without prejudice to the generality of the foregoing, includes any representation, description or information produced by or from computer-graphics or by any other electronic or mechanical means but does not include—

(I) any book or periodical publication which has been examined by the Censorship of Publications Board and in respect of which a prohibition order under the Censorship of Publications Acts, 1929 to 1967, is not for the time being in force,

(II) any film in respect of which a general certificate or a limited certificate under the Censorship of Films Acts, 1923 to 1992, is in force, or

(III) any video work in respect of which a supply certificate under the Video Recordings Acts, 1989 and 1992, is in force;...

(2) The reference in paragraph (a) of the definition of child pornography to a person shall be construed as including a reference to a figure resembling a person that has been generated or modified by computer-graphics or otherwise, and in such a case the fact, if it is a fact, that some of the principal characteristics shown are those of an adult shall be disregarded if the predominant impression conveyed is that the figure shown is a child.

Japan, Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children, Act No. 52 of May 26, 1999, as amended 2004

Article 2 – Definitions.

(3) The term “child pornography” as used in this Act shall mean photographs, recording media containing electromagnetic records (any record which is produced by electronic, magnetic

or any other means unrecognizable by natural perceptive functions and is used for data-processing by a computer; the same shall apply hereinafter) or any other medium which depicts the pose of a child, which falls under any of the following items, in a visible way:

- (i) Any pose of a child engaged in sexual intercourse or any conduct similar to sexual intercourse;
- (ii) Any pose of a child having his or her genital organs touched by another person or of a child touching another person's genital organs, which arouses or stimulates the viewer's sexual desire;
- (iii) Any pose of a child wholly or partially naked, which arouses or stimulates the viewer's sexual desire.

South Africa, Act 65 of 1996, as amended by Films and Publications Amendment Act, Act No. 3 of 2009

Section 24B – Prohibition, Offences and Penalties on Possession of Films, Games and Publications.

(1) Any person who –

- (a) unlawfully possesses;
- (b) creates, produces or in any way contributes to, or assists in the creation or production of;
- (c) imports or in any way takes steps to procure, obtain or access or in any way knowingly assists in, or facilitates the importation, procurement, obtaining or accessing of; or
- (d) knowingly makes available, exports, broadcasts or in any way distributes or causes to be made available, exported, broadcast or distributed or assists in making available, exporting, broadcasting or distributing, any film, game or publication which contains depictions, descriptions or scenes of child pornography or which advocates, advertises, encourages or promotes child pornography or the sexual exploitation of children, shall be guilty of an offence.

(2) Any person who, having knowledge of the commission of any offence under subsection (1) or having reason to suspect that such an offence has been or is being committed and fails to –

- (a) report such knowledge or suspicion as soon as possible to a police official of the South African Police Service; and
- (b) furnish, at the request of the South African Police Service, all particulars of such knowledge or suspicion, shall be guilty of an offence.

United States, 18 U.S. Code, as amended by PROTECT Our Children Act, Pub. L. 110-401, 2008

Section 2256 – Definitions for Chapter.

(8) "child pornography" means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where –

- (A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;
 - (B) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct; or
 - (C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.
-

Article 46 – Dealing with Child Pornographic Contents and Materials

- (1) Supplementing the obligations under Article 14 of this Law, a mechanism for the public to report child pornography on the internet shall be established.
- (2) Supplementing the obligations under Article 14 of this Law, an electronic service provider which is aware that the service provided has been or is being used to access and/or distribute child pornography material shall report to the police or any other competent domestic authority. The data shall be used to identify victims and offenders.
- (3) A system to remove child pornography content at the source shall be established. The system shall be aimed at facilitating the disruption of access to child pornographic content and the deregistration of domain names dedicated to the distribution of such content.
- (4) Supplementing the obligations under Article 15 of this Law, the competent domestic authorities shall have the duty to search and seize computer data containing child pornography. They shall be provided with the necessary technical means to do so. Law enforcement officials acting in the course of investigation shall not be liable for committing any of the acts sanctioned by Article 45 of this Law.
- (5) Adequate measures enabling the destruction of the child pornographic material irrespective of the format in which it is presented shall be implemented with full respect to the affected child's right to privacy.

Based on:

Council of Europe, Convention on Cybercrime, CETS No. 185 of Nov. 23, 2001, entered into force July 1, 2004

Article 18 – Production Order.

1. Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order:
 - a. a person in its territory to submit specified computer data in that person's possession or control, which is stored in a computer system or a computer-data storage medium; and
 - b. a service provider offering its services in the territory of the Party to submit subscriber information relating to such services in that service provider's possession or control.
2. The powers and procedures referred to in this article shall be subject to Articles 14 and 15.
3. For the purpose of this article, the term "subscriber information" means any information contained in the form of computer data or any other form that is held by a service provider, relating to subscribers of its services other than traffic or content data and by which can be established:
 - a. the type of communication service used, the technical provisions taken thereto and the period of service;

- b. the subscriber's identity, postal or geographic address, telephone and other access number, billing and payment information, available on the basis of the service agreement or arrangement;
- c. any other information on the site of the installation of communication equipment, available on the basis of the service agreement or arrangement.

Article 19 – Search and Seizure of Stored Computer Data.

1. Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to search or similarly access:
 - a. a computer system or part of it and computer data stored therein; and
 - b. a computer-data storage medium in which computer data may be stored in its territory.
2. Each Party shall adopt such legislative and other measures as may be necessary to ensure that where its authorities search or similarly access a specific computer system or part of it, pursuant to paragraph 1.a, and have grounds to believe that the data sought is stored in another computer system or part of it in its territory, and such data is lawfully accessible from or available to the initial system, the authorities shall be able to expeditiously extend the search or similar accessing to the other system.
3. Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to seize or similarly secure computer data accessed according to paragraphs 1 or 2. These measures shall include the power to:
 - a. seize or similarly secure a computer system or part of it or a computer-data storage medium;
 - b. make and retain a copy of those computer data;
 - c. maintain the integrity of the relevant stored computer data;
 - d. render inaccessible or remove those computer data in the accessed computer system.
4. Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order any person who has knowledge about the functioning of the computer system or measures applied to protect the computer data therein to provide, as is reasonable, the necessary information, to enable the undertaking of the measures referred to in paragraphs 1 and 2.
5. The powers and procedures referred to in this article shall be subject to Articles 14 and 15.

Australia, Criminal Code Act, Act No. 12 of 1995, as amended by Act No. 8 of 2010

Section 474.25 – Obligations of Internet Service Providers and Internet Content Hosts.

A person commits an offence if the person:

- (a) is an internet service provider or an internet content host; and
- (b) is aware that the service provided by the person can be used to access particular material that the person has reasonable grounds to believe is:
 - (i) child pornography material; or
 - (ii) child abuse material; and
- (c) does not refer details of the material to the Australian Federal Police within a reasonable time after becoming aware of the existence of the material.

Canada, Child Protection Act (Online Sexual Exploitation), Bill C-58, Nov. 24, 2009

Section 3 – Duty to Report Internet Address.

If a person is advised, in the course of providing an Internet service to the public, of an Internet Protocol address or a Uniform Resource Locator where child pornography may be available to

the public, the person must report that address or Uniform Resource Locator to the organization designated by the regulations, as soon as feasible and in accordance with the regulations.

Section 4 – Duty to Notify Police Officer.

If a person who provides an Internet service to the public has reasonable grounds to believe that their Internet service is being or has been used to commit a child pornography offence, the person must notify an officer, constable or other person employed for the preservation and maintenance of the public peace of that fact, as soon as feasible and in accordance with the regulations.

Section 5 (1) – Preservation of Computer Data.

A person who makes a notification under section 4 must preserve all computer data related to the notification that is in their possession or control for 21 days after the day on which the notification is made.

Section 5 (2) – Destruction of Preserved Computer Data.

The person must destroy the computer data that would not be retained in the ordinary course of business and any document that is prepared for the purpose of preserving computer data under subsection (1) as soon as feasible after the expiry of the 21-day period, unless the person is required to preserve the computer data by a judicial order made under any other Act of Parliament or the legislature of a province.

France, Criminal Procedure Code as amended by Law No. 2007-297 of 2007

Article 706-47.

The provisions of this title shall apply to proceedings relating to offenses of murder, murder of a minor preceded or accompanied by rape, torture, or acts of barbarism, and offenses of sexual assault or sexual abuse or pandering towards a minor, or the prostitution of a minor under articles 222-23 to 222-31, 225-7 (1) 225-7-1, 225-12-1, 225-12-2 and 227-22 to 227-27 [relating to child pornography] of the Criminal Code.

Article 706-35-1.

In order to establish offenses referred to in Articles 225-4-1 to 225-4-9 [relating to trafficking in human beings], 225-5 to 225-12 [relating to procuring and assimilated offenses] and 225-12-1 to 225-12-4 [relating to prostitution of minors] of the Criminal Code and, when they are committed by electronic means, to collect evidence and track down the perpetrators, officers or judicial police officers acting in the course of the investigation or commission may, if they are serving in a specialized service specially authorized for this purpose may according to the conditions specified by order, commit the following acts without being criminally liable:

1. Participate in electronic exchanges using a pseudonym;
2. Be in touch in this way with persons likely to be the perpetrators of such offenses;
3. Extract, transmit in response to a specific request, acquire, or retain illegal content under conditions laid down by decree.

These acts can not constitute an incitement to commit these offenses and are null and void.

United States, 18 U.S. Code, as amended by PROTECT Our Children Act, Pub. L. 110-401, 2008

Section 2258A – Reporting Requirements of Electronic Communication Service Providers and Remote Computing Service Providers.

(a) Duty To Report. –

- (1) In general. – Whoever, while engaged in providing an electronic communication service or a remote computing service to the public through a facility or means of interstate or foreign commerce, obtains actual knowledge of any facts or circumstances described in paragraph (2) shall, as soon as reasonably possible –

- (A) provide to the CyberTipline of the National Center for Missing and Exploited Children, or any successor to the CyberTipline operated by such center, the mailing address, telephone number, facsimile number, electronic mail address of, and individual point of contact for, such electronic communication service provider or remote computing service provider; and
 - (B) make a report of such facts or circumstances to the CyberTipline, or any successor to the CyberTipline operated by such center.
- (2) Facts or circumstances. – The facts or circumstances described in this paragraph are any facts or circumstances from which there is an apparent violation of –
- (A) section 2251, 2251A, 2252, 2252A, 2252B, or 2260 that involves child pornography; or
 - (B) section 1466A. ...

Article 47 – The Principle of Non-Punishment of the Child Victim

- (1) A child which became victim of sexual exploitation, including –
- (a) A child in prostitution,
 - (b) A child victim of sex tourism,
 - (c) A child victim of the production, distribution, or consumption of child pornography, and
 - (d) A child victim of trafficking shall not be criminalized for any unlawful act committed as a direct result of being a child victim of exploitation, such as engaging in prostitution, using false documents, or entering the country without documentation, and no punishment may be inflicted on her/him.
- (2) Such children shall be provided with assistance, rehabilitation and reintegration measures as provided in Chapter 3 of this Law. They shall be informed of their right to full compensation. Prevention activities carried out in accordance with Article 7 of this Law shall include conducting research into the root causes of child sexual exploitation and raising awareness on the issue.

Based on:

Council of Europe Convention on Action against Trafficking in Human Beings, CETS No. 197 of May 16, 2005, entered into force Feb. 1, 2008

Article 26 – Non-Punishment Provision.

Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.

United States, Trafficking Victims Protection Act, Pub. L. 106-386, 2000, as amended and reauthorized

Section 102 (b) (19).

Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation.

Article 48 – Jurisdiction, Extradition, Liability, and Cooperation

- (1) Jurisdiction of domestic courts for the offenses in this Chapter shall include extraterritorial jurisdiction and shall thus be established –
 - (a) If the offences are committed in the territory of, or on board a ship or aircraft registered in, this State; or
 - (b) If the perpetrator or the victim is a national of this State, wheresoever the crime is committed.
- (2) In addition to the liability of natural persons, the liability of a legal person for committing any of the offenses under this Chapter shall be established.
- (3) The offenses under this Chapter shall be included as an extraditable offence in all extradition treaties by which this State is bound. In cases where the alleged offender cannot be extradited, the domestic courts shall have jurisdiction.
- (4) Regarding the offenses under this Chapter, the research and training activities conducted in accordance with Article 7 of this Law shall include trans-border cooperation between domestic, foreign, and international law enforcement agencies. Special programs to facilitate investigations, the detection and identification of perpetrators and victims through data exchange and technical cooperation shall be developed and implemented.
- (5) Measures of national and international cooperation shall involve the HCPA and the CPCs, academia, experts in the field, and representatives from civil society, and the private sector, specifically the tourism and travel industry, to conduct awareness-raising and other preventive and protective activities.

Based on:

Optional Protocol to the CRC on the sale of children, child prostitution and pornography, adopted by UN GA resolution 54/263 of May 25, 2000, entered into force Jan. 18, 2002

Article 3

4. Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article. Subject to the legal principles of the State Party, such liability of legal persons may be criminal, civil or administrative.

Article 4.

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, when the offences are committed in its territory or on board a ship or aircraft registered in that State.
2. Each State Party may take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, in the following cases:
 - (a) When the alleged offender is a national of that State or a person who has his habitual residence in its territory;
 - (b) When the victim is a national of that State.
3. Each State Party shall also take such measures as may be necessary to establish its jurisdiction over the aforementioned offences when the alleged offender is present in its territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its nationals.
4. The present Protocol does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 5.

1. The offences referred to in article 3, paragraph 1, shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties and shall be included as extraditable offences in every extradition treaty subsequently concluded between them, in accordance with the conditions set forth in such treaties.
2. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider the present Protocol to be a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.
3. States Parties that do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 4.
5. If an extradition request is made with respect to an offence described in article 3, paragraph 1, and the requested State Party does not or will not extradite on the basis of the nationality of the offender, that State shall take suitable measures to submit the case to its competent authorities for the purpose of prosecution.

Article 6.

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 3, paragraph 1, including assistance in obtaining evidence at their disposal necessary for the proceedings.
2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 10.

1. States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children,

child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.

2. States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.
3. States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.
4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

United Nations Convention against Transnational Organized Crime, adopted by UN GA resolution 55/25 of Nov. 15, 2000, entered into force Sep. 29, 2003

Article 3 – Scope of Application.

2. For the purpose of paragraph 1 of this article, an offence is transnational in nature if:
 - (a) It is committed in more than one State;
 - (b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;
 - (c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or
 - (d) It is committed in one State but has substantial effects in another State.

Council of Europe, Convention on Cybercrime, CETS No. 185 of Nov. 23, 2001, entered into force July 1, 2004

Article 12 – Corporate Liability.

1. Each Party shall adopt such legislative and other measures as may be necessary to ensure that legal persons can be held liable for a criminal offence established in accordance with this Convention, committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within it, based on:
 - a. a power of representation of the legal person;
 - b. an authority to take decisions on behalf of the legal person;
 - c. an authority to exercise control within the legal person.
2. In addition to the cases already provided for in paragraph 1 of this article, each Party shall take the measures necessary to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of a criminal offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.
3. Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.
4. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.

France, Penal Code, as amended July 2005**Article 225-12-3.**

Where the misdemeanors referred to under articles 225-12-1 to 225-12-2 [referring to child prostitution] are committed abroad by a French national or by a person habitually resident on French territory, French law is applicable notwithstanding the second paragraph of article 113-6, and the provisions of the second sentence of article 113-8 do not apply.

Article 225-12-4.

A legal person may incur criminal liability, pursuant to the conditions set out under article 121 -2, for the offence defined under this Section of the present Code.

The penalties to be incurred by legal persons are:

1. a fine, pursuant to the conditions set out under article 131-38;
2. the penalties enumerated under 2°, 3° 8° and 9° of article 131-39. ...

Japan, Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children, Act No. 52 of May 26, 1999, as amended 2004**Article 10 – Crimes Committed by Japanese Nationals outside Japan.**

The crimes prescribed in Articles 4 to 6, paragraphs 1 to 5 of Article 7, and paragraphs 1 and 3 (limited to the part related to paragraph 1 of the same article) of Article 8 shall be governed by Article 3 of the Penal Code (Law No. 45 of 1907).

Article 11 – Dual Liability.

When a representative of a juridical person or a proxy, employee or any other staff member of a juridical person or of an individual has committed any of the crimes prescribed in Articles 5 to 7 with regard to the business of said juridical person or individual, not only the offender shall be punished but also said juridical person or individual shall be punished by the fine prescribed in the respective articles.

Japan, Penal Code, Act No.45 of 1907, as revised by Act No. 36 of 2006**Article 3 – Crimes Committed by Japanese Nationals Outside Japan.**

This Code shall apply to any Japanese national who commits one of the following crimes outside the territory of Japan:

- (xi) The crimes proscribed under Articles 224 through 228 (Kidnapping of Minors; Kidnapping for Profit; Kidnapping for Ransom; Kidnapping for Transportation out of a Country; Buying or Selling of Human Beings; Transportation of Kidnapped Persons out of a Country; Delivery of Kidnapped Persons; Attempts); ...

Article 3-2 – Crimes Committed by Non-Japanese Nationals Outside Japan.

This Code shall apply to any non-Japanese national who commits one of the following crimes against a Japanese national outside the territory of Japan.

- (v) The crimes proscribed under Articles 224 through 228 (Kidnapping of Minors; Kidnapping for Profit; Kidnapping for Ransom; Kidnapping for Transportation out of a Country; Buying or Selling of Human Beings; Transportation of Kidnapped Persons out of a Country; Delivery of Kidnapped Persons; Attempts); ...

Chapter 6

Protection of Children from Economic Exploitation

Article 49 – Principles of Children’s Work

- (1) Children shall have the right to decent work. Children’s work shall not jeopardize any of the rights established in this Law, including the right to physical and mental well-being, the right to education, and the right to leisure and play.
- (2) Children who are employed in accordance with this Law shall have the right to receive adequate and fair remuneration for their work.
- (3) The CPCs shall be responsible for monitoring the employment of children to guarantee the decency and safety of their work and working conditions. The HCPA shall advise on the formulation of policies to promote such working conditions for children.
- (4) This Chapter shall be applicable to private employment agencies. Private employment agencies as defined by Article 1 of Convention 181 of the International Labor Organization shall be held liable as legal persons for any violation of this Law.
- (5) Any violation of the provisions of this Chapter shall be established as a punishable offense in accordance with Article 23 of this Law. Any employer who has been convicted of violating this Chapter is liable to pay compensation to the child victim in accordance with Article 24 of this Law.
- (6) Research activities carried out in accordance with Article 7 of this Law shall examine –
 - (a) Means to protect children from exploitative work and to prevent harmful, hazardous, and indecent work of children; and
 - (b) Ways to promote children’s right to work without negatively interfering with their right to education and the extent to which children’s work may have beneficial effects on their mental, emotional, and social development.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 32.

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular: ...
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

International Labour Organization, Convention Concerning Minimum Age for Admission to Employment, Convention No. 138 of June 26, 1973, entered into force June 19, 1976

Article 9.

1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention

International Labour Organization, Convention Concerning Private Employment Agencies, Convention No. 181 of June 19, 1997, entered into force May 10, 2000

Article 1.

1. For the purpose of this Convention the term private employment agency means any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services:
 - (a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom;
 - (b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as a "user enterprise") which assigns their tasks and supervises the execution of these tasks;
 - (c) other services relating to jobseeking, determined by the competent authority after consulting the most representative employers and workers organizations, such as the provision of information, that do not set out to match specific offers of and applications for employment.

Article 9

A Member shall take measures to ensure that child labour is not used or supplied by private employment agencies.

Egypt, Law No. 12 of 1996 Promulgating the Child Law as amended by Law No. 126, 2008

Article 69.

The employer shall hand over to the child personally, or to one of his parents, his wage or bonus and other dues payable thereto. Handing over this payment shall clear the employer's obligations.

Ghana, Act 560, The Children's Act, 1998

Section 94 – Offences under this Sub-Part.

- (1) Any person who contravenes the provisions of this Sub-Part [Child Labour] commits an offence and is liable on summary conviction to a fine not exceeding c10 million or to imprisonment for a term not exceeding two years or to both.
- (2) Notwithstanding subsection (1) of this section, any person who contravenes section 93(1) [Registration of Children in Industrial Undertakings] commits an offence and is liable on conviction to a fine not exceeding c500,000.00.

Lesotho, Children's Protection and Welfare Bill, 2004

Section 239 – Offences.

- (1) Any person who contravenes the provisions of this Part [Employment of Children] commits an offence and on conviction is liable to a fine of not less than fifteen thousand or to imprisonment for a term not less than two years or to both. ...
- (2) Notwithstanding subsection (1), any person who contravenes the provisions of sections 233 (1) [Exploitative Child Labour], 235 [Minimum Age for Child Labour] and 237 [Minimum Age for Hazardous Employment] commits an offence and shall –
 - (a) on first conviction be liable to a fine not less than hundred thousand Maloti or to imprisonment for a term not less than five years or both;
 - (b) on second or subsequent conviction to imprisonment for a minimum term of ten years without option of a fine.

Sierra Leone, The Child Rights Act, 2007

Section 131 – Offences under this Part.

- (1) Any person who contravenes the provisions of this Part [Employment of Children] commits an offence and is liable on summary conviction to a fine not exceeding Le10 million or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.
- (2) Notwithstanding subsection (1), any person who contravenes subsection (1) of section 130 commits an offence and is liable on conviction to a fine not exceeding Le500,000.

Section 132 – Enforcement in Formal Sector.

- (1) A district labour officer shall carry out any enquiry he may consider necessary in order to satisfy himself that the provisions of this Part with respect to labour by children and young persons in the formal sector are being strictly observed.
- (2) For the purposes of this section, any person may be interrogated by a district labour officer.
- (3) If a district labour officer is reasonably satisfied that the provisions of this Part are not being complied with he shall report the matter to the police who shall investigate the matter and take the appropriate steps to prosecute the offender.

Section 133 – Enforcement in Informal Sector.

- (1) The district council shall be responsible for the enforcement of the provisions of this Part in the informal sector.
- (2) For purpose of this section, any person may be interrogated by a member or officer of the district council deputed in that behalf by the council.
- (3) If the member or officer of the council deputed in that behalf is reasonably satisfied that the provisions of this Part are not being complied with, he shall report the matter to the police who shall investigate the matter and take the appropriate steps to prosecute the offender.

(4) Where the offender is a family member of the child whose rights are being infringed under this Part, the district council shall request a probation officer or social welfare officer to prepare a social enquiry report on the matter.

(5) The social enquiry report prepared under subsection (4) shall be considered by the police before any action is taken against the offender.

Article 50 – Minimum Age for Employment of Children

- (1) A minimum age for employment shall be established by law taking into consideration the time necessary for children to gain the adequate physical and mental maturity and to complete their basic education. Children below the minimum age for employment shall not engage in any employment relationship, remunerated or not.
- (2) A minimum age for an apprenticeship below the age established in accordance with paragraph (1) of this Article may be established by law. This shall apply to work done by children in a program of vocational or technical training or in a comparable training institution serving the purpose of occupational training, education, guidance, or orientation. Such program must be approved by the CPCs. The CPCs establish the conditions of the program in cooperation with organizations of employers and workers concerned.
- (3) A minimum age for light employment below the age established in accordance with paragraph (2) of this Article may be established by law. The CPCs shall determine the activities that constitute light employment and shall prescribe the conditions in which such employment may be undertaken. Children may engage in light employment if –
 - (a) It does not affect their attendance at school or other vocational training as defined under paragraph (3) and their capacity to benefit therefrom; and
 - (b) It is not likely to be harmful to their health or development.
- (4) The minimum age for employment in a specific sector may depend on the nature of the work. Exceptions for certain areas of work where a child under the minimum age for employment may be employed shall be established by law in accordance with the principles of Article 49 of this Law.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 32.

2. States Parties shall in particular:

- (a) Provide for a minimum age or minimum ages for admission to employment;

International Labour Organization, Convention Concerning Minimum Age for Admission to Employment, Convention No. 138 of June 26, 1973, entered into force June 19, 1976

Article 2.

1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.
3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.
4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.

Article 3.

1. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.
2. The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.
3. Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

Article 6.

This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, and is an integral part of--

- (a) a course of education or training for which a school or training institution is primarily responsible;
- (b) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or
- (c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

Article 7.

