

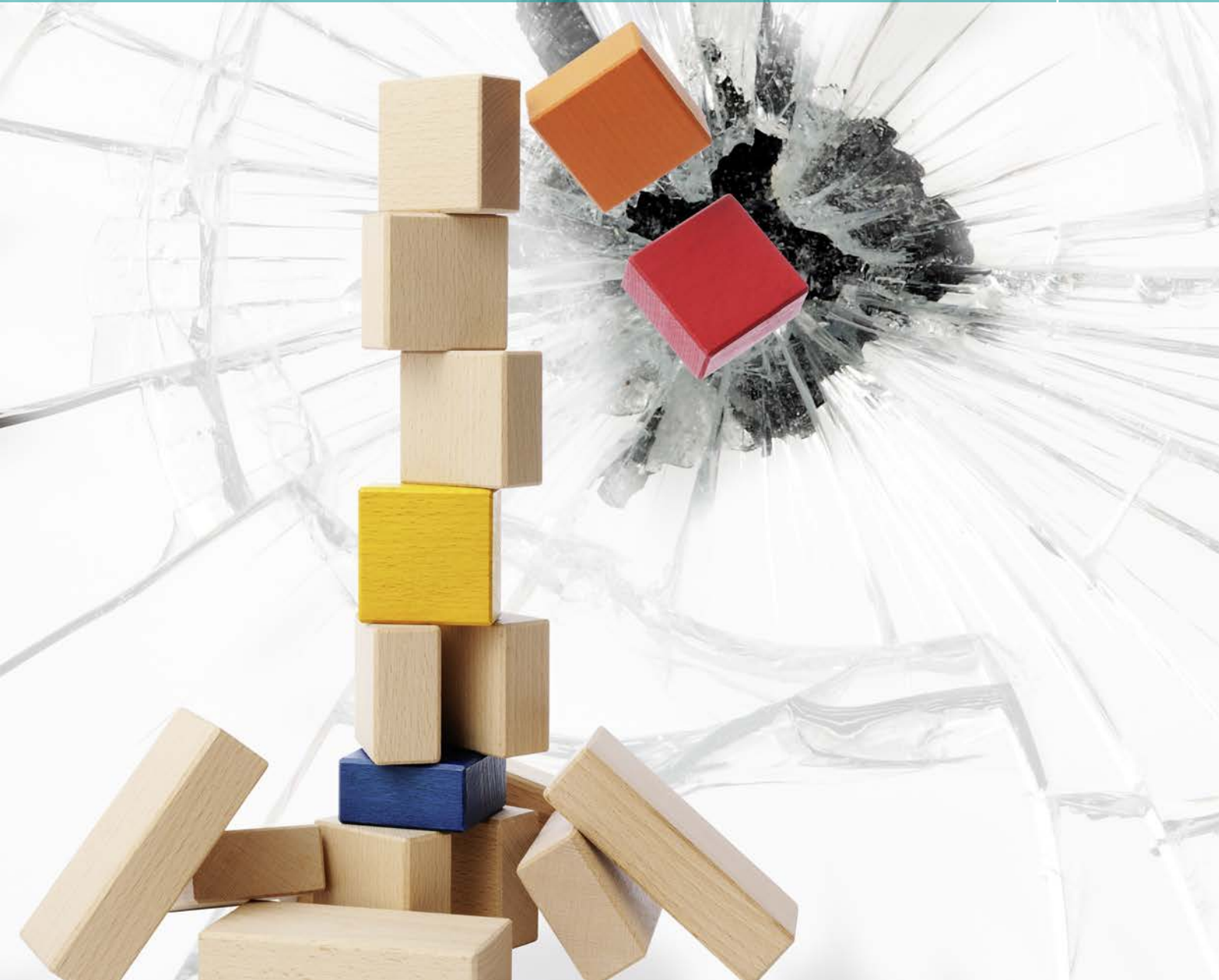


UNODC

United Nations Office on Drugs and Crime



Training Programme on the
**Treatment of
Child Victims and Child
Witnesses of Crime**
for Prosecutors and Judges



UNITED NATIONS OFFICE ON DRUGS AND CRIME
Vienna

Training Programme on the
**Treatment of Child Victims and
Child Witnesses of Crime**
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PREFACE

Child victims and witnesses of crime are often re-victimized by justice systems that are not adapted to their rights and needs. Professionals—including the police, prosecutors and judges—often lack specialized training in dealing with child victims and witnesses. Related procedures are rarely child-sensitive. Child victims' access to justice is often impeded by obstacles such as lack of knowledge about their rights, court and legal representation fees and dependence on adults to bring rights violations to justice.

Child-sensitive procedures should be put in place for child victims and witnesses of crime, and professionals trained accordingly. Such procedures should, for example, preclude contact between the child and the alleged perpetrator, allow for the child's full-fledged participation in the process and ensure that he or she is treated with dignity and compassion at all times. All children, including excluded and marginalized children, should be informed about their rights and about the avenues to seek redress for violations and should receive support during these processes.

Under UNICEF's Child Protection Strategy (adopted in June 2008), improving justice systems helps build a protective environment for children through the approaches of strengthening child protection systems and supporting social change (norms). UNICEF promotes the establishment of child-sensitive procedures in line with the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, as well as the development of outreach and multidisciplinary services to support children and their families in seeking redress for rights violations.

The issue of child victims and witnesses of crime and, in particular, the issue of child sexual exploitation, has been receiving increased national and international attention over the past years. Millions of children throughout the world suffer from harm as a result of crime and sexual violence. Yet the rights of those children have not been adequately recognized and respected, and they may suffer additional hardship when assisting in the justice process.

The participation of child victims and witnesses in criminal justice proceedings is crucial for effective prosecution. However, those children are particularly vulnerable and in need of special protection, assistance and support in order to prevent further hardship and trauma. Child victims and witnesses must therefore be adequately recognized and treated with respect for their dignity. They should benefit from measures tailored to their specific situations. This is of particular relevance where children have become victims or witness of sexual exploitation.