1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is -
 - (a) not likely to be harmful to their health or development; and
 - (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.
3. The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.
4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

Belarus, Act No. 2570-XII of Nov. 19, 1993, On Child's Rights, as amended in 2007

Article 24 – Right to Work.

The child has the right to receive the profession, take part in independent work activity in accordance with his age, state of health and professional training.

After age of 16 the child has the right to independent work activity. With written permission of the parents or persons substituting them labour contract can be concluded with him after 14 years of age in the order and on conditions established by the legislation of the Republic of Belarus. ...

Colombia, Law No. 1098/2006 Issuing the Code of Childhood and Adolescence, 2006

Article 3 – Beneficiaries Under the Law.

For all purposes of this Act beneficiaries under the law are all persons under 18. Without prejudice to Article 34 of the Civil Code, the term child refers to people between 0 and 12 years, and adolescent to people between 12 and 18 years of age.

Article 113 – Work Permit for Adolescents.

The Labor Inspector is entitled to issue written authorization for an adolescent to work at the request of her/his parents, the respective legal representative or the Family Advocate. In the absence of the Labor Inspector the authorization shall be issued by the Family Commissioner of and in absence of the Commissioner by the municipal mayor.

The authorization is subject to the following rules:

1. It shall be conducted jointly between the employer and the adolescent;
2. The request must contain the general identification data of the adolescent and the employer, the terms of the employment contract, the activity to be undertaken, working hours and wages.
3. The official who issued the permit must make a visit to determine the working conditions and security for the workers' health.
4. To obtain the authorization the certificate of education of the adolescent is required and if she/he has not completed the basic education, the employer shall enroll her/him and in any case provide the time necessary to continue the process of education or training, taking into account the vocational orientation.
5. The employer must obtain a certificate of health status of the adolescent worker. ...
7. The employer must give immediate notice to the authority which conferred the permit, when the employment relationship starts and when it ends.

Paragraph.

The work permit may be denied or revoked if there are no minimum guarantees of health, social security and education of the adolescent.

Ghana, Act 560, The Children's Act, 1998

Section 89 – Minimum age for Child Labour.

The minimum age for admission of a child to employment shall be fifteen years.

Section 90 – Minimum Age for Light Work.

- (1) The minimum age for the engagement of a child in light work shall be thirteen years.
- (2) Light work constitutes work which is not likely to be harmful to the health or development of the child and does not affect the child's attendance at school or the capacity of the child to benefit from school work.

Section 98 – Minimum Age for Apprentices.

The minimum age at which a child may commence an apprenticeship with a craftsman is fifteen years or after completion of basic education.

Indonesia, Act No. 13 of 2003

Article 69.

- (1) Exemption from what is stipulated under Article 68 may be made for the employment of children aged between 13 (thirteen) years old and 15 (fifteen) years old for light work to the extent that the job does not stunt or disrupt their physical, mental and social developments.
- (2) Entrepreneurs who employ children for light work as mentioned under subsection (1) must meet the following requirements:
 - a. The entrepreneurs must have written permission from the parents or guardians of the children;
 - b. There must be a work agreement between the entrepreneur and the parents or guardians;
 - c. Maximum working time 3 (three) hours a day;
 - d. Conducting during the day without disturbing school time;
 - e. Occupational safety and health;
 - f. A clear employment relations; and
 - g. Receive wages in accordance with the prevailing provisions.
- (3) The provisions as mentioned under point a, b, f and point g of subsection (2) shall not apply to children who work in a family business.

Kenya, The Children's Act, Act No. 8 of 2001

Section 10 – Protection from Child Labour and Armed Conflict.

- (1) Every child shall be protected from economic exploitation and any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. ...
- (5) In this Act child labour refers to any situation where a child provides labour in exchange for payment and includes—
 - (a) any situation where a child provides labour as an assistant to another person and his labour is deemed to be the labour of that other person for the purposes of payment;
 - (b) any situation where a child's labour is used for gain by any individual or institution whether or not the child benefits directly or indirectly; and
 - (c) any situation where there is in existence a contract for services where the party providing the services is a child whether the person using the services does so directly or by agent.

Lithuania, Law on Fundamentals of Protection of the Rights of the Child, Act No. I-1234, 1996

Article 39 – General Provisions in Child Labour Activity.

3. Having attained 16 years of age and unwilling or incapable of continuing the studies, he may work. ...

Philippines, The Child and Youth Welfare Code, Presidential Decree No. 603, 1974

Article 107 – Employment of Children Below Sixteen Years.

Children below sixteen years of age may be employed to perform light work which is not harmful to their safety, health or normal development and which is not prejudicial to their studies. The provisions of the Labor Code relating to employable age and conditions of employment of children are hereby adopted as part of this Code insofar as not inconsistent herewith.

Sierra Leone, The Child Rights Act, 2007

Section 127 – Minimum Age for Light Work.

- (1) The minimum age for the engagement of a child in light work shall be thirteen years.
- (2) Light work constitutes work which is not likely to be harmful to the health or development of the child and does not affect the child's attendance at school or the capacity of the child to benefit from school work.

Section 135 – Minimum Age for Apprenticeship.

The minimum age at which a child may commence an apprenticeship with a craftsman is fifteen years or after completion of basic education, whichever is later.

Sweden, Work Environment Act, 1977:1160, as amended by SFS 2005:396

Chapter 5 – Minors.

Section 1.

For the purposes of this Act, a minor is a person who has not attained the age of 18.

Section 2.

A minor may not, as an employee or in any other capacity, be engaged for or carry out work before the calendar year in which the minor attains the age of 16 or before the minor has completed his compulsory schooling. Notwithstanding the provisions of the first paragraph, a minor who has attained the age of 13 may be engaged for, or carry out, light work that will not have a detrimental effect on the minor's health, development or schooling. The Government or, if decided by the Government, the Swedish Work Environment Authority, may make regulations concerning exceptions to the first paragraph concerning the employment of a minor who has not attained the age of 13. Such an exception may apply only to very light work of the type that special and significant problems of implementation would arise if an exception were not permitted. The Government or, if decided by the Government, the Swedish Work Environment Authority, may make regulations concerning work referred to in the second and third paragraphs. The Merchant Seaman Act (H1973:282H) and the Vessel Safety Act (H2003:364H) contain special provisions on minimum ages for work on vessels. (SFS 2003:365)

Article 51 – Prohibition of Harmful, Hazardous, and Indecent Work

- (1) The employment of children in dangerous occupations or the performance of hazardous processes that are likely to be harmful to the child's health and physical well-being shall be prohibited. The employment of children in areas of work likely to harm their physical, mental, emotional, or social development shall be prohibited.

- (2) The exposure of children to materials and fumes likely to damage their health and the handling and manufacturing of toxic or inflammable substances and explosives shall be prohibited.
- (3) The worst forms of child labor shall be prohibited, particularly all forms of slavery or practices similar to slavery. These include but are not limited to forced or compulsory labor, debt bondage, serfdom, the sale and trafficking of children for the purpose of economic exploitation and for the purpose of sexual exploitation.
- (4) Article 48 of this Law shall be applicable regarding the jurisdiction for offenses committed under paragraph (3).
- (5) Child victims who have been subjected to child labor or children's work not in accordance with this Law shall be provided with medical and psychological assistance, rehabilitation and reintegration measures, legal assistance, and the right to compensation as provided in Chapter 3 of this Law.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 32.

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. ...

International Labour Organization, Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, Convention No. 182 of June 17, 1999, entered into force Nov. 19, 2000

Article 3.

For the purposes of this Convention, the term the worst forms of child labour comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Belarus, Act No. 2570-XII of Nov. 19, 1993, On Child's Rights, as amended in 2007

Article 24 – Right to Work.

...Application of child's labor on the hard works and on the works with harmful or dangerous conditions of work, underground and mountain works and also other works, which are harmful for the child's health and development or which cause damage to the school attendance is prohibited. The list of such works is determined by the Government of the Republic of Belarus or authorized body in accordance to the legislation of the Republic of Belarus.

Dominican Republic, Code for the Protection of Fundamental Rights of Children and Adolescents, Law 136 of 2003***Article 34 – Right to Protection Against Labor Exploitation.***

Children and adolescents are entitled to protection from economic exploitation. The State and society must develop and implement policies, plans, programs and protection measures aimed at eliminating child labor and girls, especially those defined as worst forms of child labor. The family must contribute to achieving this goal.

Paragraph.

Protection against labor exploitation of children and adolescents is a responsibility of the State, exercised through the Ministry of Labor, in coordination with the National Council for Childhood and Adolescence (CONANI) relying on the provisions of the Labor Code of the Dominican Republic, the ILO Convention 138 on the Establishment of the Minimum Age for Admission to Employment and Convention 182 on the Elimination of the Worst Forms of Child Labor and other international instruments ratified by the country, and the regulations and recommendations on child labor available through the National Steering Committee to Combat Child Labor.

Ghana, Act 560, The Children’s Act, 1998***Section 87 – Prohibition of Exploitative Child Labor.***

- (1) No person shall engage a child in exploitative labor.
- (2) Labor is exploitative of a child if it deprives the child of its health, education or development.

Section 91 – Minimum Age for Hazardous Employment.

- (1) The minimum age for the engagement of a person in hazardous work is eighteen years.
- (2) Work is hazardous when it poses a danger to the health, safety or morals of a person.
- (3) Hazardous work includes –
 - (a) going to sea;
 - (b) mining and quarrying;
 - (c) portering of heavy loads;
 - (d) manufacturing industries where chemicals are produced or used;
 - (e) work in places where machines are used; and
 - (f) work in places such as bars, hotels and places of entertainment where a person may be exposed to immoral behavior.

India, The Child Labor (Prohibition and Regulation) Act, Act No. 61 of 1986***Section 3 – Prohibition of Employment of Children in Certain Occupations and Processes.***

No child shall be employed or permitted to work in any of the occupations set forth in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on: Provided that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.

Tunisia, Code of Child Protection, 1995***Article 26.***

Economic exploitation means the exposure of a child to begging, or employment under conditions contrary to the law or the fact that the charged work is likely to deprive the child of her/his education or that it is harmful the health, physical or moral integrity of the child

Indonesia, Act No. 13 of 2003

Article 74.

- (1) Anyone shall be prohibited from employing and involving children in the worst forms of child labour.
- (2) The worst forms of child labour as mentioned under subsection (1) include:
 - a. All kinds of job in the form of slavery or practices similar to slavery;
 - b. All kinds of job that make use of, procure, or offer children for prostitution, the production of pornography, pornographic performances or gambling;
 - c. All kinds of job that make use of, procure, or involve children for the production and trade of alcoholic beverages, narcotics, psychotropic substances and other addictive substances; and/or
 - d. All kinds of job harmful to the health, safety and moral. ...

Article 52 – Obligations of the Employer

- (1) The employer, whether an individual or a corporate entity, shall be responsible for assuring the health and safety of the child employee. This includes guaranteeing –
 - (a) Cleanliness of the workplace and premises;
 - (b) Availability of adequate nutrition and water;
 - (c) Non-exposure of child employees to harmful substances;
 - (d) Security of the machinery, appropriate for the use by children;
 - (e) Security of the buildings according to the relevant laws;
 - (f) Provision of the necessary protective gear and protective equipment; and
 - (g) Workers’ rights including the child’s freedom of movement and freedom of association.
- (2) The employer shall be required to maintain a register identifying all child employees, their date of birth, job description and periods of work to be provided to the CPCs for monitoring purposes.
- (3) The employer shall pay fair and equal wages to child employees including their social security benefits.
- (4) The employer shall encourage the adoption of rules of corporate social responsibility to prevent the exploitation of child employees and to improve the conditions in which children are working.
- (5) The employer shall take the necessary steps to ensure that any sub-contractor, supplier, recruiter, etc., domestic or international, whom she/he deals with abides by the safeguards and standards that ensure the protection of children.

Based on:**International Labour Organization, Convention Concerning Minimum Age for Admission to Employment, Convention No. 138 of June 26, 1973, entered into force June 19, 1976*****Article 9***

3. National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.

Dominican Republic, Code for the Protection of Fundamental Rights of Children and Adolescents, Law 136 of 2003***Article 44 – Sanctions.***

Violations, by act or omission of the provisions contained in this chapter [right to employment law protection of children and adolescents], incurred by the employer, constitute a very serious offense and shall be punished under Articles 720 and following of the Labor Code.

Dominican Republic, Labor Code, Law No. 16 of 1992***Article 720.***

The violations subject to criminal penalties are classified in: ...

3. Very serious: violation of the norms of maternity protection, minimum age for work, child protection, employment of foreigners, registration and payment of contributions to the Dominican Institute of Social Security, and all those relating to the safety and hygiene of work, provided that the violation results in danger or risk of danger to the life, health, or safety of the workers. In matters of collective rights, those reputed to be very serious are the commission of unfair practices contrary to freedom of association.

Article 721.

The violations listed in article 720, are penalized as follows: ...

3. The very serious, with fines from seven to twelve minimum wages.

In the case of repeat offenders the amount of the fine will be increased by fifty per cent of its value.

Article 722.

When the offender is a legal person, the penalty applies to the administrators, managers, representatives, or those persons having the management of the company.

Ecuador, Code of Childhood and Adolescence, Law No. 100, Official Register 737, 2003***Article 85 – Register of Adolescent Workers.***

The Ministry of Labor shall maintain a register of working adolescents by cantons and must periodically submit the information to the Cantonal Councils for Children and Adolescents.

A regulation will establish how to keep the register and the data to be recorded.

India, The Child Labor (Prohibition and Regulation) Act, Act No. 61 of 1986***Section 11 – Maintenance of Register.***

There shall be maintained by every occupier in respect of children employed or permitted to work in any establishment, a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment, showing—

- (a) the name and date of birth of every child so employed or permitted to work;
- (b) hours and periods of work of any such child and the intervals of rest to which he is entitled;

- (c) the nature of work of any such child; and
- (d) such other particulars as may be prescribed. ...

Section 13 – Health and Safety.

- (1) The appropriate Government may, by notification in the Official Gazette, make rules for the health and safety of the children employed or permitted to work in any establishment or class of establishments. 1250 (2) Without prejudice to the generality of the foregoing provisions, the said rules may provide for all or any of the following matters, namely:--
- (a) cleanliness in the place of work and its freedom from nuisance;
 - (b) disposal of wastes and effluents;
 - (c) ventilation and temperature;
 - (d) dust and fume;
 - (e) artificial humidification;
 - (f) lighting;
 - (g) drinking water;
 - (h) latrine and urinals;
 - (i) spittoons;
 - (j) fencing of machinery;
 - (k) work at or near machinery in motion;
 - (l) employment of children on dangerous machines;
 - (m) instructions, training and supervision in relation to employment of children on dangerous machines;
 - (n) device for cutting off power;
 - (o) self-acting machines;
 - (p) easing of new machinery;
 - (q) floor, stairs and means of access;
 - (r) pits, sumps, openings in floors, etc.;
 - (s) excessive weights;
 - (t) protection of eyes;
 - (u) explosive or inflammable dust, gas, etc.;
 - (v) precautions in case of fire;
 - (w) maintenance of buildings; and
 - (x) safety of buildings and machinery.

Lesotho, Children’s Protection and Welfare Bill, 2004

Section 238 – Non-Engagement of Children and Young Persons in Industrial Undertakings.

- (1) No employer in an industrial undertaking shall engage a child in employment without satisfactory proof of the child’s age.
- (2) An employer in an industrial undertaking shall keep a register of the children and young persons employed by him/her and of the dates of their births.
- (3) An industrial undertaking is an undertaking other than one in commerce or agriculture and includes –

- (a) mines, quarries and other works of the extraction of minerals from the earth; or
 - (b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adopted for sale; broken up or demolished, or in the generation, transformation or transmission of electricity or motive power of any kind;
- (4) Any person who or organisation which has a reasonable suspicion that a child is engaged in an industrial undertaking shall report to the Ministry of Labour and Employment.
- (5) The Ministry of Labour and Employment shall investigate cases of children engaged in industrial undertakings and take appropriate action.
- (6) The Ministry of Labour and Employment shall in the investigation of cases referred to under subsection (5), request medical officers, social workers and other professionals to provide any expert information necessary.

Pakistan, Employment of Children Act, No. V/1991

Section 13 – Health and Safety.

- (1) The appropriate Government may, by notification in the Official Gazette, make rules for the health and safety of the children employed or permitted to work in any establishment or class or establishments.
- (2) Without prejudice to the generality of the foregoing provisions, the said rules may provide for all or any of the following matters, namely:
- (a) cleanliness in the place of work and its freedom from nuisance;
 - (b) disposal of wastes and effluents;
 - (c) ventilation and temperature;
 - (d) dust and fumes;
 - (e) artificial humidification;
 - (f) lighting;
 - (g) drinking water,
 - (h) latrine and urinals;
 - (i) spittoons;
 - (j) fencing of machinery;
 - (k) work at or near machinery in motion;
 - (l) employment of children on dangerous machines;
 - (m) instructions, training and supervision in relation to employment of children on dangerous machines;
 - (n) device for cutting off power.
 - (o) self-acting machines;
 - (p) easing of new machinery;
 - (q) floor, stairs and means of access;
 - (r) pits, sumps, openings in floors, etc.;
 - (s) excessive weights;
 - (t) protection of eyes;
 - (u) explosive or inflammable dust, gas, etc.;
 - (v) precaution in case of fire;
 - (w) maintenance of buildings; and
 - (x) safety of building and machinery.

Philippines, The Child and Youth Welfare Code, Presidential Decree No. 603, 1974

Article 109 – Register of Children.

Every employer in any commercial, industrial or agricultural establishment or enterprise shall keep:

- (1) A register of all children employed by him, indicating the dates of their birth;
- (2) A separate file for the written consent to their employment given by their parents or guardians;
- (3) A separate file for their educational and medical certificates; and
- (4) A separate file for special work permits issued by the Secretary of Labor in accordance with existing laws.

Article 53 – Regulation of Working Hours and Rest Periods

- (1) The maximum number of hours a child may work per day and per week and the maximum number of days a child may work per week shall be prescribed by law / regulation taking into consideration the nature of the work and if applicable, the requirement that work shall not negatively affect the child's attendance at school or other vocational training and the possibilities to benefit therefrom. The law / regulation shall provide for adequate rest periods and for time off of work.
- (2) Employment of children for night work shall be regulated by a law / regulation.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 32.

2. ...States Parties shall in particular: ...

- (b) Provide for appropriate regulation of the hours and conditions of employment; ...

Colombia, Law No. 1098/2006 Issuing the Code of Childhood and Adolescence, 2006

Article 114 – Working Day.

The maximum duration of the working day of adolescents authorized to work, is subject to the following rules:

1. Teenagers aged over 15 and under 17 years can only work during daytime for a maximum of six hours per day and thirty hours per week and until 6:00 pm.
2. Older teenagers of seventeen (17) years, may only work a daily maximum of eight hours per day and 40 hours per week and until 8:00 pm.

Egypt, Law No. 12 of 1996 Promulgating the Child Law, as amended by Law No. 126, 2008

Article 66.

A child shall not work for more than six (6) hours a day, the working hours shall include one or more period for meals and rest totaling not less than one hour. This/these period/s shall be determined so that the child shall not work for more than four (4) continuous hours. Children

shall not work overtime, or work during the weekends or official holidays. In all cases, children shall not work between 7 p.m. and 7 a.m.

Article 67

Any employer who employs a child under the age of sixteen (16) years shall issue him a work ID card stating that he is working for him., The picture of the child shall be affixed on this ID card, and the Bureau for Manpower shall approve it and stamp it with its seal.)

Article 68.

An employer who employs one child or more shall take into consideration the following:

1. To post in a visible spot, at the workplace, a copy of the provisions prescribed in this chapter.
2. To maintain an updated record of the basic data of the children working for him including, inter alia, the child's name his date of birth, the nature of his work, the number of his working hours and rest periods, and the content of the certificate proving his ability to work. Such record shall, when requested, be presented to the competent authorities.
3. To notify the appropriate administrative body of the names of currently employed children, and the names of persons in charge of supervising their work.
4. To provide working children with sleeping quarters separate from that of adult workers, in cases where working conditions require their overnight stay.
5. To keep at the employer's headquarters all official documents regarding the age of all working children and their health status, to be presented when requested. It behoves the employer to ensure the real age of the children working for him.
6. To provide the workplace with all necessary health and professional safety devices, and train the children how to use them.

Ghana, Act 560, The Children's Act, 1998

Section 88 – Prohibition of Child Labor at Night.

- (1) No person shall engage a child in night work.
- (2) Night work constitutes work between the hours of eight o'clock in the evening and six o'clock in the morning.

India, The Child Labor (Prohibition and Regulation) Act, Act No. 61 of 1986

Section 7 – Hours and Period of Work.

- (2) The period of work on each day shall be so fixed that no period shall exceed three hours and that no child shall work for more than three hours before he has had an interval for rest for at least one hour.
- (3) The period of work of a child shall be so arranged that inclusive of his interval for rest, under sub-section (2), it shall not be spread over more than six hours, including the time spent in waiting for work on any day.
- (4) No child shall be permitted or required to work between 7 p.m and 8 a.m.
- (5) No child shall be required or permitted to work overtime.
- (6) No child shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment.

Norway, Working Environment Act, Act No. 62 of June 17, 2005, as amended by Act No. 10 of Feb. 23, 2007

Section 11-2 – Working Hours.

- (1) Working hours for persons under 18 years of age shall be so arranged that they do not interfere with their schooling or prevent them from benefiting from their lessons.

- (2) In the case of children who are under 15 years of age or are attending compulsory education, working hours shall not exceed:
 - a) 2 hours a day on days with teaching and 12 hours a week in weeks with teaching,
 - b) 7 hours a day on days without teaching and 35 hours in weeks without teaching,
 - c) 8 hours a day and 40 hours a week for the total of working hours and school hours where the work is part of an arrangement involving alternating theoretical and practical education.
- (3) In the case of young persons between 15 and 18 years of age who are not attending compulsory education, working hours shall not exceed 8 hours a day and 40 hours a week.
- (4) When children work for two or more employers, working hours shall be calculated as a total of the hours worked for all employers. The employer is obliged to obtain information concerning hours worked for other employers. ...

Section 11-3 – Prohibition Against Night Work.

- (1) Children who are under 15 years of age or are attending compulsory education shall not work between 8.00 p.m. and 6.00 a.m.
- (2) Young persons between 15 and 18 years of age who are not attending compulsory education shall have an off-duty period of at least 8 hours including the time between 11 p.m. and 6.00 a.m. Work between 9 p.m. and 11 p.m. is night work, and is not permitted unless necessitated by the nature of the work or unless there is an exceptional and time-limited need for night work.
- (3) The second paragraph shall not apply to work that, owing to natural disasters, accident or other unforeseen events must be carried out in order to avert danger or damage to life or property and where is strictly necessary to employ the young persons concerned in the work. Young persons who take part in such work shall have a subsequent compensatory rest period. ...

Section 11-5 – Breaks and Time Off.

- (1) Persons under 18 years of age shall have a rest break of at least 30 minutes, if possible continuous, if daily working hours exceed four hours and 30 minutes.
 - (2) Within each period of 24 hours, there shall be a continuous off-duty period of at least:
 - a) 14 hours for children who are under 15 years of age or are attending compulsory education,
 - b) 12 hours in the case of young persons between 15 and 18 years of age who are not attending compulsory education.
 - (3) Persons under 18 years of age shall have a continuous off-duty period of at least 48 hours per seven days. The off-duty period shall as far as possible be on a Sunday or public holiday.
 - (4) Persons under 18 years of age who attend school shall have at least four weeks holiday a year, of which at least two weeks shall be taken during the summer holiday. ...
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Article 54 – Rights of Child Domestic Workers

- (1) Child domestic workers shall be guaranteed the same rights as children working in a contractual relationship, specifically the requirements on the minimum age for employment, safe and healthy work conditions, work hours, and rest periods, ensuring the respect of their human rights and the safety of their work place.
- (2) Child domestic workers who reside in the household shall not be required to remain in the household during periods of rest. Their freedom of movement shall be guaranteed.
- (3) Domestic work shall not infringe on a child's right to education and opportunity to participate in further vocational training.
- (4) Child domestic workers shall be protected from exploitation, specifically from sexual abuse and sexual exploitation.
- (5) When formulating the national child protection policy in accordance with Article 6 of this Law, the HCPA shall take into consideration measures aimed at substantially decreasing or eliminating the use of children as domestic workers.