Already in 2005, the international community developed the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime,¹ an international normative instrument representing good practice based on the consensus reflected in contemporary knowledge and relevant international standards and norms. These Guidelines are a recognition of the need to ensure that child victims and witnesses of crime receive equivalent protection in all countries. It contains a legal framework that is useful for the development of legislation, procedures, policies and practices for children who are victims of crime or witnesses in criminal justice proceedings.

Over the past years, UNODC has, jointly with UNICEF, developed a number of tools in order to implement the Guidelines,² such as the UNODC/UNICEF *Manual for the Measurement of Juvenile Justice Indicators*, the

¹ Economic and Social Council resolution 2005/20 of 22 July 2005.

² See <http://www.unodc.org/unodc/en/justice-and-prison-reform/tools.html?ref=menuaside>

UNODC/UNICEF *Handbook for Professionals and Policymakers on Justice in Matters involving Child Victims and Witnesses of Crime*, the UNODC/UNICEF *Model Law and Related Commentary on Child Victims and Witnesses of Crime*, and the UNODC/UNICEF *Online Training Package on the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*.

Building on existing joint publications in the area of child victims and witnesses of crime, with this *Training Programme on the Treatment of Child Victims and Witnesses of Crime* designed for judges and prosecutors, UNODC and UNICEF wish to strengthen the capacity of those judges and prosecutors who work particularly with child victims and witnesses of sexual crime in South-East Asia and guide them in their day-to-day practice.

ACKNOWLEDGEMENTS

The United Nations Office on Drugs and Crime (UNODC) has the mandate to support Member States in preventing crime and violence and strengthening their justice systems. It is within this broad mandate that UNODC has the specific mandate to support Member States in ensuring that children are better served and protected by justice systems. In particular, UNODC aims to ensure the full application and implementation of international standards and norms regarding children in contact with the justice system, whether as offenders, victims, or witnesses. In line with the 2008 United Nations Secretary-General's Guidance Note on the United Nations Common Approach to Justice for Children,³ UNODC's work aims to ensure that children are integrated in broader rule of law reform and have access to fair, transparent, and child-sensitive justice systems through which they can enforce and protect their rights.⁴

The United Nations Children's Fund (UNICEF) is mandated by the United Nations General Assembly to advocate for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential. UNICEF is guided by the Convention on the Rights of the Child and strives to establish children's rights as enduring ethical principles and international standards of behaviour towards children.

Working on justice for children, UNICEF promotes the strengthening of all parts of the child protection system, including the justice mechanisms, to operate in the best interests of the child. UNICEF supports the training of police, prosecutors, judges, lawyers, social services and health professionals to effectively protect children in contact with the justice system. UNICEF encourages the establishment of child-sensitive courts and police procedures that give primary consideration to a child's right to protection and that are consistent with the Convention on the Rights of the Child and other non-binding international standards, guidelines and rules.

This training programme was developed in collaboration with Project Childhood (Protection Pillar), an Australian government initiative to combat the sexual exploitation of children in travel and tourism in South-East Asia. Project Childhood brought together UNODC, INTERPOL and World Vision to address the serious issue of sexual exploitation of children in travel and tourism. The project worked with law enforcement officials in Cambodia, the Lao People's Democratic Republic, Thailand and Viet Nam from 2010 to 2014 and adopted a dual prevention and protection approach to supporting national counterparts.

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³ Guidance Note of the Secretary-General, General UN Approach to Justice for Children, September 2008, p. 2, available at: http://www.unicef.org/protection/RoL_Guidance_Note_UN_Approach_Justice_for_Children_FINAL.pdf.

⁴ The mandate and role of UNODC in providing assistance in the area of justice for children has been reaffirmed throughout the years by resolutions of the General Assembly (GA), the Economic and Social Council (ECOSOC), and the Human Rights Council (HRC). In particular, GA resolutions 62/158 of 18 December 2007, 63/241 of 24 December 2008 and 65/213 of 21 December 2010, ECOSOC resolutions 2005/20 of 22 July 2005, 2007/23 of 26 July 2007 and 2009/26 of 30 July 2009, and HRC resolutions 7/29 of 28 March 2008, 10/2 of 25 March 2009, and 18/12 of 29 September 2011.

UNICEF: Mr. Stephen Blight, Ms. Grace C. Agcaoili, Mr. Khamsay Lemsouthi (Lao People's Democratic Republic), Mr. Santi Siritheerajed (Thailand), Mrs. Nguyen Thanh Truc (Viet Nam), Mr. Vijaya Ratnam Raman (Viet Nam)

The training programme will be used for training prosecutors and judges in South-East Asia but can also be adapted and delivered by any prosecutor and judicial training agency in the world.

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ACRONYMS

CBO	Community-based organization
CRC	Convention on the Rights of the Child (1989)
ILO	International Labour Organization
INTERPOL	International Criminal Police Organization
ISEC	Investigating sexual exploitation of children
NGO	Non-governmental organization
PTSD	Post-traumatic stress disorder
ToT	Training of trainers
UN	United Nations
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime

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INTRODUCTION TO THE TRAINING PROGRAMME

“You cannot open a book without learning something.”

Confucius

(ancient Chinese philosopher)

One of the most vulnerable groups in any society are its children. They need unvarying protection of the State, the law and members of society, including criminal justice actors, especially when they become victims of crime.

A fair, effective and efficient criminal justice system is one that respects the rights of victims and witnesses of crime as well as the rights of suspects and offenders. Such a system focuses on the need to prevent victimization and to assist and protect victims and witnesses. It treats them with dignity and compassion and without discrimination and allows their participation in the justice process. This is even more important when a victim or witness is particularly vulnerable, as is the case for children, either through their personal characteristics or through the circumstances of the crime. Consequently, child victims and child witnesses should be entitled to their rights and benefit from measures tailored to their special needs and specific situations. They should be treated in accordance with their best interests.