Based on:

International Labour Organization, Convention Concerning Decent Work for Domestic Workers, Convention No. 189 of 2011, not yet in force

Article 4.

1. Each Member shall set a minimum age for domestic workers consistent with the provisions of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), and not lower than that established by national laws and regulations for workers generally.
2. Each Member shall take measures to ensure that work performed by domestic workers who are under the age of 18 and above the minimum age of employment does not deprive them of compulsory education, or interfere with opportunities to participate in further education or vocational training.

Costa Rica, Code of Children and Adolescents, No. 7739, 1998, as amended by Law No. 8842, 2010

Article 94 bis. – Domestic Work of Adolescents.

It is such as people aged between fifteen and under eighteen years, on a regular or temporary basis and in either in private homes or in residences, in work rooms, or kitchens, not involving profit or business for the employer or the employee. These adolescent workers have the same rights and protection as established by the Labor Code, without prejudice to the provisions of this Code.

Domestic work is prohibited for adolescents under the following conditions:

- a) That the adolescent sleeps in the workplace.
 - b) When it consists of the care of children, elderly, or disabled people.
 - c) When involving surveillance work.
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Chapter 7

Protection of Children in Situations of Emergency

Article 55 – Participation of Children in Armed Conflict.

- (1) A child under the age of eighteen shall be protected from directly taking part in hostilities. This shall include the protection of any child –
 - (a) Who is part of any kind of a regular or irregular, state or non-state armed group in any capacity;
 - (b) Who is not actively participating in combat but providing military activities and direct support functions including but not limited to scouts, spies, cooks, porters, messengers, and anyone accompanying such groups, other than family members; and
 - (c) Who is recruited for sexual purposes and for forced marriage.
- (2) A child who has not attained the age of eighteen years shall not be recruited into the State's armed forces.
- (3) A child between the age of fifteen and eighteen years may voluntarily be recruited to join the State's armed forces if –
 - (a) Such recruitment is genuinely voluntary;
 - (b) Such recruitment is done with the informed consent of the person's parents or guardians;
 - (c) The child is fully informed of the duties involved in such military service; and
 - (d) The child provides reliable proof of age prior to acceptance into national military service.

- (4) Paragraph (3) shall not apply to schools operated by or under the control of the State's armed forces while safeguarding the child's right to education according to this Law.
- (5) Armed groups that are distinct from the State's armed forces shall not, under any circumstances, recruit a child or use a child in hostilities.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 38.

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

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.

Optional Protocol to the CRC on the Involvement of Children in Armed Conflict, adopted by UN GA resolution 54/263 of May 25, 2000, entered into force Feb. 12, 2002

Article 1.

States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.

Article 2.

States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

Article 3.

1. States Parties shall raise the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that article and recognizing that under the Convention persons under the age of 18 years are entitled to special protection.
2. Each State Party shall deposit a binding declaration upon ratification of or accession to the present Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced.

3. States Parties that permit voluntary recruitment into their national armed forces under the age of 18 years shall maintain safeguards to ensure, as a minimum, that:
 - (a) Such recruitment is genuinely voluntary;
 - (b) Such recruitment is carried out with the informed consent of the person's parents or legal guardians;
 - (c) Such persons are fully informed of the duties involved in such military service;
 - (d) Such persons provide reliable proof of age prior to acceptance into national military service.
4. Each State Party may strengthen its declaration at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall inform all States Parties. Such notification shall take effect on the date on which it is received by the Secretary-General.
5. The requirement to raise the age in paragraph 1 of the present article does not apply to schools operated by or under the control of the armed forces of the States Parties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child.

Article 4.

1. Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.
2. States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.
3. The application of the present article shall not affect the legal status of any party to an armed conflict.

Declarations Made by Several Countries Upon Ratification of, Accession, or Succession to the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict

Canada:

(Signature: June 5, 2000; Ratification: July 7, 2000)

Pursuant to article 3, paragraph 2, of the Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflicts, Canada hereby declares:

1. The Canadian Armed Forces permit voluntary recruitment at the minimum age of 16 years.
2. The Canadian Armed Forces have adopted the following safeguards to ensure that recruitment of personnel under the age of 18 years is not forced or coerced:
 - (a) all recruitment of personnel in the Canadian Forces is voluntary. Canada does not practice conscription or any form of forced or obligatory service. In this regard, recruitment campaigns of the Canadian Forces are informational in nature. If an individual wishes to enter the Canadian Forces, he or she fills in an application. If the Canadian Forces offer a particular position to the candidate, the latter is not obliged to accept the position;
 - (b) recruitment of personnel under the age of 18 is done with the informed and written consent of the person's parents or legal guardians. Article 20, paragraph 3, of the National Defence Act states that 'a person under the age of eighteen years shall not be enrolled without the consent of one of the parents or the guardian of that person'.
 - (c) personnel under the age of 18 are fully informed of the duties involved in military service. The Canadian Forces provide, among other things, a series of informational brochures and films on the duties involved in military service to those who wish to enter the Canadian Forces; and

- (d) personnel under the age of 18 must provide reliable proof of age prior to acceptance into national military service. An applicant must provide a legally recognized document, that is an original or a certified copy of their birth certificate or baptismal certificate, to prove his or her age.

Morocco:

(Signature: Sep. 8, 2000; Ratification: May 22, 2002)

Pursuant to paragraph 2 of the article concerning the involvement of children in armed conflicts, the Kingdom of Morocco declares that the minimum age required by national law for voluntary recruitment in the armed forces is 18 years.

Peru:

(Signature: Nov. 1, 2000; Ratification: May 8, 2002)

In depositing the instrument of ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Government of Peru declares that, in compliance with its article 3, paragraph 2, the minimum age for voluntary recruitment into the national armed forces, under national legislation, is 18 years.

Portugal:

(Signature: Sep. 6, 2000; Ratification: Aug. 19, 2003)

Upon Signature: Concerning article 2 of the Protocol, the Portuguese Republic considering that it would have preferred the Protocol to exclude all types or recruitment of persons under the age of 18 years - whether this recruitment is voluntary or not, declares that it will apply its domestic legislation which prohibits the voluntary recruitment of persons under the age of 18 years and will deposit a binding declaration, in conformity with paragraph 2 of article 3 of the Protocol, setting forth 18 years as the minimum age for voluntary recruitment in Portugal.

Upon ratification: "The Government of Portugal declares, in accordance with article 3, paragraph 2, of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict that the minimum age for any recruitment - including voluntary - of persons into its national armed forces is 18 years. This age limit is already contained in the Portuguese domestic legislation."

Belarus, On Child's Rights, Act No. 2570-XII of Nov. 19, 1993, as amended in 2007

Article 33 – Prohibition of Children's Participation in Military Operations.

Engaging children to take part in military operations, armed conflicts, propaganda of war and violence among the children, creating children's militarized formations are prohibited.

Draft of persons for the periodic military service in the armed forces and other military regiments of the Republic of Belarus is realized at reaching 18 years of age by them. Draft of persons under 18 for the military service as the cadets of military schools, for the studies at the Suvorov's Military schools, pupils of the military orchestras is regulated by the legislation of the Republic of Belarus.

Canada, National Defence Act, Chapter N-5, 1985, as current to Feb. 2010

Section 20.

- (3) A person under the age of eighteen years shall not be enrolled without the consent of one of the parents or of the guardian of that person.

Indonesia, Law on Child Protection, No. 23 of 2002

Article 15.

Every child shall be entitled to protection from the following:

- a. Misuse for political activities;
- b. Involvement in an armed conflict;
- c. Involvement in social unrest;
- d. Involvement in an event that involves violence; and
- e. Involvement in war.

Kenya, The Children's Act, Act No. 8 of 2001

Section 10 – Protection from Child Labour and Armed Conflict.

- (2) No child shall take part in hostilities or be recruited in armed conflicts, and where armed conflict occurs, respect for and protection and care of children shall be maintained in accordance with the law.
- (3) It shall be the responsibility of the Government to provide protection, rehabilitation care, recovery and re-integration into normal social life for any child who may become a victim of armed conflict or natural disaster.

Rwanda, Law Relating to Rights and Protection of the Child Against Violence, Law No. 27 of 2001

Article 19.

Military service is prohibited for children less than 18 years.

Article 23.

The child should be cared for and rescued first in times of misfortune and war.

Sierra Leone, The Child Right Act, 2007

Section 28 – Minimum Age of Recruitment Into Armed Forces.

- (1) Every child has the right to be protected from involvement in armed or any other kind of violent conflicts, and accordingly, the minimum age of recruitment into the armed forces shall be eighteen.
- (2) The Government shall not –
 - (a) recruit or conscript any child into military or paramilitary service or permit such recruitment or conscription by the armed forces;
 - (b) use or permit the use of land mines and other weapons declared by international instruments to be adverse to children.

United States, 10 U.S. Code, added by Pub. L. 90-235, 1968

Section 505 – Regular Components: Qualifications, Term, Grade.

- (a) The Secretary concerned may accept original enlistments in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard, as the case may be, of qualified, effective, and able-bodied persons who are not less than seventeen years of age nor more than forty-two years of age. However, no person under eighteen years of age may be originally enlisted without the written consent of his parent or guardian, if he has a parent or guardian entitled to his custody and control.
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Article 56 – Protection of Children Affected by Armed Conflict

- (1) In accordance with all obligations under international humanitarian law and international human rights law, it shall be ensured that children affected by hostilities receive special protection to guarantee their safety and well-being. Children shall be afforded all special protection measures irrespective of their nationality and irrespective of whether or not they directly took part in hostilities.
- (2) In particular –
 - (a) No war crimes or crimes against humanity shall be committed against children, and specifically children shall not become victims of sexual abuse, sexual exploitation, forced or compulsory labor, economic exploitation, abduction, human trafficking, or internal displacement;
 - (b) Children shall receive essential food and clothing;
 - (c) Children shall be removed from the area in which hostilities are taking place to a safer area, accompanied by persons responsible for their safety and well-being and when possible with the consent of their parents or guardians;
 - (d) Children shall have continued access to educational and vocational institutions and programs; and
 - (e) All appropriate steps shall be taken to facilitate the reunion of families temporarily separated.
- (3) The death penalty and life sentence without parole for an offence related to armed conflict shall not be imposed or executed on a person who was a child at the time of the offence.

Based on:

Optional Protocol to the CRC on the Involvement of Children in Armed Conflict, adopted by UN GA resolution 54/263 of May 25, 2000, entered into force Feb. 12, 2002

Article 5

Nothing in the present Protocol shall be construed as precluding provisions in the law of a State Party or in international instruments and international humanitarian law that are more conducive to the realization of the rights of the child.

Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Geneva Convention IV), adopted Aug. 12, 1949, entered into force Oct. 21, 1950

Article 3. [Common to all Geneva Conventions]

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

- (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;
- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

- (2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 14.

In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas, hospital and safety zones and localities so organized as to protect from the effects of war, wounded, sick and aged persons, children under fifteen, expectant mothers and mothers of children under seven. ...

Article 17.

The Parties to the conflict shall endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas.

Article 23.

Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.

The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing:

- (a) that the consignments may be diverted from their destination,
- (b) that the control may not be effective, or
- (c) that a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods.

The Power which allows the passage of the consignments indicated in the first paragraph of this Article may make such permission conditional on the distribution to the persons benefited thereby being made under the local supervision of the Protecting Powers.

Such consignments shall be forwarded as rapidly as possible, and the Power which permits their free passage shall have the right to prescribe the technical arrangements under which such passage is allowed.

Article 24.

The Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education shall, as far as possible, be entrusted to persons of a similar cultural tradition.

The Parties to the conflict shall facilitate the reception of such children in a neutral country for the duration of the conflict with the consent of the Protecting Power, if any, and under due safeguards for the observance of the principles stated in the first paragraph.

They shall, furthermore, endeavour to arrange for all children under twelve to be identified by the wearing of identity discs, or by some other means.

Article 38.

With the exception of special measures authorized by the present Convention, in particularly by Article 27 and 41 thereof, the situation of protected persons shall continue to be regulated, in principle, by the provisions concerning aliens in time of peace. In any case, the following rights shall be granted to them: ...

- (5) children under fifteen years, pregnant women and mothers of children under seven years shall benefit by any preferential treatment to the same extent as the nationals of the State concerned.

Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of International Armed Conflicts (Geneva Protocol I), adopted June 8, 1977, entered into force Dec. 7, 1978

Article 77 – Protection of Children.

1. Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason.
2. The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, the Parties to the conflict shall endeavour to give priority to those who are oldest.
3. If, in exceptional cases, despite the provisions of paragraph 2, children who have not attained the age of fifteen years take a direct part in hostilities and fall into the power of an adverse Party, they shall continue to benefit from the special protection accorded by this Article, whether or not they are prisoners of war.
4. If arrested, detained or interned for reasons related to the armed conflict, children shall be held in quarters separate from the quarters of adults, except where families are accommodated as family units as provided in Article 75, paragraph 5.
5. The death penalty for an offence related to the armed conflict shall not be executed on persons who had not attained the age of eighteen years at the time the offence was committed.

Article 78 – Evacuation of Children.

1. No Party to the conflict shall arrange for the evacuation of children, other than its own nationals, to a foreign country except for a temporary evacuation where compelling reasons of the health or medical treatment of the children or, except in occupied territory, their safety, so require. Where the parents or legal guardians can be found, their written consent to such evacuation is required. If these persons cannot be found, the written consent to such evacuation of the persons who by law or custom are primarily responsible for the care of the children is required. Any such evacuation shall be supervised by the Protecting Power in agreement with the Parties concerned, namely, the Party arranging for the evacuation, the Party receiving the children and any Parties whose nationals are being evacuated. In each case, all Parties to the conflict shall take all feasible precautions to avoid endangering the evacuation.
2. Whenever an evacuation occurs pursuant to paragraph 1, each child's education, including his religious and moral education as his parents desire, shall be provided while he is away with the greatest possible continuity.
3. With a view to facilitating the return to their families and country of children evacuated pursuant to this Article, the authorities of the Party arranging for the evacuation and, as appropriate, the authorities of the receiving country shall establish for each child a card with photographs, which they shall send to the Central Tracing Agency of the International Committee of the Red Cross. Each card shall bear, whenever possible, and whenever it involves no risk of harm to the child, the following information:
 - (a) surname(s) of the child;
 - (b) the child's first name(s);
 - (c) the child's sex;
 - (d) the place and date of birth (or, if that date is not known, the approximate age);
 - (e) the father's full name;
 - (f) the mother's full name and her maiden name;
 - (g) the child's next-of-kin;
 - (h) the child's nationality;
 - (i) the child's native language, and any other languages he speaks;
 - (j) the address of the child's family;
 - (k) any identification number for the child;
 - (l) the child's state of health;
 - (m) the child's blood group;
 - (n) any distinguishing features;
 - (o) the date on which and the place where the child was found;
 - (p) the date on which and the place from which the child left the country;
 - (q) the child's religion, if any;
 - (r) the child's present address in the receiving country;
 - (s) should the child die before his return, the date, place and circumstances of death and place of interment.

Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Geneva Protocol II), adopted June 8, 1977, entered into force Dec. 7, 1978

Article 4 – Fundamental Guarantees.

3. Children shall be provided with the care and aid they require, and in particular:
 - (a) they shall receive an education, including religious and moral education, in keeping with the wishes of their parents, or in the absence of parents, of those responsible for their care;

- (b) all appropriate steps shall be taken to facilitate the reunion of families temporarily separated;
- (c) children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities;
- (d) the special protection provided by this Article to children who have not attained the age of fifteen years shall remain applicable to them if they take a direct part in hostilities despite the provisions of subparagraph (c) and are captured;
- (e) measures shall be taken, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for their safety and well-being.

Article 6 – Penal Prosecutions.

- 4. The death penalty shall not be pronounced on persons who were under the age of eighteen years at the time of the offence and shall not be carried out on pregnant women or mothers of young children.

Palestine, Child Law, No. 7, 2007

Article 7.

- 1. The child, under any circumstances, shall have priority regarding protection, care and relief.
- 2. The State shall guarantee priority to maintain the lives of children and all their rights in cases of emergencies, disasters and armed conflicts.
- 3. The State shall take all appropriate measures to prosecute and hold accountable those who violate the right of children by committing war crimes or crimes against humanity.

Tunisia, Code of Child Protection, 1995

Article 18.

The child shall enjoy all guarantees of international humanitarian law as provided by the ratified conventions. It is forbidden to engage children in wars and armed conflicts.

Article 57 – Protection of Children in an Occupied Territory

- (1) Children living in an occupied territory shall be afforded special protection to guarantee their safety and well-being.
- (2) Occupying and occupied powers shall facilitate the functioning of all institutions devoted to the protection, education, and training of children.
- (3) Occupying and occupied powers shall protect children from becoming victims of sexual abuse, sexual exploitation, forced or compulsory labor, economic exploitation, abduction, or human trafficking and from becoming internally displaced.
- (4) The death penalty and life sentence without parole for an offence related to the status of occupation shall not be imposed or executed on a person who was a child at the time of the offence.

Based on:

Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Geneva Convention IV), adopted Aug. 12, 1949, entered into force Oct. 21, 1950

Article 50.

The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.

The Occupying Power shall take all necessary steps to facilitate the identification of children and the registration of their parentage. It may not, in any case, change their personal status, nor enlist them in formations or organizations subordinate to it.

Should the local institutions be inadequate for the purpose, the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend.

A special section of the Bureau set up in accordance with Article 136 shall be responsible for taking all necessary steps to identify children whose identity is in doubt. Particulars of their parents or other near relatives should always be recorded if available.

The Occupying Power shall not hinder the application of any preferential measures in regard to food, medical care and protection against the effects of war which may have been adopted prior to the occupation in favour of children under fifteen years, expectant mothers, and mothers of children under seven years.

Article 51.

The Occupying Power may not compel protected persons to serve in its armed or auxiliary forces. No pressure or propaganda which aims at securing voluntary enlistment is permitted.

The Occupying Power may not compel protected persons to work unless they are over eighteen years of age, and then only on work which is necessary either for the needs of the army of occupation, or for the public utility services, or for the feeding, sheltering, clothing, transportation or health of the population of the occupied country. Protected persons may not be compelled to undertake any work which would involve them in the obligation of taking part in military operations. The Occupying Power may not compel protected persons to employ forcible means to ensure the security of the installations where they are performing compulsory labour.

The work shall be carried out only in the occupied territory where the persons whose services have been requisitioned are. Every such person shall, so far as possible, be kept in his usual place of employment. Workers shall be paid a fair wage and the work shall be proportionate to their physical and intellectual capacities. The legislation in force in the occupied country concerning working conditions, and safeguards as regards, in particular, such matters as wages, hours of work, equipment, preliminary training and compensation for occupational accidents and diseases, shall be applicable to the protected persons assigned to the work referred to in this Article.

In no case shall requisition of labour lead to a mobilization of workers in an organization of a military or semi-military character.

Article 68.

Protected persons who commit an offence which is solely intended to harm the Occupying Power, but which does not constitute an attempt on the life or limb of members of the occupying forces or administration, nor a grave collective danger, nor seriously damage the property of the occupying forces or administration or the installations used by them, shall be liable to internment or simple imprisonment, provided the duration of such internment or imprisonment is proportionate to the offence committed. Furthermore, internment or imprisonment shall, for such offences, be the only measure adopted for depriving protected persons of liberty. The courts provided for under Article 66 of the present Convention may at their discretion convert a sentence of imprisonment to one of internment for the same period. ...

In any case, the death penalty may not be pronounced on a protected person who was under eighteen years of age at the time of the offence.

Article 76.

Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein. They shall, if possible, be separated from other detainees and shall enjoy conditions of food and hygiene which will be sufficient to keep them in good health, and which will be at least equal to those obtaining in prisons in the occupied country.

They shall receive the medical attention required by their state of health.

They shall also have the right to receive any spiritual assistance which they may require.

Women shall be confined in separate quarters and shall be under the direct supervision of women.

Proper regard shall be paid to the special treatment due to minors.

Protected persons who are detained shall have the right to be visited by delegates of the Protecting Power and of the International Committee of the Red Cross, in accordance with the provisions of Article 143.

Such persons shall have the right to receive at least one relief parcel monthly.

Article 58 – Demobilization, Medical Assistance, and Reintegration

- (1) Children that are or were involved in hostilities contrary to the provisions of this Law shall be demobilized or otherwise released from service. In cooperation with child protection service providers working in the region affected by armed conflict, the HCPA shall design programs to guarantee a quick and effective demobilization of child soldiers.
- (2) Former child soldiers shall receive appropriate medical assistance for their physical and psychological recovery and assistance for social reintegration under the principles established for child victims in Chapter 3 of this Law. In cooperation with child protection service providers working in the region affected by armed conflict, the HCPA shall design programs to provide child soldiers with medical assistance, rehabilitation and reintegration measures.
- (3) Former child soldiers shall have a right to compensation for moral and material damages and for lost opportunities in accordance with Article 24 of this Law.

Based on:

Optional Protocol to the CRC on the Involvement of Children in Armed Conflict, adopted by UN GA resolution 54/263 of May 25, 2000, entered into force Feb. 12, 2002

Article 6.

1. Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of the present Protocol within its jurisdiction.
2. States Parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike.

3. States Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the present Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration.

Article 7.

1. States Parties shall cooperate in the implementation of the present Protocol, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary thereto, including through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with the States Parties concerned and the relevant international organizations.
2. States Parties in a position to do so shall provide such assistance through existing multilateral, bilateral or other programmes or, inter alia, through a voluntary fund established in accordance with the rules of the General Assembly.

Article 59 – Internally Displaced Children

- (1) The human rights of children who are internally displaced shall be ensured, respected, and protected. This requires realizing the child's specific vulnerability, and –
 - (a) Ensuring humane treatment and satisfactory conditions of safety and security;
 - (b) Taking the necessary steps to establish the child's identity and nationality;
 - (c) Providing humanitarian assistance, which shall include adequate food, water, shelter, medical care and other health services, sanitation, education, and any other necessary social services; and
 - (d) If the child is unaccompanied, inquiring about the child's parents, providing the parents, the child, or if appropriate another family member with the obtained information concerning their whereabouts, and, if not detrimental to the well-being of the child, taking the necessary measures to reunify the child with her/his family.
- (2) It shall be prohibited to –
 - (a) Arbitrarily displace children;
 - (b) Stigmatize or discriminate against internally displaced children;
 - (c) Take advantage of the vulnerable situation of internally displaced children to exploit them physically, psychologically, or sexually.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20 1989, entered into force Sept. 2, 1990

Article 9.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

United Nations, Economic and Social Council, Commission on Human Rights, Guiding Principles on Internal Displacement, Feb. 11, 1998

Introduction – Scope and Purpose.

... For the purposes of these Principles, internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.

Principle 17.

1. Every human being has the right to respect of his or her family life.
2. To give effect to this right for internally displaced persons, family members who wish to remain together shall be allowed to do so.
3. Families which are separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by family members and encourage and cooperate with the work of humanitarian organizations engaged in the task of family reunification.
4. Members of internally displaced families whose personal liberty has been restricted by internment or confinement in camps shall have the right to remain together.

Principle 23.

1. Every human being has the right to education.
2. To give effect to this right for internally displaced persons, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.
3. Special efforts should be made to ensure the full and equal participation of women and girls in educational programmes.
4. Education and training facilities shall be made available to internally displaced persons, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.

African Union, Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), adopted by the Special Summit of the Union held in Kampala, Uganda, Oct. 22-23, 2009

Article 1 – Definitions.

- k. “Internally Displaced Persons” means persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border;

- I. "Internal displacement" means the involuntary or forced movement, evacuation or relocation of persons or groups of persons within internationally recognized state borders; ...

Article 9 – Obligations of States Parties Relating to Protection and Assistance During Internal Displacement.