In actual practice, child victims and witnesses are frequently considered to be the “forgotten party” in criminal justice systems and are sometimes even re-victimized by the system itself. They are often not allowed to fully participate in the justice process nor in decisions that affect them, and they do not always receive the assistance, support and protection they are entitled to. Redress for the harm children have suffered as a result of victimization is often not available.

The main international instruments that specifically deal with children’s rights are extremely useful for the protection of children, including child victims and witnesses of crime. The Convention on the Rights of the Child (1989) contains various provisions relating to children who are victims of crime and children who have witnessed crime. The two Optional Protocols to the Convention (2000) deal mainly with child victims and witnesses of crime. They protect the rights of those children involved in sale, prostitution and pornography, as well as in armed conflicts. The subsequent adoption by the United Nations Economic and Social Council of resolution 2005/20 of 22 July 2005, which contains the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, was the crucial next step. The Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (hereinafter referred to as the Guidelines) specifically deal with the rights of children who are victims of crime and the rights of children who have witnessed crime. A new normative instrument that also addresses the specific needs of child victims and witnesses of crime will be the “Model strategies and practical measures on the elimination of violence against children in the field of crime prevention and criminal justice”, which were approved by the Commission on Crime Prevention and Criminal Justice at its 23rd Session and recommended to the Economic and Social Council for approval with a view to their adoption by the General Assembly of the United Nations.

Why is it crucial that law enforcement professionals, prosecutors, judges, lawyers, health professionals, social workers and informal justice providers spend precious time and energy to learn about all aspects of treatment of child victims and witnesses? The answer to this question from the perspective of child victims and witnesses of crime is: “The children have a right to child-sensitive, dignified, fair and efficient treatment to be able to fully participate in the justice process and to leave the justice system as a more empowered person and with the feeling that justice is done.”

Responding to the same question from the perspective of prosecutors and judges, the answer would be: “The justice system in general and prosecutors and judges in particular need the full participation of child victims and witnesses in the justice process to be able to contribute to a fair, efficient and humane justice process that guarantees justice for all child victims and witnesses of crime.” In general, children have a very strong sense of what is fair or just and what is unfair or unjust. If professionals treat children in a sensitive manner, their participation in the justice process can even become a validating experience.



Improved responses to child victims and witnesses of crime can empower children and can make them and their families more willing to disclose victimization and more supportive of the justice process.

Project Childhood (Protection Pillar)

This training programme was developed in collaboration with Project Childhood (Protection Pillar), an Australian government initiative to combat the sexual exploitation of children in travel and tourism in South-East Asia. Project Childhood brought together the United Nations Office on Drugs and Crime (UNODC), INTERPOL and World Vision to address the serious issue of sexual exploitation of children in travel and tourism. The project worked in Cambodia, the Lao People's Democratic Republic, Thailand and Viet Nam between 2010 and 2014 and it adopted a dual prevention and protection approach to supporting national counterparts.

One of the objectives of Project Childhood (Protection Pillar) was to support training and capacity-building of prosecutors and judges on prosecuting cases of child sexual exploitation. The project has already developed and tested three sets of training programmes, namely a curriculum on *Investigating Sexual Exploitation of Children (ISEC) for Specialist Investigators*; a curriculum on *Investigating Sexual Exploitation of Children (ISEC) for Frontline Officials*; and a *Training Programme for Prosecutors and Judges on Sexual Exploitation of Children*. In addition, the project has also brought out a curriculum on *Treatment of Child Victims and Child Witnesses for Law Enforcement Officials*. The development of this training programme—on the *Treatment of Child Victims and Child Witnesses of Crime for Prosecutors and Judges*—is a continuation of the work already developed under Project Childhood (Protection Pillar), and forthcoming activities will be migrated into the Regional Programme for South-East Asia and the Pacific for the period 2014-2017.

Justice for Children, UNODC

The mission of UNODC is to contribute to the achievement of security and justice for all by making the world safer from crime, drugs and terrorism. In its efforts to achieve global security, safety and human development, UNODC has the mandate to support Member States in preventing crime and violence and strengthening their justice systems. An effective, fair and humane criminal justice system is based on the commitment to uphold human rights in the administration of justice and the prevention of crime. Over 50 standards and norms covering crime prevention, criminal justice and victim protection currently exist. These instruments guide the work of the Justice Section of UNODC in promoting effective action to strengthen national responses in crime prevention and criminal justice and in responding to the needs of the international community in the face of both national and transnational crime. UNODC assists Member States, in particular developing countries and countries emerging from conflict or with economies in transition, to ensure that children are better served and protected by their justice systems, whether as alleged offenders or victims or witnesses of crime. In that regard, UNODC aims to support countries in strengthening the capacity of justice systems to operate more effectively within the framework of the rule of law, paying particular attention to children. Key components of the work include preventing children from coming in contact with the justice system (as child offenders, victims or witnesses of crime), promoting diversion and alternative measures to deprivation of liberty, ensuring that every child in conflict with the justice system receives fair treatment and trial, improving conditions of detention and the treatment of children deprived of their liberty

with a view to promoting rehabilitation and social reintegration; promoting the rights of child victims and witnesses of crime, and preventing and responding to violence against children.

Through the UNODC Regional Office for South-East Asia, UNODC has been providing technical assistance to a number of Governments in the region to help them to strengthen their criminal justice systems with specific regard to child sexual exploitation. This ongoing assistance includes improvement of legislative and regulatory frameworks, knowledge and skill enhancement of law enforcement officers and justice officials, cross-border cooperation and targeted operational assistance.

This online training portal/programme is the result of several years of efforts led by UNODC and UNICEF together with the International Bureau for Children's Rights. It has been made possible by the generous contribution of the Government of Canada through its Victims Fund.

Training and capacity-building of prosecutors and judges

Various United Nations conventions and guidelines prescribe training for those who work with child victims of crime. One example is the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000), which provides in article 8, paragraph 4, that "States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol."

As per the United Nations Guidelines for Action on Children in the Criminal Justice System (resolution 1997/30), "All persons having contact with, or being responsible for children in the criminal justice system should receive education and training in human rights, the principles and provisions of the Convention on the Rights of the Child and other United Nations standards and norms in juvenile justice as an integral part of their training programmes. Such persons include police and other law enforcement officials; judges and magistrates, prosecutors, lawyers and administrators; ..."

Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (2005): Guidelines 41 to 46 emphasize that professionals should be trained to effectively protect and meet the rights and needs of child victims and witnesses of crime. It also states that adequate information should be made available to professionals with a view to improving and sustaining specialized methods and approaches in order to deal effectively and sensitively with children involved in the justice process. In addition, the Guidelines set forth that professionals should make every effort to adopt an interdisciplinary approach in supporting child victims and witnesses by familiarizing themselves with the wide range of available services such as victim support, counselling, education, health, legal and social services. Finally, professionals are stimulated to draw upon the Guidelines when drafting legislation and policy relating to child victims and witnesses of crime in order to ensure their involvement in the justice process and the protection of their rights. Special training is of crucial importance to protect and deal with child victims and witnesses in a child-sensitive and, at the same time, effective manner. Training is also needed to prepare professionals, where available, to work in specialized units and services that protect and meet the special needs of child victims and witnesses.

The important aspects in providing justice to children who are victimized due to crimes committed against them are as follows: the creation of awareness, training and capacity-building; bringing attitudinal orientation and enhancing the understanding of the true purport of the laws dealing with child protection, sexual exploitation of children and proper treatment of child victims and witnesses. This training programme is based on the premise that well-trained prosecutors and judges are an indispensable part of the response to crimes against children and the consequent requirement of protection of child victims and witnesses at all stages of the justice delivery process. Yet the responsibilities of criminal

justice systems do not lie exclusively in punishing offenders, but above all and primarily in respecting and restoring the human rights and needs of child victims and child witnesses.

This training programme on *Treatment of Child Victims and Child Witnesses of Crime for Prosecutors and Judges* will seek to:

- Achieve greater awareness and sensitization on the issue of treatment of child victims and witnesses generally and victims of child sexual exploitation in particular.
- Strengthen the technical capacities of prosecutors and judges towards treatment of child victims and witnesses as per the national law provisions.
- Apply a rights-oriented, gender-sensitive, victim-centred approach in the interactions between prosecutors and judges and child victims and witnesses.
- Support sharing of information and promoting good practices.

Learning objectives of the training programme

The learning objectives of the training programme are to provide the trainees with the necessary knowledge and skills to:

1. Apply the law and gain knowledge of relevant international and national legal contexts on treatment of child victims and witnesses.
2. Demonstrate a clear understanding of the crimes committed against children, with specific focus on child sexual exploitation.
3. Develop a good understanding of the Four Guiding Principles of the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime for professionals and demonstrate step-by-step knowledge of treatment of child victims and witnesses in relation to:
 - (a) The right to dignity;
 - (b) The right to non-discrimination;
 - (c) The best interests of the child; and
 - (d) The right to participation.
4. Understand the importance of multidisciplinary and interdisciplinary approaches in the treatment of child victims and witnesses so as to reduce the risk of secondary victimization.
5. Understand and apply a victim-first, human rights-based response.
6. Identify the protection measures that may be made available to child victims and witnesses before, during and after the trial.
7. List the important steps for preparing child victims and witnesses to testify in court in the context of the national legal system and identify the good practice points for interviewing child victims.
8. Be motivated to apply the 10 rights of child victims and witnesses according to the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime in the daily practice of prosecuting and adjudicating duties.

The objectives of the present training programme will be accomplished through enhancement of practical and legal knowledge; upgrading prosecution and adjudication skills, and developing an appropriate attitudinal orientation towards treatment of child victims and child witnesses with specific focus on cases involving child sexual exploitation.

How to use the training programme

The present training programme on *Treatment of Child Victims and Child Witnesses of Crime for Prosecutors and Judges* is a book version of the online self-learning tool developed by UNODC and UNICEF. The programme is intended to be a tool for planning and conducting training of prosecutors and judges on treatment of child victims and witnesses with particular focus on child sexual exploitation. The design of the training programme is based on a training of trainers (ToT) format. Any prosecutor, judicial training academy or institution or judicial training coordinator can use the contents of this training programme.

This training curriculum is based on an intensive and interactive two-day training programme covering five modules. It is a generic regional training programme initially designed for implementation in four countries, namely Cambodia, the Lao People's Democratic Republic, Thailand and Viet Nam. However, it can be delivered in training programmes for prosecutors and judges on treatment of child victims and witnesses in any country.

The training programme includes all of the necessary materials for delivering training and is ready for immediate use. At the same time, national training teams can adapt the training programme to more effectively reflect their specific national contexts and meet the needs of local trainees. The utility and the quality of this generic version will be strengthened by national adaptation of the training programme and training as and where appropriate. The national training agency is expected to preserve the overall modular structure of the training programme and focus upon the learning objectives and subject matter of the five modules.

While conducting training sessions on any of the modules, trainers can use the content provided therein, and may also supplement it with their own resource material. Trainers can utilize the resource material provided in each module as per requirement and time allotted for each session.