1. States Parties shall protect the rights of internally displaced persons regardless of the cause of displacement by refraining from, and preventing, the following acts, amongst others:
 - a. Discrimination against such persons in the enjoyment of any rights or freedoms on the grounds that they are internally displaced persons;
 - b. Genocide, crimes against humanity, war crimes and other violations of international humanitarian law against internally displaced persons;
 - c. Arbitrary killing, summary execution, arbitrary detention, abduction, enforced disappearance or torture and other forms of cruel, inhuman or degrading treatment or punishment;
 - d. Sexual and gender based violence in all its forms, notably rape, enforced prostitution, sexual exploitation and harmful practices, slavery, recruitment of children and their use in hostilities, forced labour and human trafficking and smuggling; and
 - e. Starvation.
2. States Parties shall:
 - a. Take necessary measures to ensure that internally displaced persons are received, without discrimination of any kind and live in satisfactory conditions of safety, dignity and security;
 - b. Provide internally displaced persons to the fullest extent practicable and with the least possible delay, with adequate humanitarian assistance, which shall include food, water, shelter, medical care and other health services, sanitation, education, and any other necessary social services, and where appropriate, extend such assistance to local and host communities;
 - c. Provide special protection for and assistance to internally displaced persons with special needs, including separated and unaccompanied children, female heads of households, expectant mothers, mothers with young children, the elderly, and persons with disabilities or with communicable diseases;
 - h. Take necessary measures, including the establishment of specialized mechanisms, to trace and reunify families separated during displacement and otherwise facilitate the re-establishment of family ties; ...

Belarus, On Child's Rights, Act No. 2570-XII of Nov. 19, 1993, as amended in 2007

Article 32 – Rights of the Children Suffered from Natural Disasters, Damages and Catastrophes.

The state provides urgent free help, takes urgent measures on resettlement of the children from zone of danger, takes care of the family reunification, renders necessary medical assistance including in other states, to the children, who found themselves in the emergency situations (natural disasters, accidents, catastrophes, pollution of the environment as the result of accidents, accidents on nuclear power plants, industrial plants and others).

Article 60 – Refugee, Migrant, and Unaccompanied Immigrant Children

- (1) The rights of refugee and migrant children, including unaccompanied immigrant children, shall be protected. This requires –
 - (a) Providing protection and rendering appropriate humanitarian assistance, which shall include adequate food, water, shelter, medical care, psychological assistance, and other health services, sanitation, education, and any other necessary social services, irrespective of whether the child is accompanied by parents or is unaccompanied;
 - (b) If the child is unaccompanied, inquiring about the child's parents, providing the parents, the child, or other family member with the obtained information concerning their whereabouts, and, if not detrimental to the well-being of the child, taking the necessary measures to reunify the child with her/his family;
 - (c) Providing the child with the appropriate protection measures in accordance with Chapter 3 of this Law.
- (2) Any kind of stigmatization or discrimination of refugee, migrant, and immigrant children shall be prohibited.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20 1989, entered into force Sept. 2, 1990

Article 22.

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her 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 for any reason, as set forth in the present Convention.

Belarus, On Child's Rights, Act No. 2570-XII of Nov. 19, 1993, as amended in 2007

Article 34 – Rights of Refugee Children.

Refugee children deprived habitation and paraphernalia as a result of military operations, armed conflicts on national and other basis have right on protection of their interests.

Local executive and administrative bodies by the whereabouts of the child take measures for the inquiry of the parents or the relatives, render financial, medical and other assistance, in case of need assign the child to the medicinal prophylactic, child's hostel, other educational establishment.

Estonia, Republic of Estonia Child Protection Act, RT I 1992, 28, 370, as amended by Act RT I 2004, 27, 180

Section 67 – Refugees.

- (1) If a child is considered to be a refugee in accordance with international or national law, the child shall receive protection and assistance regardless of whether the child is accompanied or unaccompanied by his or her parents or any other person.
- (2) The social services departments shall begin to trace the child's parents and determine possibilities for the child's return.
- (3) If the child's parents are not found, the child shall be accorded the same protection as is accorded to any other child who has been temporarily or permanently deprived of his or her family environment.

Indonesia, Law on Child Protection, No. 23 of 2002

Article 61.

The special protection to be afforded to refugee children as referred to in Article 60 a hereof shall be in accordance with humanitarian law.

Latvia, Protection of the Rights of the Child Law, 1998

Section 74 – Refugees.

- (1) If in accordance with international or national law a child is a refugee, the child shall receive protection and assistance irrespective of whether the child is together with parents or other adults or alone in conformity with the Law On Asylum Seekers and Refugees in the Republic of Latvia.
- (2) The Orphans' Court (parish court) together with the local government social service and immigration institutions shall carry out measures to find the parents of a child and to determine what possibilities there are for the child to return to his or her family.
- (3) If it is not possible to find the parents of a child, the refugee child shall be provided with the same care as any other child who has been left without parental care.

Lithuania, Law on Fundamentals of Protection of the Rights of the Child, Act No. I-1234, 1996

Article 18 – Rights of the Refugee Child.

1. A child, who shall be recognised as a refugee in accordance with the laws, shall have the right to assistance and protection. If necessary, a search shall be conducted for the parents and relatives of the child or other persons or institutions. to whom he may be turned over.
 2. A child refugee shall be applied provisions of the Law On The Status of Refugees within The Republic of Lithuania.
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Chapter 8

Protection of Children in the Justice System

Article 61 – Principles for Judicial Proceedings Involving Children

- (1) Before participating in any judicial proceeding affecting the rights and interests of a child, including as party, accused, victim, or witness, the child shall be provided with all information necessary for her/him to make a confident and educated decision about the kind of participation in the proceedings and the possible consequences thereof. The information shall be provided in a child-friendly manner respecting the child's age, maturity, and capacity.
- (2) All judicial proceedings shall be heard and conducted by specially trained law enforcement officials, judges, prosecutors, and lawyers. These persons shall receive continuous training on the rights of children and the protection of the best interests of children. The proceedings shall be conducted in accordance with the child's age, maturity, and capacity.
- (3) Alternatives to the formal and traditional judicial forum, such as mediation and other forms of alternative dispute resolution, shall be encouraged whenever these serve the child's best interests and whenever these guarantee the same level of legal safeguards.
- (4) In any proceedings affecting a child's rights or interests, the child has a right to free legal assistance and counseling as described in Article 22 of this Law independent from her/his parents or other parties involved in the proceedings.
- (5) Experts able to assess the maturity, capacity, and wishes of the child shall be encouraged to participate in the proceedings and their views shall be taken into account when determining the child's best interests.

- (6) Judges shall be obliged to take the child's views and wishes into account.
- (7) The child's name, identity, home, school, current or last place of residence shall not be published or revealed. No photograph or depiction of the child shall be made public. No identifying details of the child's parents, family members, or guardians, shall be published or revealed.
- (8) These principles shall also be applicable in the stages before and leading up to the judicial proceedings.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 12.

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, the views of the child being given due weight in accordance with the age and maturity of 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, in a manner consistent with the procedural rules of national law.

Bulgaria, Child Protection Act 2002, as amended in 2005

Article 15 – Participation in Procedures.

- (1) All cases of administrative or judicial proceedings affecting the rights and interests of a child should provide for a mandatory hearing of the child, provided he or she has reached the age of 10, unless this proves harmful to his or her interests.
- (2) In cases where the child has not reached the age of 10, he or she may be given a hearing depending on the level of his or her development. The decision to hear the child shall be substantiated.
- (3) Before the child is given a hearing, the court or the administrative body shall:
 1. provide the child with the necessary information, which would help him or her form his or her opinion;
 2. inform the child about the possible consequences of his or her desire, of the opinion supported by him or her, as well as about all the decisions made by the judicial or administrative body.
- (4) The hearing and the consultation of a child shall by all means take place in appropriate surroundings and in the presence of a social worker from the Social Assistance Directorate at the current address of the child and when there is necessity - in the presence of another appropriate specialist.
- (5) The court or the administrative body shall order that the hearing of the child shall take place also in the presence of a parent, guardian or other close to the child person, with the exception when this is not in the child's best interest.
- (8) The child has a right to legal aid and appeal in all proceedings, affecting his or her rights or interests.

Article 16 – Confidentiality of Information.

- (1) All information, obtained through administrative or judicial proceedings and concerning a child shall not be disclosed without the parents' consent and without the child's consent where the child has reached the age of 10.
- (2) The court may permit the bodies under this Act to use information pursuant to para 1 without the consent of persons under para 1, should it become necessary in view of the child's interests or for purposes of undertaking child protection measures.
- (3) Social workers and officials who become aware of personal data when implementing their duties are obliged to keep the legal provisions regarding the protection of personal data as well as to respect the personal dignity.

Kenya, The Children's Act, Act No. 8 of 2001**Section 77 – Legal Aid.**

- (1) Where a child is brought before a court in proceedings under this Act or any other written law, the court may, where the child is unrepresented, order that the child be granted legal representation.
- (2) Any expenses incurred in relation to the legal representation of a child under subsection (1) shall be defrayed out of monies provided by Parliament.

Section 186 – Guarantees to a Child Accused of an Offence.

Every child accused of having infringed to a child any law shall –

- (a) be informed promptly and directly of the charges against him;
- (b) if he is unable to obtain legal assistance be provided by the Government with assistance in the preparation and presentation of his defence;
- (c) have the matter determined without delay;
- (d) not be compelled to give testimony or to confess guilt;
- (e) have free assistance of an interpreter if the child cannot understand or speak the language used;
- (f) if found guilty, have the decisions and any measures imposed in consequence thereof reviewed by a higher court;
- (g) have his privacy fully respected at all the proceedings;
- (h) if he is disabled, be given special care and be treated with the same dignity as a child with no disability.

Lesotho, Children's Protection and Welfare Bill, 2004**Section 139 – Assistance to the Children who Appear in Court.**

- (1) At the commencement of the proceedings in the Children's Court, the presiding officer must inform the child appearing before such court in a language that the child understands of the following rights-
 - (a) the right to challenge testimony of witnesses;
 - (b) the right to remain silent;
 - (c) the right to have the child's parents or guardian present at the proceedings;
 - (d) the right to choose and to be represented by a legal representative at his or her own cost; and
 - (e) the right to be represented by a legal representative chosen by the Court or provided by the State.

Section 151 – Principles Relating to Legal Representation.

- (1) A child has a right to legal representation in any legal proceedings.
- (2) A legal representative appearing on behalf a child under this Act must-
 - (a) allow the child to give independent instruction on the manner in which the case is to be conducted;
 - (b) clearly explain the child's rights and responsibilities in relation to any proceedings under this Act and which the child is involved to him/her in language which he/she can understand;
 - (c) encourage informed decision- making by explaining possible options and the consequences of decisions;
 - (d) promote diversion where appropriate whilst ensuring that the child is not unduly influenced to acknowledge guilt;
 - (e) ensure that all time periods or delays throughout the case are kept to the minimum and that remands are limited in number and period of time between each remand;
 - (f) ensure that the child is able to communicate in his/her language, and in cases where the legal representative does not speak the same language as the child, ensure that an interpreter is used who should also be apprised of these principles; and
 - (g) become acquainted with the local options for diversion and alternative sentencing.

Pakistan, Juvenile Justice System Ordinance, XXII of 2000

Section 3 – Legal Assistance.

- (1) Every child who is accused of the commission of an offence or is a victim of an offence shall have the right of legal assistance at the expense of the State.
- (2) A legal practitioner appointed by the state for providing legal assistance to a child accused of the commission of an offence, or victim of an offence, shall have at least five years standing at the Bar.

Section 8 – Prohibition to Public Proceedings of Cases.

- (1) Unless the Juvenile Court specifically authorizes, the Court proceedings shall not be published in any newspapers, magazine or journal in any form which may disclose the name, address, school or any identification or particulars calculated to lead directly or indirectly to the identification of such child nor shall any picture of the child be published. ...

Sierra Leone, The Child Right Act, 2007

Section 81 – Rights of Child at Family Court.

- (1) A child shall have a right to legal representation at a Family Court.
- (2) A child shall have a right to give an account and express an opinion at a Family Court.
- (3) A child's right to privacy shall be respected throughout the proceedings at a Family Court.

Section 82 – No Publication of Information on Child.

- (1) No person shall publish any information that may lead to the identification of a child in any matter before a Family Court except with the permission of the Family Court. ...

Singapore, Chapter 38, Children and Young Persons Act, 1993, as amended in 2001

Section 35 – Restriction on Publication of Information Relating to Proceedings Involving Children and Young Persons.

- (1) Subject to subsection (2), no person shall –

- (a) publish or broadcast any information relating to any proceedings in any court or on appeal from any court that reveals the name, address or school or that includes any particulars that are calculated to lead to the identification of any child or young person concerned in the proceedings, either as being the person against or in respect of whom the proceedings are taken or as being a witness therein; or
 - (b) publish or broadcast any picture as being or including a picture of any child or young person so concerned in any such proceedings.
- (5) In this section –

“broadcast” means sounds or visual images broadcast by wireless telegraphy or by means of a high frequency distribution system over wire or other paths provided by a material substance and intended for general reception;

“publish”, in relation to any information or picture, means to bring the information or picture to the notice of the public or a section of the public by any means.

South Africa, Children’s Act, No. 38 of 2005

Section 42 – Children’s Courts and Presiding Officers.

- (8) The children’s court hearings must, as far as is practicable, be held in a room, which –
- (a) is furnished and designed in a manner aimed at putting children at ease;
 - (b) is conducive to the informality of the proceedings and the active participation of all persons involved in the proceedings without compromising the prestige of the court;
 - (c) is not ordinarily used for the adjudication of criminal trials; and
 - (d) is accessible to disabled persons and persons with special needs.

Zambia, Chapter 53 of the Laws of Zambia, The Juveniles Act, 1956

Section 123.

- (1) In relation to any proceedings in any court –
- (a) no newspaper report or wireless broadcast of the proceedings shall reveal the name, address or school, or include any particulars calculated to lead to the identification, of any juvenile concerned in the proceedings, either as being the person against or in respect of whom the proceedings are taken, or as being a witness therein;
 - (b) no picture shall be published in any manner as being or including a picture of any juvenile so concerned in the proceedings as aforesaid: Provided that the court or the Minister may in any case, if satisfied that it is in the interests of justice so to do, by order dispense with the requirements of this subsection to such extent as may be specified in the order.
- (2) Any person who publishes or broadcasts by wireless any matter in contravention of any such direction shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand five hundred penalty units in respect of each offence.

Article 62 – Protection of Child Victims and Child Witnesses

- (1) Child victims and child witnesses participating in judicial proceedings, their parents, guardians, or care-givers shall be provided with information on –
- (a) The availability of medical and psychological assistance and other child protection services;

- (b) The procedures for the justice process, including the role of child victims and witnesses;
 - (c) The importance, timing, and manner of testimony and ways in which questioning will be conducted during the investigation and trial;
 - (d) The progress and disposition of the specific case, including the apprehension, arrest, and custodial status of the accused and any pending changes to that status;
 - (e) The prosecutorial decision, relevant post-trial developments, and the outcome of the case; and
 - (f) The existing opportunities to obtain reparation from the offender or from the State through the justice process, through alternative civil proceedings, or through other processes.
- (2) Unless the child's participation in the proceedings is against the best interests of the child, it shall be encouraged through –
- (a) Using appropriate surroundings and alternative out-of-court venues;
 - (b) Excluding the public from the proceedings;
 - (c) Clearing the courtroom or excluding certain individuals whose presence is likely to intimidate or humiliate the child or have an adverse effect on the child's participation;
 - (d) Allowing the support and/or presence of social workers, psychologists, or other people close to the child whose presence the child desires;
 - (e) Using one-way screens, closed-circuit television, or other forms of remote participation;
 - (f) Strictly limiting the use of irrelevant and intimidating cross-examinations of the child; and
 - (g) Admitting statements of the child given prior to the trial, such as statements to social workers or law enforcement officers.

In order to avoid continued questioning of the child, it shall be possible to record the hearing of the child by electronic means or video and use the material at the subsequent proceedings in court.

- (3) Parents, other family members, or guardians of a child victim or witness shall accompany the child and attend all stages of the proceedings. The court shall decide otherwise if it deems the attendance of the parents or guardians to be contrary to the best interests of the child and thus prefers to hear the child alone.

- (4) Direct contact, confrontation, and interaction between a child victim or child witness with an offender or alleged offender shall be avoided, unless at the request of the child when is not contrary to her/his best interests. Special protective measures shall be taken when the alleged offender is a parent, a family member, guardian, or care-giver.
- (5) There shall be a presumption that a child is a capable witness subject to examination. The child's testimonies shall not be presumed invalid or untrustworthy by reason of the child's age alone.
- (6) A child victim or witness may at any point in the proceedings withdraw her/his statement, report, or testimony without jeopardizing the trial of an alleged offender. A report or accusation of a child shall not be a prerequisite for the prosecution of an alleged offender.

Based on:

Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, adopted by UN Economic and Social Council, Resolution 2005/20 of July 22, 2005

VII – The Right to be Informed.

19. Child victims and witnesses, their parents or guardians and legal representatives, from their first contact with the justice process and throughout that process, should be promptly and adequately informed, to the extent feasible and appropriate, of, inter alia:
 - (a) The availability of health, psychological, social and other relevant services as well as the means of accessing such services along with legal or other advice or representation, compensation and emergency financial support, where applicable;
 - (b) The procedures for the adult and juvenile criminal justice process, including the role of child victims and witnesses, the importance, timing and manner of testimony, and ways in which "questioning" will be conducted during the investigation and trial;
 - (c) The existing support mechanisms for the child when making a complaint and participating in the investigation and court proceedings;
 - (d) The specific places and times of hearings and other relevant events;
 - (e) The availability of protective measures;
 - (f) The existing mechanisms for review of decisions affecting child victims and witnesses;
 - (g) The relevant rights for child victims and witnesses pursuant to the Convention on the Rights of the Child and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.
20. In addition, child victims, their parents or guardians and legal representatives should be promptly and adequately informed, to the extent feasible and appropriate, of:
 - (a) The progress and disposition of the specific case, including the apprehension, arrest and custodial status of the accused and any pending changes to that status, the prosecutorial decision and relevant post-trial developments and the outcome of the case;
 - (b) The existing opportunities to obtain reparation from the offender or from the State through the justice process, through alternative civil proceedings or through other processes.

VIII – The Right to be Heard and to Express Views and Concerns.

21. Professionals should make every effort to enable child victims and witnesses to express their views and concerns related to their involvement in the justice process, including by:
- (a) Ensuring that child victims and where appropriate witnesses are consulted on the matters set forth in paragraph 19 above;
 - (b) Ensuring that child victims and witnesses are enabled to express freely and in their own manner their views and concerns regarding their involvement in the justice process, their concerns regarding safety in relation to the accused, the manner in which they prefer to provide testimony and their feelings about the conclusions of the process;
 - (c) Giving due regard to the child's views and concerns and, if they are unable to accommodate them, explain the reasons to the child.

XI – The Right to be Protected from Hardship During the Justice Process.

30. Professionals should approach child victims and witnesses with sensitivity, so that they:
- (a) Provide support for child victims and witnesses, including accompanying the child throughout his or her involvement in the justice process, when it is in his or her best interests;
 - (b) Provide certainty about the process, including providing child victims and witnesses with clear expectations as to what to expect in the process, with as much certainty as possible. The child's participation in hearings and trials should be planned ahead of time and every effort should be made to ensure continuity in the relationships between children and the professionals in contact with them throughout the process;
 - (c) Ensure that trials take place as soon as practical, unless delays are in the child's best interest. Investigation of crimes involving child victims and witnesses should also be expedited and there should be procedures, laws or court rules that provide for cases involving child victims and witnesses to be expedited;
 - (d) Use child-sensitive procedures, including interview rooms designed for children, interdisciplinary services for child victims integrated in the same location, modified court environments that take child witnesses into consideration, recesses during a child's testimony, hearings scheduled at times of day appropriate to the age and maturity of the child, an appropriate notification system to ensure the child goes to court only when necessary and other appropriate measures to facilitate the child's testimony.
34. Professionals should be trained in recognizing and preventing intimidation, threats and harm to child victims and witnesses. Where child victims and witnesses may be the subject of intimidation, threats or harm, appropriate conditions should be put in place to ensure the safety of the child. Such safeguards could include:
- (a) Avoiding direct contact between child victims and witnesses and the alleged perpetrators at any point in the justice process;
 - (b) Using court-ordered restraining orders supported by a registry system;
 - (c) Ordering pre-trial detention of the accused and setting special "no contact" bail conditions;
 - (d) Placing the accused under house arrest;
 - (e) Wherever possible and appropriate, giving child victims and witnesses protection by the police or other relevant agencies and safeguarding their whereabouts from disclosure.

Bhutan, Evidence Act, 2005***Section 53 – Child Witness.***

At every stage in a legal proceeding, a child shall testify only in the presence of the child's parent or guardian except when:

- (a) Court is satisfied that the child is intelligent enough to understand and answer the question; and
- (b) The child's parent or guardian is unavailable and there exists good cause for their absence.

Brunei, Chapter 7, Criminal Procedure Code, 2001

Section 236C – Video Recordings of Evidence from Child-Witnesses.

- (1) This section applies in relation to proceedings for an offence to which subsection (2) of section 236B applies.
- (2) In such proceedings, a video-recording of an interview which –
 - (a) is conducted between an adult and a child who is not an accused, which child is in this section referred to as the child-witness; and
 - (b) relates to any matter in issue in those proceedings, may, with the leave of the court, be given in evidence in so far as it is not excluded under subsection (3).
- (3) Where a video-recording is tendered in evidence under this section, the court shall (subject to the exercise of any power to exclude evidence which is otherwise admissible) give leave under subsection (2), unless it is empowered to refuse such leave under subsection (4).
- (4) The court shall refuse leave under subsection (2) if –
 - (a) it appears that the child-witness will not be available for cross-examination, either in person or through a live television link under section 236B;
 - (b) any rules of court requiring disclosure of the circumstances in which the video-recording was made have not been complied with to its satisfaction; or
 - (c) the court is of the opinion, having regard to all the circumstances of the case, that in the interests of justice the videorecording ought not to be admitted.
- (5) The court may, if it gives leave under subsection (2) and is of the opinion that in the interests of justice any part of the video-recording ought not to be admitted, direct that such part shall be excluded.
- (6) In considering whether any part of a video-recording ought to be excluded under subsection (5), the court shall consider whether any prejudice to an accused, which might result from the admission to that part, is outweighed by the desirability of showing the whole or substantially the whole of the video-recording.
- (7) Where a video-recording has been admitted in evidence under this section –
 - (a) the child-witness shall be called by the party who tendered it in evidence, either in person or through a live television link under section 236B; and
 - (b) the child-witness shall not be examined-in-chief on any matter which, in the opinion of the court, has been dealt with in his video-recording evidence.
- (8) Where a video-recording has been given in evidence under this section, any statement made by the child-witness which is disclosed by the video-recording shall be treated as if made by him in direct order evidence; and accordingly –
 - (a) such statement shall be admissible evidence of any fact of which such evidence from him would be admissible;
 - (b) no such statement shall be capable of corroborating any other evidence given by him, and in estimating the weight, if any, to be attached to such a statement, regard shall be had to all the circumstances from which any inference can reasonably be drawn, whether as to its accuracy or otherwise.
- (9) A magistrate holding a preliminary inquiry under Chapter XVII may consider any video-recording in respect of which leave under subsection (2) is to be sought at the trial, notwithstanding that the child-witness is not called at the preliminary inquiry.

(10) Nothing in this section prejudices the admissibility of any video recording which would be admissible apart from this section.

(11) In this section –

“child” means a person who is under 14 years of age when the video-recording was made;

“statement” includes any representation of fact, whether made in words or otherwise;

“video-recording” means any recording, on any medium, from which a moving image may by any means be produced, and includes the accompanying sound-track.

Cambodia, Code of Criminal Procedure, 2007

Article 156 – Witness Without Swearing.

The following witnesses may make a statement without having taken an oath:

- 1- The father, mother and ascendants of the charged person;
- 2- The sons, daughters and descendants of the charged person;
- 3- The brothers and sisters of the charged person;
- 4- The brother-in-laws and sister-in-laws of the charged person;
- 5- The husband or wife of the charged person, even if they have been divorced;
- 6- Any child who is less than 14 years old.

Fiji, Chapter 56, Juveniles Act, as amended in 2003

Section 8 – Child Not Allowed in Court.