Modular structure of the training programme

This training programme has been divided into the following five modules:

- Module 1. Introduction on treatment of child victims and witnesses of crime
- Module 2. Dignity of child victims and witnesses of crime
- Module 3. Non-discrimination of child victims and witnesses of crime
- Module 4. Best interests of child victims and witnesses of crime
- Module 5. The right to participation of child victims and witnesses of crime

Each of the five training modules has the following structure:

- **Detailed lesson plan:** which consists of the learning objectives, the content, the suggested activity with which the content is to be delivered, the time required and the reference material relevant to the content.
- **Standard structure:** Information regarding each module is divided into the following headings: suggested duration; activities prior to commencement of the training module; the materials, equipment and logistics necessary for conducting the module; and the content which the trainer would be required to cover at each training session.
- **Learning exercises and case studies:** A range of interactive learning exercises/group discussions have been designed for each module. Guidance notes for trainers on how to complete each learning exercise are set out in the modules. These notes provide the following information: activity, topic, materials, objectives, estimated duration, self-assessment questions for trainees and instructions for

completing the case study/exercise. The training programme is structured to incorporate a range of learning exercises, which encompasses small-group exercises, plenary and one-to-one brainstorming and case-study-based team exercises.

- **Instruction slides:** A range of slides have been provided at the end of each module to aid the trainer in conveying the information in the modules.

The training programme includes all of the necessary materials for training delivery and is ready for immediate use.



Trainer's notes

Names of persons (victims and offenders) as well as the place of incident in the case studies are fictitious; they are mentioned only for ease of reference. All the fictitious names and places can be modified and contextualized according to the country where the training is being delivered in order to have a better impact on the trainees. No date, month or year is mentioned in the case studies so that it can remain relevant at all times for purposes of being used as training material.

To the maximum extent possible, more real and local case study examples should be used to reinforce the credibility and applicability of the programme materials. If any of the case studies utilized by the trainer includes any visual images of victims, their faces should be obscured on the image so that they cannot be identified. Any personal identifying features of any victims featured in the study should be changed to protect their identities and maintain confidentiality.

Training agenda

The national training agency will need to develop a detailed training schedule based on the training programme. Each module contains a general schedule along with the total time needed to conduct each module, as well as the time required to cover each learning objective, case study, exercise and activity. Therefore, absolute flexibility has been provided to the training agency to conduct the course at any time of the day. The training agency can draw up a minute-by-minute plan for the entire training programme as per their convenience.

At the end of this introduction, a complete training agenda plan is provided covering the five modules over a period of two days.

Training methodology

A multidisciplinary approach is the key underlying principle of this training. In order to be effective, training on complicated subjects such as treatment of child victims and witnesses or child sexual exploitation has to be developed and carried out by multidisciplinary teams composed of law enforcement officials, judges and prosecutors with experience in child sexual exploitation cases and other trainers with knowledge and experience in the field of assistance to child victims (NGOs or State service providers). The involvement of additional expertise from other professional areas, such as counsellors, mental health professionals, physicians and academicians may also be required.

A variety of training methods are used in each of the modules. Methods include lectures with the aid of PowerPoint presentations, games, exercises, case-study discussions and large-group discussions. Trainers should take care to avoid lengthy lectures or conducting monologues. Remembering that individual trainees learn through different methods, a mix of different methods may be employed by the trainers in conducting each individual session.

Concepts of adult learning form an essential part in deciding the training methodology best suited for training prosecutors and judges. The pedagogy of training should use a mix and match of various methods during the training sessions, such as:

- Lectures
- PowerPoint presentations
- Problem-solving of case studies
- Role play
- Facilitated group discussions
- Problem-solving through teams or individually
- Short films on general or specific subjects

Principles of adult learning

Principles of adult learning form the foundation for any continuing education programme for prosecutors and judges. Thus, learning needs, practices, preferences and contexts of prosecution and adjudication are distinctive. Some of the principles to be considered by trainers while conducting the training are:

- Self-directed learning
- Problem-solving and solution-oriented
- Purposive application-oriented
- Platform to share personal and professional experiences
- Practical rather than theoretical
- Building skills rather than information-focused

Guidance notes for the training agency

Adaption to the national legal context: The generic version of this training programme will have to be adapted to the national legal context and situation.

Training environment and facilities: The size of the training venue is relevant to ensure availability of space for dividing trainees into groups for case-study solving and group discussions. The availability of training equipment that needs to be used in the training programmes will also be an important criterion in the selection of the training venue. A suggested list of equipment and other training materials that may be required for the training programme is provided below:

- Computer
- LCD projector (with screen)
- Roving microphones for the trainers and the trainees
- Easels to hold the flip charts
- Training kit for the trainees—with resource materials, pens and writing materials
- Name badges for each trainee and the trainers

Detailed agenda plan: A minute-by-minute agenda plan may be designed for each module based on the national practice pertaining to commencement and conclusion timings of prosecutors and judges training programmes.

Lesson plans: The points to be covered in the module should be communicated in advance to each individual trainer so that there is no repetition of information in the different sessions. Also, this would

enable the trainer to know exactly what to cover and how much emphasis is to be given to each topic in consideration of time constraints.

Case studies, handouts and information sheets relevant to the modules may be copied for distribution to the trainees in advance of the training session.

Selecting trainers

Trainer's profile: Since the success of any training programme depends a great deal on effective trainers, it would be prudent for this training programme to be delivered by a corps of master trainers.

The training agency can draw trainers from various stakeholders in the criminal justice system, namely law enforcement officials, prosecutors and judges; voluntary support agencies (NGOs); social workers from government departments; counsellors, mental health professionals and experts (to cover the topics of psychosocial profile and trauma suffered by victims of child sexual exploitation); and legal academicians.

Important considerations and criteria in selecting effective trainers are listed as follows:

- Thorough knowledge of substantive and procedural aspects of their respective sessions
- Practical knowledge from field and actual work
- Years of experience in the field
- Years of experience as an instructor
- Communication skills (verbal and non-verbal) and a good listening skills
- Ability to teach or train
- Acquainted with principles of adult learning
- Ability to deal with diverse mindsets and attitudes of trainees, ranging from hostility, misconceptions, lack of sympathy, or empathy
- Availability and accessibility to conduct training

Each trainer should know the agenda of the training programme. The trainer should endeavour to meet the deadlines of each session so that substantive content, activities, exercises and case studies may all be completed within the allotted time frame.

At all times, trainers should encourage the participation of trainees by making the training sessions inclusive and by allowing trainees to raise questions, voice concerns, discuss challenges and provide solutions.

If the trainer cannot communicate in the national language, then assistance of an interpreter would be required. In sessions where services of an interpreter are used, extra time should be provided to cater for the interpretation.

Selecting trainees

Trainee's profile: Specific criteria for selecting the most appropriate trainees should be decided at the planning stage itself, and the following points should be noted when selecting trainees:

- The basic criteria for selecting trainees should be that the officials should have been actually involved in prosecution and adjudication of cases involving crimes against children, or they should have already received training on trafficking in persons, crimes against women and children or similar subjects.
- There is no fixed guidance on the exact number of trainees that should attend the training programme; it is a matter at the discretion of the training agency. However, global experience suggests that the number of trainees should be about 30 to 40 in order to enable effective participation.

- Regarding the gender of trainees, efforts should be made to include as many women officials as possible in the training programme. Considerations include the number of women officials in the prosecutorial and judicial services, and whether women officials who receive training would be able to practically utilize the training.
- The criteria of compulsory attendance and regular participation in the training programme are also relevant in selecting trainees. Those who nominate the trainees, and the trainees themselves, should be committed to completing their training.

Evaluation of training

Training agencies can make use of their regular procedures to obtain written feedback, assessment or evaluation of the training programme from the trainees. The agencies may instead use the evaluation format provided in annex II for training feedback. Feedback and responses from trainees may be adapted to emerging issues, and their experiences must be taken into account when designing subsequent training programmes on treatment of child victims and witnesses.

Terminology

1. **Child victim:** The term “child victim” is used in the training programme to refer to a child against whom an offence has been committed. The term “victim” has generated much debate in the context of sexual exploitation and violence against children; many argue that it implies powerlessness rather than the resilience of the victim and therefore, prefer to use the term “survivor”, since it is more positive and draws attention to resistance, coping and survival.

However, in the area of human rights and protection, the term “victim” is used to refer to someone experiencing injustice for which the perpetrator is responsible. It indicates that the person or persons experiencing human rights violations have the right to protection, assistance and reparation.

In the context of this training programme, which focuses on law enforcement, protection and assistance, the term “victim” is used to highlight the wide-ranging rights of the child victim to an efficacious justice delivery mechanism, punishment of the offender and comprehensive protection and rehabilitation.

2. **Trafficking in persons:** The terms “trafficking in persons”, “human trafficking” and “child trafficking” have been used interchangeably in the training programme.
3. **Child sex-tourism:** The term “child sex tourism” has come under scrutiny by some international organizations, non-governmental organizations (NGOs) and law enforcement agencies for not sufficiently conveying the abusive element of the crime. Some publications, reports and organizations prefer the terms “travelling sex offending”, “travelling child sex offenders” or “child sexual exploitation in travel and tourism”. This training programme will, however, use the term “child sex tourism” for consistency with the legal terminology used in relevant international legal instruments (for instance the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000)).
4. **Child pornography:** Some publications, reports and organizations prefer the terms “child abuse material” or “child abuse images”. This training programme will use the term “child pornography” for consistency with the legal terminology used in relevant international legal instruments (for instance, the Convention on the Rights of the Child (1990) and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000)).

5. **Prostitution:** The use of the term “prostitution” in the training programme neither implies any ideological stance nor any negative judgement of persons engaged in such activity on the part of UNODC and UNICEF.

Training timetable

The timetable for each day of training is based on a 0800 hours to 1700 hours working day (a total of nine hours).



Note to the training agency

The timetable, starting times and ending times can be modified as needed by the training agency as per local requirements. The registration of trainees and distribution of training kits should be completed prior to the formal commencement of training.

Day 1		
Time	Module and activity	Trainer
0800-0830	Formal opening of the training programme Inauguration of the training course: opening remarks by the training coordinator and inaugural address by the chief guest	Training coordinator
0835-0845	Brief review of the training programme and resource materials Introduction of the two-day training programme to trainees and training course materials appreciation	Training coordinator
0845-0900	Pre-training evaluation questionnaire	Training coordinator
0900-0915	Brief introduction of trainees	Training coordinator
0915-1000	Module 1. Introduction on treatment of child victims and witnesses of crime (total time: 1 hour 30 minutes) <ul style="list-style-type: none"> • The Four Guiding Principles • Responsibilities of prosecutors in cases of child victims and witnesses of crime • Responsibilities of judges in cases of child victims and witnesses of crimes • Definition of “child” as per international instruments and national laws • Meaning of the terms “victim” and “child victim and witness” • Basic definition of child sexual exploitation as per international instruments and national laws • Current situation of sexual exploitation of children in the national context 	Name of trainer
1000-1015	Coffee break	
1015-1100	Module 1. Introduction on treatment of child victims and witnesses of crime <i>(continued)</i> <ul style="list-style-type: none"> • Various manifestations of child sexual exploitation and the behaviour and emotional state of the child victim <p><i>Exercise 1. Impact of child sexual exploitation</i></p> <ul style="list-style-type: none"> • Overview of the national legal framework on protection of rights of children 	