No child (other than an infant in arms) shall be permitted to be present in court during the trial of any other person charged with an offence, or during any proceedings preliminary thereto, except during such time as his presence is required as a witness or otherwise for the purpose of justice; and any child present in court when he is not so permitted shall be ordered to be removed,

Section 9 – Powers to Clear Court.

When, in any proceedings in relation to any offence against, or any conduct contrary to, decency or morality, a person who, in the opinion of the court, is a juvenile is called as witness, the court shall direct that all or any of the persons, not being members or officers of the court or parties to the case or their barristers and solicitors, or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of such person:

Provided that bona fide representatives of a newspaper or news agency shall not be excluded except by special order of the court.

Section 10 – Evidence of Child of Tender Years.

(1) Where in any proceedings against any person for any offence or in any civil proceedings any child of tender years called as a witness does not in the opinion of the court understand the nature of an oath, his evidence may proceed not on oath, if, in the opinion of the court, he is possessed of sufficient intelligence to justify the reception of his evidence and to understand the duty of speaking the truth; and the evidence though not given on oath but otherwise taken and reduced into writing so as to comply with any law in force for the time being, shall be deemed to be a deposition within the meaning of any law so in force: Provided that where evidence is admitted by virtue of this section on behalf of the prosecution, the accused shall not be liable to be convicted of the offence unless that evidence is corroborated.

(2) If any child of tender years whose evidence is thus received wilfully gives false evidence in such circumstances that he would, if the evidence had been given on oath, have been guilty of perjury, he shall be liable on conviction to be dealt with as if he had been guilty of an offence and the provisions of section 32 shall thereupon apply.

Section 12 - Power to Prohibit Publication of Certain Matters.

(1) In relation to any proceedings in any court –

1. no newspaper report or radio broadcast of the proceedings shall reveal the name, address or school, or include any particulars calculated to lead to the identification of any juvenile either as being the person by or against or in respect of whom the proceedings are taken, or as being a witness therein;
2. no picture shall be published in any manner as being, or including a picture of, any juvenile so concerned in the proceedings:

Provided that the court or the Minister may in any case, if satisfied that it is in the interests of justice or of the public to do so, by order dispense with the requirements of this subsection to such extent as may be specified in the order.

(2) Any person who publishes or broadcasts by radio any matter in contravention of the provisions of this section shall be liable on conviction to a fine not exceeding one hundred dollars in respect of each offence.

Ireland, Ireland, Child Trafficking and Pornography Act, 1998

10.—The Criminal Evidence Act, 1992, is hereby amended in section 12—

(a) by the deletion of “or” in paragraph (b) where it last occurs and by the substitution of “paragraph (a) or (b), or” for “paragraph (a) or (b).” in paragraph (c), and (b) by the insertion of the following paragraph after paragraph (c):

“(d) an offence under section 3, 4, 5 or 6 of the Child Trafficking and Pornography Act, 1998.”. [Section 10 (Amendment of Criminal Evidence Act, 1992) This section amends the Criminal Evidence Act, 1992 by extending the provisions of Part III of that Act to offences under the Bill. This means that, for instance, evidence may be taken from children by video-link in cases involving child trafficking and child pornography.]

Lesotho, Children’s Protection and Welfare Bill, 2004**Section 150 – Evidence Through Intermediaries.**

- (1) Whenever proceedings involving children are pending before any court and it appears to such court that it would expose any witness under the age of eighteen years to undue mental stress or suffering if he/she testifies at such proceedings, the court may, subject to subsection (5), appoint a competent person as an intermediary in order to enable such witness to give evidence through an intermediary.
- (2) Except for examination by the court, examination, cross-examination or re-examination of any witness in respect of whom a court has appointed an intermediary under subsection (1), shall take place in any manner other than through that intermediary.
- (3) The appointed intermediary may, unless the court directs otherwise, convey the general purport of any question to the relevant witness.
- (4) If a court appoints an intermediary under subsection (1), the court may direct that the relevant witness may give his/her evidence at any place-
 - (a) which is formally arranged to set that witness at ease;
 - (b) which is so situated that any person whose presence may upset that witness, is outside the sight and hearing of that witness; and
 - (c) which enables the court and any person whose presence is necessary at the relevant proceedings to see and hear, either directly or through the medium of any electronic or other devices, that intermediary as well as that witness during his/her testimony.
- (5) The Minister may by notice in the Gazette determine the persons or the category or class of persons who are competent to be appointed as intermediaries.

Malaysia, Evidence of Child Witness Act, 2007***Clause 3 – How Evidence of Child Witness May be Given.***

- (1) A child witness may, at any stage of a trial, give evidence in any one or a combination of the following manner:
- (a) by having a screen between him and the accused or a child charged with any offence;
 - (b) by live link; or
 - (c) by video recording.

Clause 2 – Interpretation.

“live link” means a live television link or other arrangement whereby a child witness, while being absent from the courtroom or other place where the proceedings are being held, is able to see and hear a person in such courtroom or other place and to be seen and heard by the persons specified in paragraphs 4(2)(a) to (d); ...

Clause 4 – Screening.

- (1) A child witness, while giving evidence in the Court, may be prevented by means of a screen or other arrangement from seeing and being seen by the accused or a child charged with any offence.
- (2) The screen or other arrangement shall not prevent the child witness from being able to see, and to be seen by –
- (a) the Court;
 - (b) the prosecutor;
 - (c) the advocate for the accused or the child charged with any offence; and
 - (d) the interpreter.

Clause 5 – Evidence by Live Link.

- (1) Where a child witness gives evidence by means of a live link from a location other than the courtroom, that location is deemed to be part of the courtroom in which the proceeding is being held for the purposes of this section.
- (2) The Court may make an order specifying –
- (a) that a member of the Court staff be present at that location;
 - (b) the interpreter for the proceedings;
 - (c) any adult permitted by the Court to accompany the child witness;
 - (d) the persons in the courtroom who must not be heard, or seen and heard, by the child witness and by the persons accompanying the child witness;
 - (e) the persons in the courtroom who must be able to see and hear the child witness and the persons accompanying the child witness;
 - (f) the method of operation of the live link system including compliance with such minimum technical standards as may be determined by the Chief Justice of the Federal Court; and
 - (g) any other matter as the Court considers necessary in the interest of justice.

Clause 6 – Video Recording of a Child Witness.

- (1) Where a video recording of a child witness is given in evidence, such video recording shall be admitted as evidence of examination-in-chief of the child witness: Provided that the contents of the video recording shall be subject to the Evidence Act 1950 [Act 56].
- (2) A video recording under subsection (1) shall not be admitted unless –
- (a) accompanied by a transcript of the original language used in the video recording; and

- (b) accompanied by a translation of the transcript, if the language used in the video recording is other than the national language.
- (3) A certificate by a person who did the video recording pursuant to subsection (1) shall, until the contrary is proven, be admitted as a prima facie evidence of the authenticity of the content of the video recording.
- (4) Where a video recording is admitted under this section, the child witness shall be called to be further examined-in-chief by the party who tendered the video recording in evidence on any matter which, in the opinion of such party, has not been dealt with adequately in the child witnesses recorded testimony.
- (5) Notwithstanding any provision of this Act, where a child witness is called to be further examined-in-chief under subsection (4), he may give evidence by means of having a screen between him and the accused or child charged with any offence or by means of a live link.
- (6) Where a video recording is given in evidence under this section, any statement made by the child witness which is disclosed in the recording shall be treated as if given by that child witness in direct oral evidence.
- (7) In the case of a child witness who has been sworn, the Court shall admit the statement made by the child witness in the video recording as sworn evidence.
- (8) In the case of evidence of a child witness of tender years, the Court, when considering the statement in the video recording as evidence shall assess and form an opinion as to whether the child witness possesses sufficient intelligence and understands the duty of speaking the truth, though not given upon oath.

Clause 7 – Previous Video Recording of a Child Witness May Be Proved.

When a child witness attains the age of sixteen years before giving evidence in the Court, any previous video recording of evidence given by the child witness, made pursuant to section 6, may be proved.

Clause 8 – Examination of Child Witness Through Intermediary.

- (1) Any examination of a child witness may be conducted through the Court or an interpreter or any other person authorized by the Court, acting as an intermediary, for the purposes of this section.
- (2) The function of an intermediary is to communicate –
- (a) to the child witness, questions put to the child witness; and
 - (b) to any person asking such questions, the answers given by the child witness in reply to them, and to explain such questions or answers so far as necessary to enable them to be understood by the child witness.
- (3) An intermediary shall not –
- (a) prompt the child witness to answer any question;
 - (b) influence the answers of the child witness; or
 - (c) disrupt the questioning of the child witness.
- (4) An unrepresented accused shall not be entitled to question a child witness directly but may do so through an intermediary.

Clause 9 – Adults Accompanying Child Witness.

- (1) The Court may allow a child witness to be accompanied by an adult while giving evidence in any proceedings.
- (2) The Court may permit more than one adult to accompany the child witness if the Court considers it in the interests of justice to do so.

- (3) An adult accompanying the child witness shall not –
- (a) prompt the child witness to answer any question;
 - (b) influence the answers of the child witness; or
 - (c) disrupt the questioning of the child witness.

Clause 10 – Formal Attire May Be Dispensed With.

The Court may direct that the wearing of coats, jackets, gowns or other formal attire of a judge and Court officers to be dispensed with during the giving of evidence by a child witness.

Namibia, Criminal Procedure Act, Act No. 25, 2004

193 – Evidence Through Intermediaries.

- (1) When criminal proceedings are pending before a court and it appears to the court that it would expose a witness under the age of 18 years to undue mental stress or suffering if that witness testifies at such proceedings, the court may, subject to subsection (4), appoint a competent person as an intermediary to enable that witness to give his or her evidence through that intermediary.
- (2) (a) Notwithstanding section 187(1) and (2) or anything to the contrary in any other law contained, no examination, cross-examination or reexamination of a witness in respect of whom a court has appointed an intermediary under subsection (1), except examination by the court, may take place in any manner other than through that intermediary.
- (b) The intermediary so appointed may, unless the court directs otherwise, convey the general purport of any question to the witness concerned.
- (3) If a court appoints an intermediary under subsection (1), the court may direct that the witness concerned gives his or her evidence at any place –
- (a) which is informally arranged to set that witness at ease;
 - (b) which is so situated that any person whose presence may upset that witness, is outside the sight and hearing of that witness; and
 - (c) which enables the court and any person whose presence is necessary at the proceedings in question to see and hear, either directly or through the medium of any electronic or other devices, that intermediary as well as that witness during his or her testimony.
- (4) (a) The Minister may by notice in the Gazette determine the persons or the category or class of persons who are competent to be appointed as intermediaries.
- (b) An intermediary who is not in the full-time employment of the State must be paid such travelling and subsistence and other allowances in respect of the services rendered by him or her as the Minister, in consultation with the Minister responsible for finance, may determine.
- (5) (a) No oath, affirmation or admonition that has been administered through an intermediary in terms of section 186 is invalid and no evidence that has been presented through an intermediary is inadmissible solely on account of the fact that the intermediary was not competent to be appointed as an intermediary in terms of a notice under subsection (4)(a) at the time when that oath, affirmation or admonition was administered or that evidence was presented.
- (b) If in any criminal proceedings it appears to a court that an oath, affirmation or admonition was administered or that evidence has been presented through an intermediary who was appointed in good faith but, at the time of the appointment, was not competent to be appointed as an intermediary in terms of a notice under subsection (4)(a), the court must make a finding as to the validity of that oath, affirmation or admonition or the admissibility of that evidence with due regard to –

- (i) the reason why the intermediary was not competent to be appointed as an intermediary, and the likelihood that that reason will affect the reliability of the evidence so presented adversely;
 - (ii) the mental stress or suffering which the witness in respect of whom that intermediary was appointed will be exposed to if that evidence is to be presented anew, whether by the witness in person or through another intermediary; and
 - (iii) the likelihood that real and substantial justice will be impaired if that evidence is admitted.
- (6) Nothing in subsection (5) contained is to be construed as preventing the prosecution from presenting anew any evidence that was presented through an intermediary referred to in that subsection.

Sri Lanka, Evidence (Special Provisions) Act No. 32 of 1999

Section 2 – Child to Testify Without Causing an Oath or Affirmation to be Administered.

- (1) Where a court is satisfied that a child is competent, as required by the Evidence Ordinance, to testify in any proceedings but is not able to understand the nature of an oath or an affirmation, the court may receive the evidence of administered such child without causing an oath or an affirmation to be administered to such child, and any unsworn testimony given by such child in such proceeding shall be deemed not to be inadmissible by reason only of the fact that such testimony was not given on oath or affirmation and the proceeding in which such testimony was given shall not be invalidated by reason only of the fact that such testimony was not given on oath or affirmation.
- (2) Where a child is permitted, under subsection (1), to testify without taking an oath or making an affirmation, the child shall be bound to state the truth on all matters to which his testimony relates, and the court shall explain this to the child.

Sri Lanka, Children and Young Persons Ordinance, Chapter 31, 1952

Section 18 – Prohibition Against Children in Court During the Trial of Other Persons.

No child (other than an infant in arms) shall be permitted to be present in court during the trial of any other person charged with an offence, or during any proceedings preliminary thereto, except during such time as his presence is required as a witness or otherwise for the purpose of justice; and any child present in court when under this section he is not to be permitted to be so, shall be order to be removed.

Section 19 – Power to Clear Court While Child or Young Person is Giving Evidence in Certain Cases.

- (1) Where, in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, a person who, in the opinion of the court, is a child or young person is called as a witness, the court may direct that all or any persons, not being members or officers of the court or parties to the case, their attorneys-at-law, or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of that witness.
- (2) The powers conferred on a court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings in camera.

Section 20 – General Considerations.

Every court in dealing with a child or young person who is brought before it, either as being in need or care or protection or as an offender or otherwise, shall have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training.

United States, 18. U.S.C.**Section 3509 – Child Victims’ and Child Witnesses’ Rights.****(b) Alternatives to Live In-Court Testimony. –****(1) Child’s live testimony by 2-way closed circuit television. –**

(A) In a proceeding involving an alleged offense against a child, the attorney for the Government, the child’s attorney, or a guardian ad litem appointed under subsection (h) may apply for an order that the child’s testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the defendant, for any of the following reasons:

- (i) The child is unable to testify because of fear.
- (ii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying.
- (iii) The child suffers a mental or other infirmity.
- (iv) Conduct by defendant or defense counsel causes the child to be unable to continue testifying.

(2) Videotaped deposition of child. –

(A) In a proceeding involving an alleged offense against a child, the attorney for the Government, the child’s attorney, the child’s parent or legal guardian, or the guardian ad litem appointed under subsection (h) may apply for an order that a deposition be taken of the child’s testimony and that the deposition be recorded and preserved on videotape.

(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the defendant, jury, judge, and public for any of the following reasons:

- (I) The child will be unable to testify because of fear.
- (II) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.
- (III) The child suffers a mental or other infirmity.
- (IV) Conduct by defendant or defense counsel causes the child to be unable to continue testifying.
 - (ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child’s deposition be taken and preserved by videotape.
 - (iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are –

- (I) the attorney for the Government;
- (II) the attorney for the defendant;
- (III) the child’s attorney or guardian ad litem appointed under subsection (h);

- (IV) persons necessary to operate the videotape equipment;
- (V) subject to clause (iv), the defendant; and
- (VI) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney, the right to be confronted with the witness against the defendant, and the right to cross-examine the child.

- (iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant, including a defendant represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that the defendant be excluded from the deposition room, the court shall order that 2-way closed circuit television equipment relay the defendant's image into the room in which the child is testifying, and the child's testimony into the room in which the defendant is viewing the proceeding, and that the defendant be provided with a means of private, contemporaneous communication with the defendant's attorney during the deposition.

- (E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

(e) Closing the Courtroom. –

When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate. Such an order shall be narrowly tailored to serve the Government's specific compelling interest.

United States/Missouri, Missouri Revised Statutes, Chapter 491, Witnesses, as amended by House Bill No. 863, 2009

Section 491.725 – Child Witness Protection Act.

2. As used in this section, the following terms shall mean:

- (2) "Support person", an adult, designated by the court to serve as a support person, who is known to the child victim or witness and who has no direct legal or pecuniary interest in the outcome of the judicial proceeding.

3. In order to facilitate testimony that is fair and accurate, for the benefit of all parties, and in order to protect all parties from the risks of a child becoming confused while testifying in a judicial proceeding, the following child witness protection act shall apply to all children testifying in court:

- (1) Whether at a competency hearing or trial itself, the judge shall ensure that any oath that is required of a child shall be administered in such a manner that the child may fully understand his or her duty to tell the truth;
- (2) The court shall take care to ensure that questions are stated in a form which is appropriate to the age of the child. The court shall explain to the child that if he or she does not understand a question, the child has the right to say that he or she does not understand the question and to have the question restated in a form that the child does understand;

- (3) In the court's discretion, the taking of testimony from a child victim or witness may be limited in duration or limited to normal school hours. The court may order a recess when the energy, comfort, or attention span of the child warrants;
- (4) Upon motion made by the child, his or her representative, or any party to the judicial proceeding, at least thirty days in advance of the judicial proceeding, the court may allow the child to have a toy, blanket, or similar item in his or her possession while testifying, but such item shall only be allowed if:
- (a) All parties agree; or
 - (b) If the movant shows the court by a preponderance of evidence that:
 - a. The child in question cannot reliably testify without the item in his or her possession; and
 - b. Allowing the item is not likely to prejudice the trier of fact in hearing and evaluating the child's testimony;
- (5) Upon motion made by the child, his or her representative, or any party to the judicial proceeding, at least thirty days in advance of the judicial proceeding, the court may designate a support person, who shall be present in the courtroom, in view of the child witness. The court may allow the support person to remain in close proximity to the child during the child's testimony, but such action shall only be allowed if:
- (a) All parties agree; or
 - (b) If the movant shows the court by a preponderance of the evidence that:
 - a. The child in question cannot reliably testify without the support person in close proximity during the testimony; and
 - b. Allowing the support person to be in close proximity to the child during testimony is not likely to prejudice the trier of fact in hearing and evaluating the child's testimony.

The support person shall not obscure the child from the view of the defendant or the trier of fact. A support person shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child or otherwise influence the testimony of the child. If the support person attempts to influence or affect in any manner the testimony of the child victim or witness during the giving of testimony or at any other time, the court shall exclude that support person, refer the matter of misconduct of the support person to the prosecuting attorney, and designate an alternative support person;

- (6) The court shall prevent intimidation or harassment of the child witness by the parties or their attorneys. Insofar as it is consistent with the constitutional rights of the parties to confront and cross-examine adverse witnesses, the judge may rephrase any questions in order to prevent any such intimidation or harassment; and
- (7) Upon its own motion or the motion of any party to the judicial proceeding, at least thirty days in advance of the judicial proceeding, the court may order such accommodations as are appropriate under the circumstances to ensure the comfort of the child victim or witness, including the following measures:
- (a) Adjusting the layout of the courtroom;
 - (b) Conducting the proceedings outside the normal courtroom; or
 - (c) Relaxing the formalities of the proceedings;
- provided that, such measures are consistent with the rights of all parties under the constitution and laws of the United States and the state of Missouri.
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Article 63 – Children in Conflict with the Law

- (1) A minimum age below which children shall be presumed not to have the capacity to infringe the penal law shall be established by law (age of criminal responsibility).
- (2) Any child who is accused of having violated the law shall –
 - (a) Be informed promptly and directly of the charges against her/him;
 - (b) Have prompt access to free legal assistance;
 - (c) Have the matter determined without undue delay;
 - (d) Be presumed innocent; and
 - (e) Be neither compelled to give testimony nor to confess guilt.
- (3) Special child units shall be established at police offices to deal with children accused of having violated the law.
- (4) Any charges against children accused of having violated the law shall be heard by a special child court. Such child courts shall be established in each judicial district. They shall be staffed with specially trained law enforcement officials, judges, prosecutors, and lawyers. Their establishment and areas of jurisdiction shall be determined by law / regulation.
- (5) A child under the age of criminal responsibility accused of having infringed the penal law shall not be referred to a court but to the competent child protection service provider so as to assist with her/his education and social environment to prevent future commission of criminal acts.
- (6) Research activities conducted in accordance with Article 7 of this Law shall include measures to promote and implement a child-friendly justice system.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 40.

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:
 - (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

- (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
- (i) To be presumed innocent until proven guilty according to law;
 - (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 in the preparation and presentation of his or her defence;
 - (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, unless it is considered not to be in the best interest of the child, 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;
 - (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
 - (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:
- (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
 - (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.

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”), adopted by General Assembly resolution 40/33 of Nov. 29 1985

4 – Age of Criminal Responsibility.

- 4.1 In those legal systems recognizing the concept of the age of criminal responsibility for juveniles, the beginning of that age shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity.

5 – Aims of Juvenile Justice.

- 5.1 The juvenile justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence.

7 – Rights of Juveniles.

- 7.1 Basic procedural safeguards such as the presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal to a higher authority shall be guaranteed at all stages of proceedings.

10 – Initial Contact.

10.1 Upon the apprehension of a juvenile, her or his parents or guardian shall be immediately notified of such apprehension, and, where such immediate notification is not possible, the parents or guardian shall be notified within the shortest possible time thereafter.

10.2 A judge or other competent official or body shall, without delay, consider the issue of release.

10.3 Contacts between the law enforcement agencies and a juvenile offender shall be managed in such a way as to respect the legal status of the juvenile, promote the well-being of the juvenile and avoid harm to her or hi m, with due regard to the circumstances of the case.

12 – Specialization within the Police.

12.1 In order to best fulfil their functions, police officers who frequently or exclusively deal with juveniles or who are primarily engaged in the prevention of juvenile crime shall be specially instructed and trained. In large cities, special police units should be established for that purpose.

15 – Legal Counsel, Parents and Guardians.

15.1 Throughout the proceedings the juvenile shall have the right to be represented by a legal adviser or to apply for free legal aid where there is provision for such aid in the country.

15.2 The parents or the guardian shall be entitled to participate in the proceedings and may be required by the competent authority to attend them in the interest of the juvenile. They may, however, be denied participation by the competent authority if there are reasons to assume that such exclusion is necessary in the interest of the juvenile.

African Union, African Charter on the Rights and Welfare of the Child, 1990, entered into force Nov. 29, 1999**Article 17 – Administration of Juvenile Justice.**

1. Every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others.
2. States Parties to the present Charter shall in particular:
 - (a) ensure that no child who is detained or imprisoned or otherwise deprived of his/her liberty is subjected to torture, inhuman or degrading treatment or punishment;
 - (b) ensure that children are separated from adults in their place of detention or imprisonment;
 - (c) ensure that every child accused in infringing the penal law:
 - (i) shall be presumed innocent until duly recognized guilty;
 - (ii) shall be informed promptly in a language that he understands and in detail of the charge against him, and shall be entitled to the assistance of an interpreter if he or she cannot understand the language used;
 - (iii) shall be afforded legal and other appropriate assistance in the preparation and presentation of his defence;(iv) shall have the matter determined as speedily as possible by an impartial tribunal and if found guilty, be entitled to an appeal by a higher tribunal;
 - (d) prohibit the press and the public from trial.
3. The essential aim of treatment of every child during the trial and also if found guilty of infringing the penal law shall be his or her reformation, re-integration into his or her family and social rehabilitation.
4. There shall be a minimum age below which children shall be presumed not to have the capacity to infringe the penal law

Australia/Capital Territory, Children and Young People Act, Act 2008-19, as amended by Act 2009-28

Section 94 – Youth Justice Principles.

- (1) For the criminal matters chapters, in deciding what is in the best interests of a child or young person, a decision-maker must consider each of the following matters that is relevant (the youth justice principles):
- (a) if a child or young person does something that is contrary to law, he or she should be encouraged to accept responsibility for the behaviour and be held accountable;
 - (b) a child or young person should be dealt with in a way that acknowledges his or her needs and that will provide the opportunity to develop in socially responsible ways;
 - (c) a child or young person should be consulted about, and be given the opportunity to take part in making, decisions that affect the child or young person, to the maximum extent possible taking into consideration their age, maturity and developmental capacity;
 - (e) if a child or young person is charged with an offence, he or she should have prompt access to legal assistance, and any legal proceeding relating to the offence should begin as soon as possible;
 - (f) a child or young person may only be detained in custody for an offence (whether on arrest, on remand or under sentence) as a last resort and for the minimum time necessary;
 - (g) children, young people and other young offenders should be dealt with in the criminal law system in a way consistent with their age, maturity and developmental capacity and have at least the same rights and protection before the law as would adults in similar circumstances; ...