Time	Module and activity	Trainer
1100-1200	<p>Module 2. Dignity of child victims and witnesses of crime (total time: 2 hours 50 minutes)</p> <ul style="list-style-type: none"> • The right to be treated with dignity and compassion • The concepts of “dignity” and “compassion” • The right to be treated with dignity and compassion in the national legal framework • Victimization of children – primary and secondary victimization of children • Child witnesses • Strategies to ensure dignity and compassion • Parents of child victims and child witnesses • Responsibilities of prosecutors: treating child victims and witnesses with dignity and compassion • Responsibilities of judges: treating child victims and witnesses with dignity and compassion 	Name of trainer
1200-1300	Lunch break	
1300-1350	<p>Module 2. Dignity of child victims and witnesses of crime (continued) The right to be protected from hardship during the justice process</p> <ul style="list-style-type: none"> • Hardship during reporting and recounting the crime • The right to be protected from hardship in the national legal framework • Strategies to protect child victims and child witnesses from hardship <p>Child-sensitive communication</p> <ul style="list-style-type: none"> • The crucial importance of child-sensitive communication • Characteristics of child-sensitive communication by professionals 	
1400-1500	<p>Module 2. Dignity of child victims and witnesses of crime (continued)</p> <ul style="list-style-type: none"> • Questioning child victims and witnesses of crime in a child-sensitive manner • Understanding the different stages of development • Structure of the interview • DOs and DON'Ts of interviewing and communicating with children <p><i>Exercise 2. Role play on conducting testimony of a child victim</i></p>	
1500-1515	Coffee break	
1515-1600	<p>Module 3. Non-discrimination of child victims and witnesses of crime (total time: 1 hour 20 minutes)</p> <ul style="list-style-type: none"> • The right to be protected from discrimination in the national legal framework • General protection from discrimination • Additional protection from discrimination • Protection from multiple forms of discrimination • “Particular sensitivity” of child victims and witnesses • “Instituted protection and services” for child victims and witnesses • Age as a prohibited discriminatory ground for participation in the justice process <p><i>Case study 1. Dealing with a foreign national child victim</i></p>	Name of trainer
1610-1645	<p>Module 3. Non-discrimination of child victims and witnesses of crime (continued)</p> <ul style="list-style-type: none"> • Competency examination • Communication aids and other assistance • Concrete tips on how to protect child victims and witnesses from discrimination • Children with disabilities and the use of communication aids • Children with disabilities and the justice system 	
1650-1700	Review of the modules and activities of Day 1	Training coordinator

Day 2		
Time	Module and activity	Trainer
0800-0805	Recap of Day 1 and overview of the schedule for Day 2	Training coordinator
0805-0900	<p>Module 4. Best interests of child victims and witnesses of crime (total time: 3 hours)</p> <ul style="list-style-type: none"> • The right to effective assistance • The right to effective assistance in the national legal framework • Different kinds of assistance to the child's special needs • Coordinated assistance • Measures to facilitate children's involvement in the justice process • Concrete tips on how to ensure effective assistance 	Name of trainer
0900-1000	<p>Module 4. Best interests of child victims and witnesses of crime (continued)</p> <p>The right to privacy</p> <ul style="list-style-type: none"> • The right to privacy in the national legal framework • Detrimental effects of release of information • Measures to protect the privacy of child victims and witnesses • Concrete tips on how to protect children's privacy • Responsibilities of prosecutors and judges in ensuring the right to privacy of child victims and witnesses <p>The right to safety</p> <ul style="list-style-type: none"> • The right to safety in the national legal framework • Appropriate measures to deal with safety risks • Reporting suspected crime against children • Measures to protect the safety of children • Concrete tips to protect children's safety • Responsibilities of prosecutors and judges to protect the right to safety of child victims and witnesses 	
1000-1015	Coffee break	
1015-1115	<p>Module 4. Best interests of child victims and witnesses of crime (continued)</p> <p><i>Case study 2. Online and offline investigation of crimes against children</i></p> <p>The right to special preventive measures</p> <ul style="list-style-type: none"> • The right to special preventive measures in the national legal framework • Different kinds of preventive measures • The right to special preventive measures in different settings 	
1120-1200	<p>Module 5. The right to participation of child victims and witnesses of crime (total time: 2 hours)</p> <p>The right to be informed</p> <ul style="list-style-type: none"> • The right to be informed in the national legal framework • Who needs the information? • Who provides general and specific information? • What information needs to be provided? • Why is providing information crucial? • Challenges in conveying information • Responsibilities of prosecutors and judges in conveying information 	Name of trainer
1200-1300	Lunch break	

Time	Module and activity	Trainer
1310-1400	<p>Module 5. The right to participation of child victims and witnesses of crime <i>(continued)</i></p> <p>The right to be heard and express views and concerns</p> <ul style="list-style-type: none"> • The right to be heard in the national legal framework • The importance of children’s direct participation • Four components of involvement in decision-making processes • Responsibilities of prosecutors and judges in ensuring the right to be heard and express views and concerns 	
1410-1440	<p>Module 5. The right to participation of child victims and witnesses of crime <i>(continued)</i></p> <p>The right to reparation</p> <ul style="list-style-type: none"> • The right to reparation in the national legal framework • Reparation for all child victims • Different kinds of reparation • Beneficiaries of reparation • Gender sensitivity • Responsibilities of prosecutors and judges in ensuring the right to reparation of child victims 	
1445-1500	<i>Exercise 3. Let us build a house</i>	
1500-1515	Coffee break	
1515-1530	Post-training evaluation questionnaire	Training coordinator
1530-1600	Question and answer session/sharing trainees’ experiences	Panel of trainers
1600-1615	Training programme feedback	Training coordinator
1620-1700	Closure of the training programme: valedictory address by the chief guest and distribution of participation certificates	Training coordinator

Explanation of activities

Additional information on some of the activities mentioned in the timetable is provided below.

Formal opening of the training programme

Learning objectives

- To introduce the basic purpose of the training (by the training coordinator)
- To inform trainees about what to expect from the training course
- To introduce the human rights and victim-centred approach of the training

Methodology and activities

- Opening remarks by the training coordinator
- Inaugural address by the chief guest

Brief review of the training programme and resource materials

Learning objectives

- To provide a brief introduction of the training programme and work plan
- To set a few rules for the training session, with approval from all trainees
- To familiarize the trainees with all the resources and course materials to ensure that they are fully involved in appreciating its benefits, thereby promoting active and responsive learning

Methodology and activities

- Discussion with trainees

Show the trainees each book, document, or other resource and draw special attention to any specific characteristics of the course material.