Belize, Juvenile Offenders Act, 2000

Section 9 – Attendance at Court of Parent of Child or Young Person Charged with an Offence, Etc.

- (1) Where a child or young person is charged with any offence, the court may in its discretion require the attendance of his parent or guardian and may make such orders as are necessary for the purpose.
- (2) Where a child or young person is arrested, the police officer by whom he is arrested or the officer in charge of the police station to which he is brought shall, if the parent or guardian lives within a reasonable distance and can be found, cause him to be warned to attend at the court before which the child or young person will be brought.

Brunei, Chapter 22, Penal Code, 2001

Section 82 – Act of a Child Under 7 Years of Age.

Nothing is an offence which is done by a child under 7 years of age.

Section 83 – Act of a Child Above 7 and Under 12 of Immature Understanding.

Nothing is an offence which is done by a child above 7 years of age and under 12, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

China, Criminal Law of the People's Republic of China, 1979, as amended in 1997

Article 17.

If a person who has reached the age of 16 commits a crime, he shall bear criminal responsibility.

If a person who has reached the age of 14 but not the age of 16 commits intentional homicide, intentionally hurts another person so as to cause serious injury or death of the person, or commits rape, robbery, drug- trafficking, arson, explosion or poisoning, he shall bear criminal responsibility.

If a person who has reached the age of 14 but not the age of 18 commits a crime, he shall be given a lighter or mitigated punishment. ...

China, Law of the People's Republic of China on the Protection of Minors, 1992

Article 40.

Public security organs, people's procuratorates and people's courts shall, in dealing with cases involving crimes committed by minors, take their physical and mental characteristics into consideration, and may, in line with needs, set up special organs or designate special persons to handle such cases.

Public security organs, people's procuratorates, people's courts and reformatories for juvenile delinquents shall respect the personal dignity of the delinquent minors and safeguard their lawful rights and interests.

Article 42.

All cases involving crimes committed by minors over fourteen years old but under sixteen shall not be tried publicly. Cases involving crimes committed by minors over sixteen years old but under eighteen shall, in general, not be tried publicly.

With regard to cases involving crimes committed by minors, the names, home addresses and photos of such minors as well as other information which can be used to deduce who they are, may not be disclosed, before the judgment, in news reports, films, TV programmes and in any other openly circulated publications.

Fiji, Chapter 56, Juveniles Act, as amended in 1997

Section 7 – Attendance in Court of Parent of Juvenile.

- (1) Where a juvenile is charged with an offence or is for any other reason brought before a court, his parent or guardian may in any case, and shall if he resides within a reasonable distance, be required to attend the court before which the case is heard or determined during all stages of the proceedings unless the court is satisfied that it would be unreasonable to require his attendance or he cannot be found.
- (2) Where a juvenile is arrested or taken to a place of safety, the police officer by whom he is arrested or who is in charge of the police station to which he is brought, or the person by whom he is taken to the place of safety as the case may be, shall cause the parent or guardian of the juvenile, if he can be found, to be warned to attend at the court before which the juvenile will appear.
- (3) If any parent or guardian who has been required or warned to attend in accordance with the provisions of subsections (1) and (2), having received reasonable notice of the time and place at which he is required or warned to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the court, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty dollars.
- (4) The parent or guardian whose attendance shall be required under the provisions of this section shall be the parent or guardian having the actual possession and control of the juvenile: Provided that if that person is not the father, the attendance of the father may also be required.
- (5) The attendance of the parent of the juvenile shall not be required under this section in any case where the juvenile was, before the institution of the proceedings, removed from the custody or charge of his parent by the court.

Germany, Youth Courts Law, 1953, as amended in July 2008

Section 3 – Criminal Liability.

A youth shall bear criminal liability if, at the time of the act, he has reached a level of moral and intellectual maturity sufficient to enable him to understand the wrongfulness of the act and to

conduct himself in accordance with such understanding. For the purposes of bettering a youth who bears no criminal liability due to a lack of maturity the judge may order the same measures as the judge responsible for family and guardianship matters.

Section 5 – Consequences of Youth Offences.

- (1) Supervisory measures may be ordered in response to a criminal offence committed by a youth.
- (2) Where supervisory measures do not suffice, disciplinary measures or youth penalty may be imposed to punish an offence committed by a youth.
- (3) Disciplinary measures or youth penalty shall be dispensed with if placement in a psychiatric hospital or institution for withdrawal treatment renders punishment by the judge dispensable.

Hong Kong, Chapter 226, Juvenile Offenders Ordinance, 1997, as amended in July, 2003

Section 9 – Attendance at Court of Parent of Child or Young Person Charged With an Offence, Etc.

- (1) Subject to subsection (1A), where a child or young person is charged with any offence or is brought before a court under the provisions of this or any other Ordinance, his parent or guardian shall, unless the court otherwise orders, attend before the court during all stages of the proceedings; and the court may compel the attendance of the parent or guardian as if he were required as a witness in the proceedings.
 - (1A) If it appears to a court to be necessary to do so in the interest of a child or young person, the court may require his parent or guardian to withdraw from the court.
- (2) Where a child or young person is arrested, the police officer by whom he is arrested or the officer in charge of the police station to which he is brought shall, if the parent or guardian lives within a reasonable distance and can be found, cause him to be warned to attend at the court before which the child or young person will be brought.

Section 20A – Restriction on Reports of Proceedings in Juvenile Courts and Power of Other Courts to Prohibit Certain Reports.

- (1) Subject to subsection (2) no person shall –
 - (a) publish a written report or broadcast a report of any proceedings in a juvenile court or on appeal from a juvenile court –
 - (i) revealing the name, address or school; or
 - (ii) including any particulars calculated to lead to the identification, of any child or young person concerned in the proceedings, either as being the person against or in respect of whom the proceedings are taken or as being a witness therein; or
 - (b) publish in a written report any picture or broadcast any picture as being or including a picture of any child or young person so concerned in any such proceedings. ...

Ireland, Children Act, Act No. 24 of 2001

Section 52 – Age of Criminal Responsibility.

- (1) It shall be conclusively presumed that no child under the age of 12 years is capable of committing an offence.
- (2) There is a rebuttable presumption that a child who is not less than 12 but under 14 years of age is incapable of committing an offence because the child did not have the capacity to know that the act or omission concerned was wrong.

Section 91 – Attendance at Court of Parents or Guardian.

- (1) The parents or guardian of a child shall, subject to subsection (5), be required to attend at all stages of any proceedings –

- (a) against the child for an offence,
 - (b) relating to a family conference in respect of the child, or
 - (c) relating to any failure by the child to comply with a community sanction or any condition to which the sanction is subject.
- (2) Where the parents or guardian fail or neglect, without reasonable excuse, to attend any proceedings to which subsection (1) applies, the Court may adjourn the proceedings and issue a warrant for the arrest of the parents or guardian, and the warrant shall command the person to whom it is addressed to produce the parents or guardian before the Court at the time appointed for resuming the proceedings.
 - (3) Failure by the parents or guardian, without reasonable excuse, to attend any such proceedings shall, subject to subsection (5), be treated for all purposes as if it were a contempt in the face of the court.
 - (4) At the hearing of any proceedings in respect of the offence with which the child is charged, any parent or guardian who is required to attend the proceedings may be examined in respect of any relevant matters.
 - (5) The Court may, at any stage of proceedings to which subsection (1) applies, excuse the parents or a parent or the guardian of the child concerned from attendance at all or any part of the proceedings in any case where the Court, either of its own motion or at the request of any of the parties to the proceedings, is of opinion that the interests of justice would not be served by such attendance.
 - (6) If in any such proceedings the whereabouts of the parents or guardian of the child concerned are unknown, or neither a parent nor a guardian attends the proceedings for any reason, the child may be accompanied during the proceedings by an adult relative or other adult.
 - (7) This section does not apply to the parents of a child who is married.

Section 257 – Clearing of Court in Certain Cases.

- (1) Where in any proceedings for an offence a person who, in the opinion of the court, is a child is called as a witness, the court may exclude from the court during the taking of his or her evidence all persons except officers of the court, persons directly concerned in the proceedings, bona fide representatives of the Press and such other persons (if any) as the court may in its discretion permit to remain.
- (2) The powers of a court under this section shall be in addition and without prejudice to any other power of the court to hear proceedings in camera or to exclude a witness until his or her evidence is required or to Part III (which relates to evidence through a television link in certain proceedings) of the Act of 1992. ...

Jamaica, Child Care and Protection Act, 2004

Section 63 – Age of Criminal Responsibility.

It shall be conclusively presumed that no child under the age of twelve years can be guilty of any offence.

Section 69 – Attendance at Court by Parents of Child Charged With Offence, Etc.

- (1) When a child is charged with any offence or is for any other reason brought before a court, the child's parent or guardian may, in any case, and shall, if such parent or guardian be found and resides within a reasonable distance, be required to attend at the court before which the case is heard or determined during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.
- (2) Where a child is arrested or taken to a juvenile remand centre, the officer or sub-officer of police in charge of the police station in the district of the court before which the child will appear shall cause the parent or guardian of that child, if he can be found, to be warned to attend court.

- (3) For the purpose of enforcing the attendance of a parent or guardian and enabling him to take part in the proceedings and enabling orders to be made against him, a summons may be issued and served on him requiring attendance before the court; and the provisions of the Justice of the Peaces Jurisdiction Act shall, with the necessary adaptations and modifications, apply to the procedure on such summons.
- (4) The parent or guardian whose attendance is required under this section shall be the parent or guardian having the actual possession and control of the child: Provided that the attendance of such parent shall not be required if the child is, prior to the institution of the proceedings, removed from the parent's custody or charge by an order of a court.

Lesotho, Children's Protection and Welfare Bill, 2004

Section 83 – Age of Criminal Responsibility and Prosecution Requirements.

- (1) No child below the age of ten years shall be prosecuted for a criminal offence.
- (2) No prosecution for a criminal offence may be instituted against a child between the ages of ten and fourteen until the inquiry magistrate is satisfied that the child possesses the capacity to appreciate the difference between right and wrong and has the ability to act in accordance with that appreciation.
- (4) It must be presumed that a child between the ages of ten and fourteen lacks the capacity to appreciate the difference between right and wrong, and cannot act in accordance with full appreciation, unless the Crown proves beyond reasonable doubt that such child, as a matter of fact has that appreciation and is able to act in accordance with that appreciation.
- (5) Evidence of the intellectual, emotional, psychological and social development of a child is relevant to any enquiry into whether such child possesses the capacity to appreciate the difference between right and wrong and has the ability to act in accordance with that appreciation.
- (6) The evidence referred to under subsection (5) must be supported by a report from a person with expertise in child development or child psychology, who must testify before an inquiry magistrate in person as to the content and findings of the report.

Section 142 – Conduct of Proceedings in Children's Court.

- (2) All proceedings conducted in the Children's Court must be held in camera and the privacy of the child concerned and other child witnesses, subject to the provisions of section 149, must be protected at all times.
- (3) The proceedings of the Children's Court must, with regard to the child's procedural rights, be conducted in an informal manner to encourage the maximum participation of the child, his/her parent or guardian and other child witnesses.
- (4) Where the presence of a parent, guardian or any other person who is not an officer of the Children's Court is likely to discourage the maximum participation of the child, the Children's Court shall order that person to recuse himself/herself from the proceedings.
- (5) The children must be permitted to speak in their own language with the assistance, where necessary, of an interpreter and the presiding officer must ensure that they are addressed in language that they understand.
- (6) In the case of a child with speech or hearing impairment, the Children's Court shall order that a person with expertise in sign language be engaged to assist the child and the court.
- (7) The presiding officer must ensure that the conduct of all proceedings and the conduct of all court personnel are conducive to the protection of all the children participating in the proceedings.

- (8) In cases involving children in conflict with the law, no handcuffs, leg-irons or other restraints may be used when a child appears in the Children's Court, unless an imminent danger exists that the safety of any person may be endangered if such restraints are not used. ...
- (11) The proceedings of the Children's Court may, at the discretion of the presiding officer, be held in a place other than a court.
- (12) The presiding officer must protect a child offender and other child witnesses from hostile or intimidating cross-examination where such cross-examination is regarded by the presiding officer as being prejudicial to the well-being of the child or the fairness of the proceedings.

Section 149 – Privacy and Confidentiality.

- (1) Where a child appears before a Children's Court or any other court acting under the provisions of this Act, no person other than the persons referred to under sections 84 (3) and 111 (4) may be present unless such person's presence is necessary in connection with such proceedings or is authorised by the court on good cause shown.
- (2) No person, institution or organisation may publish in any manner whatsoever, any information which reveals or may reveal the identity of the child under the age of eighteen years appearing at an assessment, a preliminary inquiry or before Children's Court or any other court acting in terms of the provisions of this Act, or of a witness under the age of eighteen years appearing at any proceedings referred to in this Act who is under the age of eighteen years.
- (3) Subject to the provisions of subsection (4), no prohibition or direction under this section may prevent-
 - (a) any person, institution or organisation from gaining access to information pertaining to a child or children governed by this Act if such access would be in the interests, safety or welfare of any such child or of children in general;
 - (b) the publication, in the form of a bona fide law report, of-
 - (i) information for the purpose of reporting any question of law relating to the proceedings in question; or
 - (ii) any decision or ruling given by any court on such question, and
 - (c) the publication, in the form of any report of a bona fide professional or technical nature, of research results and statistical data pertaining to a child or children governed by this Act if such publication would be in the interests, safety or welfare of any such child or of children in general.
- (4) The reports referred to under subsection (3)(b) and (c) shall not mention the name of the child charged or of the child against whom or in connection with whom the offence in question was alleged to have been committed or of any child witness at such proceedings, and may not mention the name of a person accused with the child or place where the offence in question was alleged to have committed if this may reveal the name of the child.
- (5) Nothing under this section prevents publication of information or making of reports that expose the identity and names of persons, institutions and organisations that are involved in the commission or aiding and abetting the commission of offences involving children.
- (6) Any person who publishes any information in contravention of this section or contrary to any direction or authority under this section or who in any manner reveals the identity of a child witness in contravention of a direction under this section, commits an offence and on conviction is liable to a fine not exceeding twenty thousand maloti or to imprisonment term not exceeding two years.

Myanmar, The Child Law, 9/1993

Section 42.

The juvenile court shall abide by the following in trying juvenile cases: -

- (b) No person other than the parents, guardians, staff of the court, Law Officers, members of the People's Police Force on duty and not in uniform, persons directly concerned with the case and persons who have been granted permission by the juvenile court shall be present at the place of trial.
- (c) If the child or his parents or guardian cannot or do not wish to engage a lawyer and makes an application to be defended with the assistance of any appropriate person, shall grant permission to do so;
- (d) Shall arrange to make available an interpreter, if necessary;
- (e) Shall dispose of the case speedily.

New Zealand, Children, Young Persons, and Their Families Act, No 24 of 1989, as amended in 2009

Section 278 – Parent or Guardian May Be Summoned to Appear when Young Person Charged with Offence.

- (1) Any Youth Court Judge or District Court Judge or Justice or Community Magistrate or Registrar (not being a constable) may, where an information is laid against a young person in respect of any offence, issue a summons to any parent, guardian, or person for the time being having the care of the young person, requiring that parent or guardian or person to appear before a Youth Court at a time to be named in the summons.
- (2) At the hearing of the proceedings in respect of the offence any such parent or guardian or other person may be examined in respect of any matter relating to the proceedings.
- (3) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who, being required to appear before a Youth Court under this section, refuses or fails, without reasonable excuse, so to appear.
- (4) In any case where a person does not appear in answer to a summons that has been served under this section, a Youth Court Judge or District Court Judge may direct the issue of a warrant to arrest that person and bring that person before the court.

Papua New Guinea, Juvenile Courts Act, 1991

Section 23 – Juvenile Court Sittings to Be Closed.

- (1) At a sitting, a Court shall –
 - (a) conduct proceedings in camera; and
 - (b) reduce to a minimum contacts between –
 - (i) a juvenile and the public; and
 - (ii) a juvenile and an offender appearing before any other court.

Section 28 – Restriction of Publication of Proceedings.

- (1) A person shall not publish a report of proceedings, or the result of proceedings, before a Court under this Act unless, subject to Subsection (2) –
 - (a) the Court expressly authorizes the publication; or
 - (b) where the publication is of a technical nature intended for circulation amongst the members of the legal, medical, teaching, psychological or social welfare professions, authorization is given by the Director.
- (2) Nothing under Subsection (1) authorizes the publication of –

- (a) the name of the juvenile involved in the proceedings; or
 - (b) the name of the school the juvenile is attending; or
 - (c) the name of an employer, village or place of residence of the juvenile; or
 - (d) any other particulars which are likely to lead to the identification of the juvenile, his school, employer, village or place of residence.
- (3) A person who publishes a report of proceedings, or the result or proceedings, before a Court under this Act, except in accordance with this section, is guilty of an offence. ...

Philippines, The Child and Youth Welfare Code, Presidential Decree No. 603, 1974

Article 189 – Youthful Offender Defined.

A youthful offender is one who is over nine years but under twenty-one years of age at the time of the commission of the offense.

A child nine years of age or under at the time of the offense shall be exempt from criminal liability and shall be committed to the care of his or her father or mother, or nearest relative or family friend in the discretion of the court and subject to its supervision. The same shall be done for a child over nine years and under fifteen years of age at the time of the commission of the offense, unless he acted with discernment, in which case he shall be proceeded against in accordance with Article 192.

Samoa, Youth Offenders Act, 2007

Section 3 – No Charge for Any Offence for Persons Under 10 Years.

Despite any other law to the contrary, no person under the age of 10 years shall be charged with any criminal offence.

Section 7 – Youth Court May Require Parents Attendance.

- (1) The Court may issue a summons requiring the parents, parent or guardian of a Young Person to appear before the Court and may ask any questions of the parent or parents or guardian and may require such questions to be answered under oath.
- (2) If a parent or guardian fails to appear before the Youth Court when summoned to do so, the Court may issue a warrant of arrest to bring the parent or guardian before the Court, such warrant to be executed by a Police Officer.

Section 8 – Matters Relating to Youth Court Closed to the Public and Media.

- (1) Unless the Court determines otherwise, any proceedings conducted in the Youth Court will be closed to the general public and to the Media.
- (2) Unless the Court is of the opinion that the public interest requires it, the name and identifying details of a Young Person may not be published by the Media or any other person.
- (3) The name and identifying details of any victim involved in an offence for which a Young Person is charged must not be published by the Media or any other person.
- (4) Any person, media person, media organization, media office or media authority, who publishes or causes to publish any information or publication prohibited by this section commits an offence and shall be liable upon conviction to a fine not exceeding 100 penalty units.

Section 9 – Rights of a Young Person.

A Young Person is entitled to:

- (a) receive independent legal advice; and

- (b) the attendance of his or her parent and/or caregiver or any member of his or her family at the hearing of proceedings where it is practical to do so; and
- (c) apply for legal aid.

Sierra Leone, The Child Right Act, 2007

Section 70 – Minimum Age of Criminal Responsibility.

In any judicial proceeding in Sierra Leone, a child shall not be held to be criminally responsible for his actions if he is below the age of fourteen years.

Singapore, Chapter 38, Children and Young Persons Act, 1993, as amended in 2001

Section 31 – Attendance at Court of Parent or Guardian of Child or Young Person Charged with an Offence, Etc.

- (1) Subject to subsection (2), where a child or young person is charged with any offence or is brought before a court under the provisions of this Act or any other Act –
 - (a) his parent or guardian shall, unless the court otherwise orders, attend before the court during all stages of the proceedings; and
 - (b) the court may compel the attendance of the parent or guardian as if he were required as a witness in the proceedings.
- (2) If it appears to a court to be necessary to do so in the interest of a child or young person, the court may require his parent or guardian to withdraw from the court.

Section 42 – Procedure in Juvenile Court.

- (1) Where a child or young person is brought before a Juvenile Court for any offence, it shall be the duty of the Court as soon as possible to explain to him in simple language suitable to his age and understanding the substance of the alleged offence.
- (2) After explaining the substance of the alleged offence, the Juvenile Court shall ask the child or young person whether he admits the facts constituting the offence.
- (3) If the child or young person does not admit the facts constituting the offence, the Juvenile Court shall then hear the evidence of the witnesses in support thereof.
- (4) At the close of the evidence in chief of each witness, the witness may be cross-examined by or on behalf of the child or young person.
- (5) The Juvenile Court shall, except in any case where the child or young person is legally represented, allow his parents or guardian or, in their absence, any relative or other responsible person to assist him in conducting his defence.
- (6) If in any case where the child or young person is not legally represented or assisted in his defence as provided for in subsection (5), the child or young person, instead of asking questions by way of cross-examination, makes assertions, the Juvenile Court shall then put to the witness such questions as it thinks necessary on behalf of the child or young person and may, for this purpose, question the child or young person in order to bring out or clear up any point arising out of those questions.
- (7) If it appears to the Juvenile Court that a prima facie case is made out, the Court shall explain to the child or young person the substance of the evidence against him and, in particular, any points therein which specially tell against him or require explanation and the child or young person shall be allowed to give evidence upon oath or affirmation or to make a statement if he so desires and the evidence of any witness for the defence shall be heard.
- (8) If the child or young person admits the offence or the Juvenile Court is satisfied that it is proved, he and his parent or guardian, if present, shall then be asked if they desire to say anything in extenuation or mitigation of the penalty or otherwise.

- (9) Before deciding how to deal with him, the Juvenile Court may obtain such information as to his family background, general conduct, home surroundings, school record, medical history and state of development, as may enable it to deal with the case in the best interests of the child or young person, and may put to him any question arising out of such information.
- (10) The information referred to in subsection (9) may include any written report of a probation officer, an approved welfare officer, a registered medical practitioner or any other person whom the Juvenile Court thinks fit to provide a report on the child, and may be received and considered by the Court without being read aloud.
- (11) For the purpose of subsection (9), the Juvenile Court may –
- (a) require either or both the child or young person and the parent or guardian thereof to furnish such information or render such assistance to the Juvenile Court as the Court thinks necessary;
 - (b) require either or both the child or young person and the parent or guardian thereof to undergo such medical, psychological or other assessment as the Juvenile Court thinks necessary; and
 - (c) from time to time release the child or young person on bail or remand him in a place of detention in order to facilitate the carrying out of any requirement of the Juvenile Court under paragraph (a) or (b).
- (12) The costs of and incidental to any assessment under subsection (11) (b) shall be borne by the parent or guardian of the child or young person, unless the Juvenile Court directs otherwise.
- (13) Where the Juvenile Court has received and considered a written report of a probation officer, an approved welfare officer, a registered medical practitioner or any other person whom the Court thinks fit to provide a report on the child or young person –
- (a) the child or young person shall be told the substance of any part of the report bearing on his character or conduct which the Court considers to be material to the manner in which he should be dealt with;
 - (b) the parent or guardian, if present, shall be told the substance of any part of the report which the Court considers to be material to the manner in which the child or young person should be dealt with and which has reference to his character or conduct, or the character, conduct, home surroundings, or health of the child or young person; and
 - (c) if the child or young person or his parent or guardian having been told the substance of any part of any such report desires to produce evidence with reference thereto, the Court, if it thinks the evidence material, shall adjourn the proceedings for the production of further evidence and shall, if necessary, require the attendance at the adjourned hearing of the person who made the report.
- (14) If in any case the Juvenile Court considers it necessary in the interests of the child or young person, the Court may require the parent or guardian of the child or young person, as the case may be, to withdraw from the Court.

Singapore, Chapter 224, Penal Code, as amended in 2007

Section 82 – Act of a Child Under 7 Years of Age.

Nothing is an offence which is done by a child under 7 years of age.

Section 83 – Act of a Child Above 7 and Under 12 Years of Age, who has not Sufficient Maturity of Understanding.

Nothing is an offence which is done by a child above 7 years of age and under 12, who has not attained sufficient maturity of understanding to judge of the nature and consequence of his conduct on that occasion.

Singapore, Chapter 68, Criminal Procedure Code, as amended in 2007

Section 2 – Interpretation.

In this Code, unless there is something repugnant in the subject or context –

“offence” means any act or omission made punishable by any law for the time being in force;

“youthful offender” includes any child convicted of any offence punishable by fine or imprisonment who in the absence of legal proof to the contrary is above the age of 7 and under the age of 16 years in the opinion of the court before which the child is convicted; ...

Solomon Islands, Cap 14, Juvenile Offenders Act, 1996

Sections 4 – Juvenile Courts.

- (4) In a juvenile court no person other than the members and officers of the court and the parties to the case, their advocates or authorised representatives, and other persons directly concerned in the case, shall, except by leave of the court, be allowed to attend:

Provided that –

- (a) bona fide representatives of any news agency or information service shall not be excluded, except by special order of the court; and
- (b) no person shall publish the name, address, school, photograph, or anything likely to lead to the identification of the child or young person before the juvenile court, save with the permission of the court or in so far as required by the provisions of this Act, and any person who acts in contravention of this paragraph shall be guilty of an offence and liable to a fine of fifty dollars or to imprisonment for three months, or to both such fine and such imprisonment.

Section 20 – Power to Clear Court.

In addition and without prejudice to any powers which a court may possess to hear proceedings in camera the court may, where a person who in the opinion of the court is a child or young person is called as a witness in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, direct that all or any persons, not being members or officers of the court or parties to the case, their advocates or authorised representatives, or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of the child or young person: Provided that nothing in this section shall authorise the exclusion of bona fide representatives of any news agency or information service.

South Korea, Act No. 293 of Sep. 18, 1953, Criminal Act, as amended by Act No. 7623 of Jul. 29, 2005

Article 9 – Criminal Minors.

The act of a person under fourteen years of age shall not be punished.

South Korea, Juvenile Act, as amended by Act No. 8722 of Dec. 21, 2007

Article 58 – Principles for Trial.

- (1) Trials of juvenile criminal cases shall be conducted in a spirit of kindness and gentleness towards the juvenile.
- (2) In the case of trials as referred to in paragraph (1), particular emphasis should be placed on evaluation of the juvenile’s physical and mental condition, character, career, family conditions and other circumstances.

Article 68 – Prohibition of Report.

- (1) Regarding protection cases or criminal cases under investigation or trial in accordance with this Act, facts or photographs which may identify the juvenile concerned in the above protection or criminal cases concerned, by means of their names, ages, occupation,

appearance, and other things, shall neither be published in newspapers or other publications nor be broadcasted. ...

Sri Lanka, Chapter 31, Children and Young Persons, 1952

Section 16 – Attendance at Court of Parent of Child or Young Person Charged with an Offence, Etc.

- (1) Where a child or young person is charged with any offence or is for any other reason brought before a court, his parent or guardian may in any case, and shall if he can be found and resides within a reasonable distance, be required to attend at the court before which the case is heard or determined during all stages of the proceedings unless the court is satisfied that it would be unreasonable to require his attendance.
- (2) Where a child or young person is arrested or taken to a place of safety the person by whom he is arrested or the officer in charge of the police station to which he is brought or the person by whom he is taken to the place of safety, as the case may be, shall cause the parent or guardian of the child or young person if he can be found, to be warned to attend at the court before which the child or young person will appear.
- (5) The attendance of the parent of a child or young person shall not be required under this section in any case where the child or young person was, before the institution of the proceedings, removed from the custody or charge of his parent by an order of a court.

Turkey, Juvenile Protection Law, No. 5395, 2005

Article 4 (1) – Fundamental Principles.

For the purposes of this Law, in order to protect the rights of juveniles, the following fundamental principles shall be observed: ...

- i) Penalty of imprisonment and measures that restrict liberty shall be the last resort for juveniles,
- j) When deciding measures, caring at institution and keeping at institution shall be considered as the last resort; when taking and implementing the decisions, ensuring that social responsibility is shared,
- k) Keeping juveniles separate from adults at the institutions where they are cared for and looked after and where the court decisions are implemented,
- l) Taking measures to prevent others from detecting the identity of the juvenile in transactions related to juveniles, trials and when carrying out the decisions.

Article 32 – Training.

- (1) Judges and Public prosecutors to be assigned at the courts, and the social workers and probation officers appointed at probation and assistance centre directorates shall be provided with training on subjects such as juvenile law, social service, child development and psychology in line with the principles set forth by the Ministry of Justice during candidatedship periods.
- (2) It shall be ensured that those appointed to serve at courts receive in-service training oriented to provide them with the opportunity to specialize in their fields and self-development.
- (3) The principles and procedures for pre-service and in-service training shall be determined with a regulation.

Uganda, The Children Act, 1997

Section 88 – Age of Criminal Responsibility.

The minimum age of criminal responsibility shall be twelve years.

Vietnam, Law on Child Protection, Care and Education, Law No. 25/2004/QH11 of June 15, 2004

Article 58 – Juvenile Offenders.

1. Juvenile offenders are educated and assisted by their families, the schools and society to redress their wrong-doings, have a sense of law observance, respect the rules of the social life and be responsible for themselves, their families and the society. The organization of education of juvenile offenders shall be effected mainly at communities or reformatories.
2. The handling of administrative liabilities, civil liabilities or examination for penal liabilities, of juvenile offenders, must comply with law provisions applicable to juveniles.
3. Juvenile offenders who have been handled through administrative or penal measures, separated from their communities for a certain duration, when returning to their families, shall be given conditions and assisted by the commune-level People's Committees in coordination with concerned agencies and organizations to continue their schooling, to learn and seek jobs.
4. In cases where children have completed their education duration or completely severed their penalties but still have no one to rely on, the provincial-level People's Committees shall send them to establishments supporting disadvantaged children and create conditions for them to learn and seek jobs.

Zambia, Chapter 53 of the Laws of Zambia, The Juveniles Act, 1956

Section 127.

- (1) Where a juvenile is charged with any offence, or is for any other reason brought before a court, his parent or guardian may in any case, and shall if he can be found and resides within a reasonable distance, be required to attend at the court before which the case is heard or determined during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.
 - (2) Where a juvenile is arrested or taken to a place of safety, the police officer by whom he is arrested or in charge of the police station to which he is brought, or the person by whom he is taken to the place of safety, as the case may be, shall cause the parent or guardian of the juvenile, if he can be found, to be warned to attend at the court before which the juvenile will appear.
 - (3) If any parent or guardian who has been required to attend as aforesaid, having received reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the court, he shall be liable to a fine not exceeding three hundred penalty units.
 - (4) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual possession and control of the juvenile: Provided that if that person is not the father, the attendance of the father may also be required.
 - (5) The attendance of the parent of a juvenile shall not be required under this section in any case where the juvenile was, before the institution of the proceedings, removed from the custody or charge of his parent by order of a court.
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Article 64 – Sentencing Guidelines for Children in Conflict with the Law

- (1) The sentences for children convicted under the law shall prioritize their rehabilitation, education, and reintegration in society rather than punishment or retaliation.
- (2) Criminal punishment, particularly imprisonment, shall be used only as a measure of last resort and shall be avoided whenever possible. It shall be prohibited to subject a child to capital punishment or life imprisonment without the possibility of release, or to inflict any other cruel or degrading penalties.
- (3) In lieu of criminal punishment, or in addition to a sentence, the child court may order counseling, probation, reconciliation between perpetrator and victim, mentoring, educational programs for the prevention of future legal offences, and/or other measures appropriate to facilitate the child's development as a responsible member of society. These measures should be constructive and individualized responses to the child's offense and behavior and to her/his character.
- (4) A child shall have the right to challenge the legality of her/his conviction before a competent and impartial authority. Prison sentences shall be subject to periodic review to determine the continued need for incarceration and the possibility of a release on parole.
- (5) Children shall be afforded the opportunity to clear or close their criminal record. Where the child court judge has been convinced that a child sentenced to penalty has proved her/himself to be a law-abiding individual based on irreproachable conduct, the judge shall declare on her/his own motion or on application filed by the convicted person, the parent, guardian, or legal representative, that the entry be struck from the criminal record.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 37.

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (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 for the inherent dignity of the human person, 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 unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

- (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 his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”), adopted by General Assembly resolution 40/33 of Nov. 29 1985

17 – Guiding Principles in Adjudication and Disposition.

17.1 The disposition of the competent authority shall be guided by the following principles:

- (a) The reaction taken shall always be in proportion not only to the circumstances and the gravity of the offence but also to the circumstances and the needs of the juvenile as well as to the needs of the society;
- (b) Restrictions on the personal liberty of the juvenile shall be imposed only after careful consideration and shall be limited to the possible minimum;
- (c) Deprivation of personal 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;
- (d) The well-being of the juvenile shall be the guiding factor in the consideration of her or his case.

17.2 Capital punishment shall not be imposed for any crime committed by juveniles.

17.3 Juveniles shall not be subject to corporal punishment.

17.4 The competent authority shall have the power to discontinue the proceedings at any time.

18 – Various Disposition Measures.

18.1 A large variety of disposition measures shall be made available to the competent authority, allowing for flexibility so as to avoid institutionalization to the greatest extent possible. Such measures, some of which may be combined, include:

- (a) Care, guidance and supervision orders;
- (b) Probation;
- (c) Community service orders;
- (d) Financial penalties, compensation and restitution;
- (e) Intermediate treatment and other treatment orders;
- (f) Orders to participate in group counselling and similar activities;
- (g) Orders concerning foster care, living communities or other educational settings;
- (h) Other relevant orders.

18.2 No juvenile shall be removed from parental supervision, whether partly or entirely, unless the circumstances of her or his case make this necessary.

19 – Least Possible Use of Institutionalization.

19.1 The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period.

Australia/Capital Territory, Children and Young People Act, Act 2008-19, as amended by Act 2009-28

Section 94 – Youth Justice Principles.

- (1) For the criminal matters chapters, in deciding what is in the best interests of a child or young person, a decision-maker must consider each of the following matters that is relevant (the youth justice principles): ...
- (h) on and after conviction, it is a high priority to give a young offender the opportunity to re-enter the community;
 - (i) it is a high priority that intervention with young offenders must promote their rehabilitation, and must be balanced with the rights of any victim of the young offender's offence and the interests of the community.

Belarus, Act No. 2570-XII of Nov. 19, 1993, On Child's Rights, as amended in 2007

Article 4 – Right to Life.

...The application of death penalty and life imprisonment to the person who committed crimes at the age under 18 is not allowed.

Belize, Juvenile Offenders Act, 2000

Section 11 – Restrictions on Punishment of Children and Young Persons.

- (1) Subject to section 12, no child shall be sentenced to imprisonment.
- (2) No young person shall be sentenced to imprisonment if he can be suitably dealt with in any other way whether by probation, fine, committal to a place of detention, certified institution or otherwise.
- (3) A young person sentenced to imprisonment shall not be allowed to associate with adult prisoners.

Bhutan, Penal Code, 2004

Section 115.

If the defendant is a child above ten years, the Court may sentence the juvenile to a minimum of half the sentence prescribed for the offence.

Section 116.

If a juvenile is found guilty of an offence for which imprisonment is prescribed, the Court may in lieu of imprisonment consider the availability of other appropriate facilities and correctional institutions.

Section 117.

If a juvenile is found guilty of an offence for which damages are appropriate, the Court may order the parents or legal guardian of the juvenile to pay the damages.

Canada, Youth Criminal Justice, c.1, 2002, as current to Feb. 2010

Section 38.

- (1) The purpose of sentencing under section 42 (youth sentences) is to hold a young person accountable for an offence through the imposition of just sanctions that have meaningful consequences for the young person and that promote his or her rehabilitation and reintegration into society, thereby contributing to the long-term protection of the public.
- (2) A youth justice court that imposes a youth sentence on a young person shall determine the sentence in accordance with the principles set out in section 3 and the following principles:
 - (a) the sentence must not result in a punishment that is greater than the punishment that would be appropriate for an adult who has been convicted of the same offence committed in similar circumstances;

- (b) the sentence must be similar to the sentences imposed in the region on similar young persons found guilty of the same offence committed in similar circumstances;
 - (c) the sentence must be proportionate to the seriousness of the offence and the degree of responsibility of the young person for that offence;
 - (d) all available sanctions other than custody that are reasonable in the circumstances should be considered for all young persons, with particular attention to the circumstances of aboriginal young persons; and
 - (e) subject to paragraph (c), the sentence must
 - (i) be the least restrictive sentence that is capable of achieving the purpose set out in subsection (1),
 - (ii) be the one that is most likely to rehabilitate the young person and reintegrate him or her into society, and
 - (iii) promote a sense of responsibility in the young person, and an acknowledgement of the harm done to victims and the community.
- (3) In determining a youth sentence, the youth justice court shall take into account
- (a) the degree of participation by the young person in the commission of the offence;
 - (b) the harm done to victims and whether it was intentional or reasonably foreseeable;
 - (c) any reparation made by the young person to the victim or the community;
 - (d) the time spent in detention by the young person as a result of the offence;
 - (e) the previous findings of guilt of the young person; and
 - (f) any other aggravating and mitigating circumstances related to the young person or the offence that are relevant to the purpose and principles set out in this section.

China, Law of the People's Republic of China on the Protection of Minors, 1992

Article 44.

Minors who are exempt from prosecution by the people's procuratorates, from criminal punishment by the people's courts, or the execution of whose sentence is announced suspended by the people's court, and minors who have been released from reformatory custody or have served their terms of imprisonment shall not be discriminated against in respect of resuming schooling, entering a higher school or employment.

Estonia, Republic of Estonia Child Protection Act, RT I 1992, 28, 370, as amended by Act RT I 2004, 27, 180

Section 34 – Punishment of Child.

- (1) A child who has committed a legal offence is personally responsible for his or her actions unless otherwise provided by law.
- (2) If a child who has committed a criminal offence is punished, criminal punishment, particularly imprisonment, shall be used only as a measure of last resort and is to be avoided.
- (3) In the case of a child who has committed a criminal offence, measures such as counselling, probation, reconciliation, curatorship and educational programmes for the prevention of legal offences shall first be applied.

Fiji, Chapter 17, Penal Code, 1978, as amended in 1997

Section 25 – Persons Under 18 Not to Be Sentenced to Death.

- (1) Sentence of death shall not be pronounced on or recorded against a person convicted of an offence if it appears to the court that at the time when the offence was committed he was under the age of eighteen years,

Germany, Youth Courts Law, 1953, as amended in July 2008***Section 17 – Form and Conditions.***

- (1) “Youth penalty” shall mean deprivation of liberty in a facility provided for its execution.
- (2) The judge shall impose youth penalty if, as a result of the harmful inclinations demonstrated by the youth during the act, supervisory measures or disciplinary measures are not sufficient for the purposes of supervision or if such a penalty is necessary given the seriousness of the youth’s guilt.

Section 18 – Duration of Youth Penalty.

- (1) The minimum duration of youth penalty shall be six months; its maximum duration shall be five years. If the act constitutes a serious criminal offence for which general criminal law prescribes a maximum sentence of more than ten years’ deprivation of liberty, the maximum duration of youth penalty shall be ten years. The statutory range of penalties under general criminal law shall not apply.

Section 97 – Striking from the Criminal Record by Judicial Instruction.

- (1) Where the youth court judge has been convinced that a youth sentenced to youth penalty has proved himself to be a law-abiding individual by dint of irreproachable conduct, he shall declare of his own motion or on application of the convicted person, of the parent or guardian or of the legal representative, that the entry be struck from the criminal record. This may also occur upon application of the public prosecutor or, if the convicted person is still a minor at the time of the application, upon application of the representative of the youth courts assistance office. Such declaration shall be inadmissible in the case of a conviction pursuant to sections 174 to 180, or section 182, of the Criminal Code.
- (2) The order may not be made earlier than two years after serving or remission of the penalty unless the convicted person has demonstrated himself to be particularly deserving of having the entry struck off. The order shall be inadmissible while the penalty is being executed or during a probationary period.

Hong Kong, Chapter 226, Juvenile Offenders Ordinance, 1997, as amended in July 2003***Section 11 – Restrictions on Punishment of Children and Young Persons.***

- (1) No child shall be sentenced to imprisonment or committed to prison in default of payment of a fine, damages, or costs.
- (2) No young person shall be sentenced to imprisonment if he can be suitably dealt with in any other way.
- (3) A young person sentenced to imprisonment shall not be allowed to associate with adult prisoners.

Indonesia, Law on the Juvenile Court, No. 3 of 1997***Article 26.***

- (1) A term of imprisonment may be imposed on a convicted Juvenile Offender as referred to in Article 1 (2)(a) of up to a maximum of half the maximum term of imprisonment that could be imposed on an adult: ...

Article 27.

The maximum term of confinement that may be imposed on a convicted Juvenile Offender as referred to in Article 1 (2)(a) shall be half the maximum term of confinement that may be imposed upon an adult.

Article 28.

- (1) The maximum fine that may be imposed on a convicted Juvenile Offender shall be half the maximum fine that may be imposed upon an adult.

Ireland, Children Act, Act No. 24 of 2001

Section 96 – Principles Relating to Exercise of Criminal Jurisdiction over Children.

- (1) Any court when dealing with children charged with offences shall have regard to –
 - (a) the principle that children have rights and freedom before the law equal to those enjoyed by adults and, in particular, a right to be heard and to participate in any proceedings of the court that can affect them, and
 - (b) the principle that criminal proceedings shall not be used solely to provide any assistance or service needed to care for or protect a child.
- (2) Because it is desirable wherever possible –
 - (a) to allow the education, training or employment of children to proceed without interruption,
 - (b) to preserve and strengthen the relationship between children and their parents and other family members,
 - (c) to foster the ability of families to develop their own means of dealing with offending by their children, and
 - (d) to allow children reside in their own homes, any penalty imposed on a child for an offence should cause as little interference as possible with the child's legitimate activities and pursuits, should take the form most likely to maintain and promote the development of the child and should take the least restrictive form that is appropriate in the circumstances; in particular, a period of detention should be imposed only as a measure of last resort.
- (3) A court may take into consideration as mitigating factors a child's age and level of maturity in determining the nature of any penalty imposed, unless the penalty is fixed by law.
- (4) The penalty imposed on a child for an offence should be no greater than that which would be appropriate in the case of an adult who commits an offence of the same kind and may be less, where so provided for in this Part.
- (5) Any measures for dealing with offending by children shall have due regard to the interests of any victims of their offending.

Section 143 – Restriction on Detention Order.

- (1) The court shall not make an order imposing a period of detention on a child unless it is satisfied that detention is the only suitable way of dealing with the child and, in the case of a child under 16 years of age, that a place in a children detention school is available for him or her.
- (2) Where an order is made under subsection (1), the court making the order shall give its reasons for doing so in open court.

Myanmar, The Child Law, 9/1993

Section 69.

Notwithstanding that the youth has attained the age of 18 years on the day of passing of the sentence, the Court shall deem as if such person were a youth and pass order accordingly.

Section 70.

The court shall take into consideration the following before passing an order on the youth who is found guilty of the offence:-

- (a) the age and character of the youth
- (b) the environmental circumstance of the youth's residence;

- (c) the physical and mental condition of the youth;
- (d) the cause of committing the offence.

Section 71.

Notwithstanding anything contained in any existing law;

- (a) a sentence of death or transportation for life shall not be passed on the youth;
- (b) if a sentence of imprisonment is passed on the youth, the maximum term of imprisonment shall not exceed ten years.

Namibia, Criminal Procedure Act, Act No. 25, 2004

319 – Manner of Dealing with Convicted Juvenile.

- (1) A court in which a person under the age of 18 years is convicted of any offence may, instead of imposing punishment on that person for that offence –
 - (a) order that that person be placed under the supervision of a probation officer; or
 - (b) order that that person be placed in the custody of any suitable person designated in the order; or
 - (c) deal with that person in terms of paragraphs (a) and (b).
- (2) A court that sentences a person under the age of 18 years to a fine may, in addition to imposing such punishment, deal with that person in terms of paragraph (a), (b) or (c) of subsection (1).
- (3) A court in which a person of or over the age of 18 years, but under the age of 21 years, is convicted of any offence, other than murder with reference to which –
 - (a) the person concerned is not a woman convicted of the murder of her newly born child; or
 - (b) there are, in the opinion of the court, no mitigating factors, may, instead of imposing punishment on that person for that offence, order that that person be placed under the supervision of a probation officer.

New Zealand, Children, Young Persons, and Their Families Act, No 24 of 1989, as amended in 2009

Section 208 – Principles.

Subject to section 5, any court which, or person who, exercises any powers conferred by or under this Part or Part 5 or sections 351 to 360 shall be guided by the following principles:

- (a) the principle that, unless the public interest requires otherwise, criminal proceedings should not be instituted against a child or young person if there is an alternative means of dealing with the matter:
- (b) the principle that criminal proceedings should not be instituted against a child or young person solely in order to provide any assistance or services needed to advance the welfare of the child or young person, or his or her family, whanau, or family group:
- (c) the principle that any measures for dealing with offending by children or young persons should be designed –
 - (i) to strengthen the family, whanau, hapu, iwi, and family group of the child or young person concerned; and
 - (ii) to foster the ability of families, whanau, hapu, iwi, and family groups to develop their own means of dealing with offending by their children and young persons:
- (d) the principle that a child or young person who commits an offence should be kept in the community so far as that is practicable and consonant with the need to ensure the safety of the public:

- (e) the principle that a child's or young person's age is a mitigating factor in determining –
 - (i) whether or not to impose sanctions in respect of offending by a child or young person; and
 - (ii) the nature of any such sanctions:
- (f) the principle that any sanctions imposed on a child or young person who commits an offence should –
 - (i) take the form most likely to maintain and promote the development of the child or young person within his or her family, whanau, hapu, and family group; and
 - (ii) take the least restrictive form that is appropriate in the circumstances:
- (g) the principle that any measures for dealing with offending by children or young persons should have due regard to the interests of any victims of that offending:
- (h) the principle that the vulnerability of children and young persons entitles a child or young person to special protection during any investigation relating to the commission or possible commission of an offence by that child or young person.

Section 209 – Consideration of Warning as Alternative to Prosecution.

Where an enforcement officer is considering whether to institute criminal proceedings against a child or young person for an offence alleged or admitted to have been committed by that child or young person, that officer shall consider whether it would be sufficient to warn the child or young person, unless a warning is clearly inappropriate having regard to the seriousness of the offence and the nature and number of previous offences committed by the child or young person.

Section 284 – Factors to be Taken Into Account on Sentencing.

- (1) In deciding whether to make any order under section 283 in respect of any young person, the court shall have regard to the following matters:
 - (a) the nature and circumstances of the offence proved to have been committed by the young person and the young person's involvement in that offence:
 - (b) the personal history, social circumstances, and personal characteristics of the young person, so far as those matters are relevant to the offence and any order that the court is empowered to make in respect of it:
 - (c) the attitude of the young person towards the offence:
 - (d) the response of the young person's family, whanau, or family group to –
 - (i) the offending by that young person; and
 - (ii) the young person himself or herself as a result of that offending:
 - (e) any measures taken or proposed to be taken by the young person, or the family, whanau, or family group of the young person, to make reparation or apologise to any victim of the offending:
 - (f) the effect of the offence on any victim of the offence, and the need for reparation to be made to that victim:
 - (g) any previous offence proved to have been committed by the young person (not being an offence in respect of which an order has been made under section 282 or section 35 of the Children and Young Persons Act 1974), any penalty imposed or order made in relation to that offence, and the effect on the young person of the penalty or order:
 - (h) any decision, recommendation, or plan made or formulated by a family group conference.

Philippines, The Child and Youth Welfare Code, Presidential Decree No. 603, 1974

Art. 192 – Suspension of Sentence and Commitment of Youthful Offender.

If after hearing the evidence in the proper proceedings, the court should find that the youthful offender has committed the acts charged against him the court shall determine the imposable penalty, including any civil liability chargeable against him. However, instead of pronouncing judgment of conviction, the court shall suspend all further proceedings and shall commit such minor to the custody or care of the Department of Social Welfare, or to any training institution operated by the government, or duly licensed agencies or any other responsible person, until he shall have reached twenty-one years of age or, for a shorter period as the court may deem proper, after considering the reports and recommendations of the Department of Social Welfare or the agency or responsible individual under whose care he has been committed.

The youthful offender shall be subject to visitation and supervision by a representative of the Department of Social Welfare or any duly licensed agency or such other officer as the Court may designate subject to such conditions as it may prescribe.

Singapore, Chapter 38, Children and Young Persons Act, 1993, as amended in 2001

Section 41 – Words “Conviction” and “Sentence” Not to be Used.

- (1) The words “conviction” and “sentence” shall cease to be used in relation to children and young persons dealt with by a Juvenile Court.
- (2) Any reference in any written law to a person convicted, a conviction or a sentence shall, in the case of a child or young person, be construed as including a reference to a person found guilty of an offence, a finding of guilt or an order made upon such a finding, as the case may be.

Singapore, Chapter 68, Criminal Procedure Code, as amended in 2007

Section 235 – Youthful Offender may be Dealt with in Manner Provided by the Children and Young Persons Act, Instead of Being Imprisoned.

When any youthful offender is convicted before any criminal court of an offence punishable by fine or imprisonment or by both, and whether or not the law under which the conviction is had provides that fine or imprisonment or both shall be imposed upon the person so convicted, that court may, instead of sentencing the youthful offender to pay a fine or awarding any term of imprisonment in default of payment of the fine, or of passing a sentence of imprisonment of any kind, deal with the youthful offender in the manner provided by the Children and Young Persons Act.

Solomon Islands, Cap 14, Juvenile Offenders Act, 1996

Section 12 – Restriction on Punishment of Children and Young Persons.

- (1) No child shall be sentenced to imprisonment or be committed to prison in default of payment of a fine, damages or costs.
- (2) No young person shall be sentenced to imprisonment if he can be suitably dealt with in any other way specified in section 16.
- (3) A young person sentenced to imprisonment shall not, so far as is practicable, be allowed to associate with prisoners not being children or young persons.

South Korea, Juvenile Act, as amended by Act No. 8722 of Dec. 21, 2007

Article 58 – Principles for Trial.

- (1) Trials of juvenile criminal cases shall be conducted in a spirit of kindness and gentleness towards the juvenile.
- (2) In the case of trials as referred to in paragraph (1), particular emphasis should be placed on evaluation of the juvenile’s physical and mental condition, character, career, family conditions and other circumstances.

Article 59 – Mitigation of Death Penalty and Life Sentence.

Death penalty or life sentence to a juvenile who was less than 18 years old when the crime was committed, shall be reduced to 15 years of imprisonment.

Article 65 – Protection of Children Deprived of their Liberty

- (1) Children who are restricted in or deprived of their liberty shall be held in a manner that avoids harm to their dignity and is appropriate to their age. Those responsible for the care and guard of child detainees must protect them from physical, psychological, and sexual violence, respect their human rights, and ensure decent, humane, and just treatment.
- (2) Parents, guardians, or care-givers of a child, shall promptly be informed about the child's detention, arrest, and any other form of restriction or deprivation of liberty. The notification shall also include the nature of the offence in respect of which the child has been arrested and shall inform that the child is entitled to legal assistance and counseling.
- (3) Child detainees shall be kept separate from adult detainees.
- (4) Children shall be able to maintain contact with parents, family members, and other persons close to the child through regular visits and correspondence.
- (5) The child's rights to health, safety, and development, as provided by this law shall be respected in detention settings. Discipline at detention places shall preclude torture, cruel, and degrading treatment. It shall be prohibited to subject a child detainee to additional punishment. The use of restraint or force shall only be allowed when the child poses an imminent threat of injury to her/himself or others, but never as punishment.
- (6) The detention shall include educational and vocational programs to help the child overcome difficulties that contributed to her/his commission of the criminal offence and prepare for the return to her/his community, family life, education, or employment after release.
- (7) The relevant after care shall be provided to the child, including reintegration measures, such as continued mentoring and guidance tailored to the specific needs of the child with the goal of enabling a dignified return of the child to her/his family, community, and social life and to prevent future commission of criminal acts.

Based on:

Convention on the Rights of the Child (CRC), adopted by UN GA resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990

Article 37.

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (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 for the inherent dignity of the human person, 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 unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (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 his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

United Nations Rules for the Protection of Juveniles Deprived of their Liberty, adopted by General Assembly resolution 45/113 of Dec. 14, 1990

17. Juveniles who are detained under arrest or awaiting trial ("untried") are presumed innocent and shall be treated as such. Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances. Therefore, all efforts shall be made to apply alternative measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention. Untried detainees should be separated from convicted juveniles.
18. The conditions under which an untried juvenile is detained should be consistent with the rules set out below, with additional specific provisions as are necessary and appropriate, given the requirements of the presumption of innocence, the duration of the detention and the legal status and circumstances of the juvenile. These provisions would include, but not necessarily be restricted to, the following:
 - (a) Juveniles should have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available, and to communicate regularly with their legal advisers. Privacy and confidentiality shall be ensured for such communications;
 - (b) Juveniles should be provided, where possible, with opportunities to pursue work, with remuneration, and continue education or training, but should not be required to do so. Work, education or training should not cause the continuation of the detention;
 - (c) Juveniles should receive and retain materials for their leisure and recreation as are compatible with the interests of the administration of justice.
79. All juveniles should benefit from arrangements designed to assist them in returning to society, family life, education or employment after release. Procedures, including early release, and special courses should be devised to this end.

80. Competent authorities should provide or ensure services to assist juveniles in re-establishing themselves in society and to lessen prejudice against such juveniles. These services should ensure, to the extent possible, that the juvenile is provided with suitable residence, employment, clothing, and sufficient means to maintain himself or herself upon release in order to facilitate successful reintegration. The representatives of agencies providing such services should be consulted and should have access to juveniles while detained, with a view to assisting them in their return to the community.

Australia/Capital Territory, Children and Young People Act, Act 2008-19, as amended by Act 2009-28

Section 138 – Treatment of Young Detainees Generally.

Functions under the criminal matters chapters in relation to a young detainee must be exercised as follows:

- (a) to respect and protect the young detainee's human rights;
- (b) to ensure the young detainee's decent, humane and just treatment;
- (c) to preclude torture or cruel, inhuman or degrading treatment;
- (d) to ensure the young detainee is not subject to further punishment (in addition to deprivation of liberty) only because of the conditions of detention;
- (e) to ensure the young detainee's conditions in detention comply with section 141 (Detention places - minimum living conditions);
- (f) to promote, as far as practicable, the young detainee's reintegration into society;
- (g) for a young detainee who is a young offender - to promote, as far as practicable, the young detainee's rehabilitation.

Section 141 – Detention Places - Minimum Living Conditions.

- (1) To protect the human rights of young detainees in detention at detention places, the chief executive must ensure, as far as practicable (including during any emergency declared under section 149), that conditions at detention places meet at least the following minimum standards:
 - (a) young detainees must have access to sufficient nutritional food and drink to avoid hunger and poor nourishment;
 - (b) young detainees must have access to sufficient suitable clothing that does not degrade or humiliate young detainees;
 - (c) young detainees must have access to suitable facilities for personal hygiene;
 - (d) young detainees must have suitable accommodation and bedding for sleeping in reasonable privacy and comfort;
 - (e) young detainees must have reasonable access to the open air and exercise;
 - (f) young detainees must have reasonable access to telephone, mail and other facilities for communicating with people in the community;
 - (g) young detainees must have reasonable opportunities to receive visits from family members, significant people and accredited people;
 - (h) young detainees must have reasonable opportunities to communicate with their lawyers;
 - (i) young detainees must have reasonable access to news and education services and facilities to maintain contact with society;
 - (j) young detainees must have access to suitable health services and health facilities;

- (k) young detainees must have reasonable opportunities for religious, spiritual and cultural observances. ...

Brunei, Chapter 51, Prisons, 1989

Section 46 – Segregation of Prisoners.

- (1) Persons confined under civil process and persons on remand charged with crimes or offences, or committed to take their trial, or confined for want or sureties shall not ordinarily be associated with convicted prisoners, nor shall they be required to labour beyond such labour as is reasonably proper for keeping their persons and dress in a proper state and keeping the places in which they are confined clean:

Provided that should such persons elect to be employed during the period they are confined, they shall receive payment for such employment at such rates as may from time to time be prescribed.

- (2) All young prisoners shall, so far as local conditions permit, be kept apart from adults.

Subsidiary Legislation, Section 6 – Young Prisoners.

- (1) Prisoners appearing to the Officer-in-Charge to be under 18 years of age, whether male or female, shall be kept apart from adults; and confined in separate buildings.

Cambodia, Code of Criminal Procedure, 2007

Article 100 – Police Custody of Minor.

When a detained person is a minor, the judicial police officer shall notify by all means the parents, the legal representative or any person who is responsible for that minor.

Canada, Youth Criminal Justice, c.1, 2002, as current to Feb. 2010

Section 25.

- (2) Every young person who is arrested or detained shall, on being arrested or detained, be advised without delay by the arresting officer or the officer in charge, as the case may be, of the right to retain and instruct counsel, and be given an opportunity to obtain counsel.
- (3) When a young person is not represented by counsel ...the justice or youth justice court before which the hearing, trial or review is held, or the review board before which the review is held, shall advise the young person of the right to retain and instruct counsel and shall give the young person a reasonable opportunity to obtain counsel. ...

China, Law on the People's Republic of China on Protection of Minors, 1992

Article 41.

Public security organs, people's procuratorates and people's courts shall guard minors under custody, pending trial, separately from adults under custody.

Minors who are sentenced to fixed-term imprisonment by the people's courts shall be housed and guarded separately from adults serving their sentences.

Estonia, Republic of Estonia Child Protection Act, RT I 1992, 28, 370, as amended by Act RT I 2004, 27, 180

Section 36 – Restricting Liberty of Child.

- (1) The parents, guardian or curator of a child and the social services department shall be notified immediately if the child is detained or his or her liberty is restricted.
- (2) If the liberty of a child is restricted, including if the child is imprisoned as a measure of last resort, the child shall not be deprived of living and developmental conditions appropriate to the age of the child.

Section 37 – Treatment of Child in Detention.

- (1) A child whose liberty is restricted or who is detained shall be treated in a manner appropriate for a child, without harm to his or her dignity.
- (2) A child who is detained shall be guaranteed free access to meet with his or her parents, persons close to him or her, his or her guardian or curator, and shall be guaranteed nutritious food and requisite medical and spiritual assistance.
- (3) A child in detention shall be separated from adults in detention.
- (4) Every child who is released from detention shall receive support and assistance from his or her parents, persons close to him or her, his or her guardian or curator and from the social services department in organising his or her life.

Section 38 – Monitoring of living conditions of child in detention or with restricted liberty.

Representatives of social services departments may monitor the living conditions of a child who is in detention, has restricted liberty or is in a special educational institution and may issue precepts if necessary.

Fiji, Chapter 56, Juveniles Act, as amended in 1997

Section 3 – Prevention of Juveniles Associating with Adults During Detention.

The Commissioner of Police shall make arrangements for preventing, as far as possible, any juvenile while detained in a police station, or while being conveyed to or from any criminal court, from associating with an adult (not being a relative) who is charged with an offence other than an offence with which the juvenile is jointly charged, and for ensuring where practicable that a girl (being a juvenile) shall, while being so detained, conveyed or waiting, be under the care of a woman

Hong Kong, Chapter 226, Juvenile Offenders Ordinance, 1997, as amended in July 2003

Section 6 – Separation of Children and Young Persons in Police Stations, Courts, Etc.

- (1) No child or young person while –
 - (a) detained in a police station;
 - (b) being conveyed to or from any criminal court; or
 - (c) waiting before or after attendance in any criminal court, shall be permitted to associate with an adult (not being a relative) who is charged with any offence other than an offence with which the child or young person is jointly charged.
- (2) Any girl (being a child or young person) shall, while so detained, being conveyed or waiting, be under the care of a female.

Indonesia, Law on The Juvenile Court, No. 3 of 1997

Article 45.

- (1) A juvenile shall only be detained after both his interests and the interests of society have been taken into consideration.
- (3) The place where Juveniles are detained must be separate from the place where adults are detained.
- (4) For so long as the Juvenile is detained, his spiritual, physical and social requirements shall continue to be provided for.

Article 60.

- (1) A Juvenile who has been sentenced to a term of detention shall be placed in a Juvenile Detention Center that is used exclusively for the detention of juveniles.

- (2) A Juvenile who has been placed in a Juvenile Detention Center as referred to in section (1) above shall have the right to receive such education and training as may accord with his talents and abilities, and shall have such other rights as may be provided for by the laws and regulations in effect.

Ireland, Children Act, Act No. 24 of 2001

Section 58 – Notification of Arrest of Child to Parent or Guardian.

- (1) When a child is arrested and brought to a Garda Síochána station on suspicion of having committed an offence, the member in charge of the station shall as soon as practicable –
- (a) inform or cause to be informed a parent or guardian of the child –
 - (i) that the child is in custody in the station,
 - (ii) in ordinary language and in the Irish language ... of the nature of the offence in respect of which the child has been arrested, and
 - (iii) that the child is entitled to consult a solicitor and as to how this entitlement can be availed of; and
 - (b) request the parent or guardian to attend at the station without delay.
- (2) (a) If the member in charge of the station –
- (i) is unable to communicate with a parent or guardian of the child, or
 - (ii) the parent or guardian indicates that he or she cannot or will not attend at the station within a reasonable time, the member shall inform the child or cause the child to be informed without delay of that fact and of the child's entitlement to have an adult relative or other adult reasonably named by him or her given the information specified in subsection (1)(a) and requested to attend at the station without delay. ...
- (3) Where the child is being transferred to another station or other place, the member in charge of the station from which the child is being transferred shall inform any person who has been informed under this section that the child is in custody, or cause him or her to be informed, of the transfer as soon as practicable.

Jamaica, Child Care and Protection Act, 2004

Section 66 – Separation of Children from Adults.

Arrangements shall be made for preventing a child who is –

- (a) at a police station in connection with the commission of any offence, whether committed by the child or by any other person;
- (b) being conveyed to or from any criminal court remand centre or place of safety; or
- (c) waiting before or after attendance in any court, from associating with any adult, not being a relative, who is charged with any offence other than an offence with which the child is jointly charged.

Kenya, The Children's Act, Act No. 8 of 2001

Section 18 – Torture and Deprivation of Liberty.

- (1) No child shall be subjected to torture, of cruel treatment or punishment, unlawful arrest or liberty, deprivation of liberty.
- (2) Notwithstanding the provisions of any other law, no child shall be subjected to capital punishment or to life imprisonment.
- (3) A child offender shall be separated from adults in custody.
- (4) A child who is arrested and detained shall be accorded legal and other assistance by the Government as well as contact with his family.

Lesotho, Children's Protection and Welfare Bill, 2004***Section 107 – Detention in Police Custody Before Appearance at Assessment.***

- (1) Detention of a child in police custody, whether in a police cell, police vehicle, lock-up or other place must be used as a measure of last resort and for the shortest possible period of time.
- (2) The station commander of each police station must cause a separate register to be kept, in which details regarding the detention in police cells of all persons under the age of eighteen years must be recorded.
- (3) The register referred to under subsection (2) may be examined by a parent, guardian, legal representative, prosecutor, magistrate, social worker, probation officer, health worker or any other person authorised by the station commander to examine the register.
- (4) Whilst in detention in police custody, a child must –
 - (a) be held in conditions and treated in a manner that takes account of his/ her age;
 - (b) be held separately from adults and boys must be held separately from girls;
 - (c) be held, as far as possible, in conditions which will minimise the risk of harm to that child, including the risk of harm from other children;
 - (d) have the right –
 - (i) to adequate food;
 - (ii) to medical treatment/services when required;
 - (iii) of access to reasonable visits by parents, guardians, legal representatives, registered social workers, probation officers, health workers and religious counsellors;
 - (iv) of access to reading material;
 - (v) to adequate exercise; and
 - (vi) of access to adequate clothing, including sufficient blankets and bedding.
- (5) No child may be held in detention in police custody for longer than forty-eight hours prior to appearing before an inquiry magistrate.
- (6) A child may only be remanded to detention in police custody for a period of 48 hours and for one further period of a maximum of 48 hours where no alternative action can be taken.
- (7) No police officer may admit, or allow a child to remain, in detention in the police custody after the expiry of the periods of time set in subsections (5) and (6), and any police officer admitting or allowing such child to remain in police custody longer than the said periods of time, commits an offence and on conviction is personally liable for damages incurred.
- (8) Where a child in police custody makes a complaint regarding injury sustained by that child during arrest or whilst in detention, the police officer to whom such complaint is made, must report the complaint to the station commander who must, within a reasonable time cause the child to be taken to the medical officer for examination and treatment and attach the report of the medical officer to the police docket relating to the child concerned.
- (9) A police officer or station commander who fails to comply with the provisions of subsection (8) commits an offence and on conviction is civilly liable for the injuries incurred after being made aware of the complaint.
- (10) A police officer shall not have an unlawful physical contact with a child in detention.
- (11) A child in detention shall not be searched by a police officer of a different sex.
- (12) A police officer who contravenes the provisions of subsection (10) and (11) commits an offence and on conviction is liable to a fine of not less than two thousand maloti or to imprisonment or both.

Lithuania, Law on Fundamentals of Protection of the Rights of the Child, Act No. I-1234, 1996

Article 54 – Rights of the Child whose Liberty has been Restricted or Deprived and their Guarantees.

1. Arrest or deprivation of liberty of a child in instances provided by laws shall only be possible per court (judge) sentence (ruling, decision, verdict). Arrest, deprivation of liberty or any other restriction of liberty of a child must be substantiated, as brief as possible and applied only in exceptional circumstances.
2. Parents or other legal representatives of the child and in their absence, the institution for Protection of the Rights of the Child must be informed at once, about the child's detention, arrest, another form of restriction or deprivation of liberty.
3. A child who has been detained or arrested shall have the right to immediate legal or another type of required assistance, and shall also, have the right to dispute in court, the legality of restriction or deprivation of his liberty.
4. A child, whose liberty is restricted or deprived, must be held separately from adults, with the exception of instances that are cited by laws, whence this shall not be appropriate in consideration of the child's interests.
5. Upon restriction or deprivation of a child's liberty, his other rights (right to education, and physical, mental, spiritual and moral development) that are not directly linked with the restriction or deprivation of liberty, may not be restricted. This type of child shall have the right to maintain ties with his parents (legal representatives), other family members, relatives and those close to him, through correspondence and encounters with them, excepting in extraordinary instances cited by law, when all this may exert a detrimental influence on the child.

Myanmar, The Child Law, 9/1993

Section 37.

A police Officer or a person authorized to take cognizance shall abide by the following when arresting a child accused of having committed an offence: -

- (a) shall not handcuff the child or tie with a rope;
- (b) shall not keep the child together with adult prisoners; if it is a girl, shall keep her with a woman guard;
- (c) shall not maltreat or threaten the child;
- (d) shall not send the child together with adult prisoners from one place to another; if it is a girl, shall send her with a woman guard;
- (e) shall inform the parents or guardian concerned as soon as possible;
- (f) shall send up the arrested child to the relevant juvenile court as soon as possible;
- (g) shall release the child on execution of a bond, if the child cannot be sent up as soon as possible to the juvenile court under sub-section (f);
- (h) shall send the child to a temporary care station or to another appropriate place, if the child is not released on a bond under sub-section (g).

Solomon Islands, Cap 14, Juvenile Offenders Act, 1996

Section 7 – Prevention of Association with Adults During Detention.

It shall be the duty of the Commissioner of Police or other person having custody of a child or young person being detained to make arrangements for preventing so far as practicable such child or young person while being detained, from associating with any other person not being a child or young person, other than a relative or guardian, charged with an offence.

Section 10 – Attendance at Court of Parent of Child or Young Person Charged with an Offence, Etc.

(2) Where a child or young person is arrested, the police officer by whom he is arrested or the officer in charge of the police station to which he is brought shall, if the parent or guardian lives within a reasonable distance and can be found, cause him to be warned to attend at the court before which the child or young person will be brought.

Sri Lanka, Chapter 31, Children and Young Persons

Section 13 – Separation of Children and Young Offenders from Adults in Police Stations, Courts, Etc.

Arrangements shall be made for preventing a child or young person while detained in a police station or while being conveyed to or from any criminal court, or while waiting before or after attendance in any criminal court, from associating with an adult (not being a relative) who is charged with any offence other than an offence with which the child or young person is jointly charged, and for ensuring that a girls (being a child or young person) shall while so detained, being conveyed or waiting, be under the care of a woman.

Uganda, The Children Act, 1997

Section 89 – Arrest and Charge of Children.

- (1) Where a child is arrested, the police shall under justifiable circumstances caution and release the child.
- (3) As soon as possible after arrest, the child's parents or guardians and the secretary for children's affairs of the local government council for the area in which the child resides shall be informed of the arrest by the police.
- (4) The police shall ensure that the parent or guardian of the child is present at the time of the police interview with the child except where it is not in the best interest of the child.
- (5) Where a child's parent or guardian cannot be immediately contacted or cannot be contacted at all, a probation and social welfare officer or an authorized person shall be informed as soon as possible after the child's arrest so that he or she can attend the police interview.
- (6) Where a child is arrested with or without a warrant and cannot be immediately taken before a court, the police officer to whom the child is brought shall inquire into the case and, unless the charge is a serious one, or it is necessary in the child's interest to remove him or her from association with any person, or the officer has reason to believe that the release of the child will defeat the ends of justice, shall release the child on bond on his or her own recognizance or an a recognizance entered into by the parent of the child or other responsible person.
- (7) Where release on bond is not granted, a child shall be detained in police custody for a maximum of twenty-four hours or until the child is taken before a court, whichever is sooner.
- (8) No child shall be detained with an adult person.
- (9) A female child shall, while in custody, be under the care of a woman officer.

Zambia, Chapter 53 of the Laws of Zambia, The Juveniles Act, 1956

Section 58.

It shall be the duty of the Commissioner of Police to make arrangements for preventing, as far as possible, a juvenile while detained in a police station, or while being conveyed to or from any criminal court, or while waiting before or after attendance in any criminal court, from associating with an adult (not being a relative) who is charged with an offence, other than an offence with which the juvenile is jointly charged, and for ensuring that a girl (being a juvenile) shall, while so detained, being conveyed, or waiting be under the care of a woman.

Section 72.

- (1) No child shall be sentenced to imprisonment or to detention in a detention camp.
- (2) No young person shall be sentenced to imprisonment if he can be suitably dealt with in any other manner.

Section 127.

- (2) Where a juvenile is arrested or taken to a place of safety, the police officer by whom he is arrested or in charge of the police station to which he is brought, or the person by whom he is taken to the place of safety, as the case may be, shall cause the parent or guardian of the juvenile, if he can be found, to be warned to attend at the court before which the juvenile will appear.
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Sources

Legislation cited in this report may have been repealed or amended. Translation may not be the official English translation.

International Conventions and Other International Legal Documents:

1. Convention on the Rights of the Child (CRC), adopted by UN General Assembly resolution 44/25 of Nov. 20, 1989, entered into force Sep. 2, 1990
2. Optional Protocol to the CRC on the sale of children, child prostitution and pornography, adopted by UN General Assembly resolution 54/263 of May 25, 2000, entered into force Jan. 18, 2002
3. Optional Protocol to the CRC on the involvement of children in armed conflict, adopted by UN GA resolution 54/263 of May 25, 2000, entered into force Feb. 12, 2002
4. Convention on Consent to Marriage, Minimum age for Marriage and Registration of Marriages, adopted by UN GA resolution 1763 A of Nov. 7, 1962, entered into force Dec. 9, 1964
5. Convention on the Rights of Persons with Disabilities, adopted by UN General Assembly resolution 61/106 of Dec. 13, 2006, entered into force May 3, 2008
6. United Nations Convention against Transnational Organized Crime, adopted by UN GA resolution 55/25 of Nov. 15, 2000, entered into force Sep. 29, 2003
7. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted by UN GA resolution 55/25 of Nov. 15, 2000, entered into force Dec. 25, 2003
8. United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”), adopted by General Assembly resolution 40/33 of Nov. 29 1985
9. United Nations Rules for the Protection of Juveniles Deprived of their Liberty, adopted by General Assembly resolution 45/113 of Dec. 14, 1990
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