Pre-training evaluation questionnaire

Learning objectives

- To assess the extent of awareness and knowledge of trainees on the practical and legal aspects of treatment of child victims and child witnesses prior to the commencement of the training through the answering of a pre-training evaluation questionnaire
- At the end of training programme, to compare pre-training vis-à-vis post-training knowledge on the subject simply as a participatory introspection rather than as a judgemental evaluation

Methodology and activities

- The pre-training evaluation questionnaire is provided in annex I.
- Ask the trainees to complete the pre-training evaluation questionnaire provided with the course material according to the instructions contained therein within the allotted time.
- For evaluation purposes, the training agency should collect the pre-training questionnaire and eventually compare the answers therein with the post-training questionnaire.

Brief introduction of trainees

Learning objectives

- To create a rapport among trainees
- To acquaint trainees with each other in an unconventional manner for purposes of group cohesion

- To create a level of informality among trainees for free and frank discussions

Methodology and activities

- Discussion with trainees
- Activity with flip charts

Expectations of trainees

Ask a few trainees what their expectations of the training programme are and note down the points on a flip chart. Mark the expectations that are repeated, if any, to show the frequency and what expectations they have in common.

Invite trainees to suggest ground rules for the training session, such as switching off mobile phones; respecting start and end times; waiting one's turn to speak and not interrupting others; respect for others' opinions; providing opportunity for others to speak and also listening to their opinions; and actively participating.

Exercises for introduction of trainees/ice-breaking

Note to the trainer: This introductory activity consists of two exercises that do not mention treatment of child victims and witnesses. Either of these exercises can be used. At the end of the exercise, explain the rationale for the exercise.

Exercise 1. Getting to know each other

Activity: Adapt this exercise depending on the number of trainees and the total time available for conducting introductions. Have the trainees form pairs. Give them 60 seconds to exchange notes about themselves, and then ask each one to introduce his or her partner.

Outcome: This exercise will help trainees relax and ease into a learning situation, and help them learn each other's names and personal and professional information. The purpose of having trainees introduce their neighbour is to confirm "human interest" in another human being and paying attention to what the other person is trying to say. Training is interaction. The more the trainees know each other, the speedier and smoother the interaction will be.

OR

Exercise 2. Who am I?

Activity: Invite each trainee to introduce himself or herself and name one positive characteristic about himself or herself. (For example, those that begin with the same first letter of their name, or those that are most admired by their wife, children, friends or colleagues.)

Expected outcome of the exercise: This exercise will help trainees relax and ease into a learning situation, and help trainees learn each other's names and personal and professional information. This activity starts the training on a positive note and helps to lower the inhibitions of trainees by allowing them to share their personal attributes. Even more relevant is the connection that the trainer can create between the positive self-image and self-worth of the trainees vis-à-vis the negative sense of self that some child victims may harbour.

AND

Exercise 3. Becoming an agent of change

Estimated time: 10 minutes

Materials needed: Two cut-outs of a child's silhouette, one girl child and one boy child, made of thick cardboard of at least 3-4 feet in height, that can stand up by themselves; an assortment of post-its of different colours and shape; writing pens of different colours.

Activity

- This exercise is done in two phases: before the commencement and then towards the end of the training programme.
- Both cut-outs should be placed next to each other in the training room, facing the participants.
- Invite all the trainees to write on a post-it one attitude that for the trainee seems to be important when dealing with a child victim or witness of crime. Request the trainees to place the post-it anywhere on the first cut-out, while the other cut-out remains empty.
- At the closing session of the training event, by making reference to the fact that after the training event each trainee can be an "agent of change" within their respective professional spheres, re-invite trainees to come forward and place a new post-it on the second cut-out, reflecting on the future treatment of child victims and witnesses of crime, writing a phrase that starts with "I will ...".

Expected outcome of the exercise: This exercise will help trainees to reflect on their attitudes and behaviour when dealing with a child victim or witness of crime before the actual training activities start. Engaging participants to reflect on positive behavioural attitudes towards child victims and witnesses of crime will be conducive for the subsequent training activities and interactive games, role plays and case studies. Furthermore, the visual effect cannot be underestimated, and participants will feel a sense of ownership of the training event.

By re-introducing the activity at the end of the training event, the trainer will be able to measure the level of success, as trainees will come up with a sentence on how they can be "agents of change" in the practical implementation of the training. Furthermore, having both cut-outs with the attached, coloured post-its standing next to each other in the training room will have a positive visual effect on participants. The two cut-outs will form an ideal background for group pictures.

Summary of sessions

Learning objectives

- To briefly summarize the proceedings of the previous day and recollect the important lessons learned
- To provide an overview of the present day's schedule
- To briefly review the modules presented during the day and encapsulate the key issues
- To have trainees reflect on the proceedings of the day and the lessons learned and to continue discussions among themselves until the following day's training begins

Post-training evaluation questionnaire

Learning objectives

- To assess the enhancement of knowledge, awareness and shift in attitudinal orientation at the completion of the training programme, by comparing responses to the pre-training evaluation questionnaire.

Methodology and activities

- Answering of the questions by the trainees within the stipulated time.

The training evaluation questionnaires may be collected by the training agency for any future monitoring and evaluation and data collection purposes.

Question and answer session/sharing trainees' experiences

Learning objectives

- To provide trainees with the opportunity to resolve doubts, seek clarifications, ask questions on issues that may not have been addressed during the lecture sessions, and to share their own experiences in cases pertaining to treatment of child victims and witnesses.

Methodology and activities

- Discussion-oriented and participative approach.
- Short discussion by the trainer, training coordinator or panel of trainers to evaluate the answers provided during pre- and post-training by the trainees.

Training programme feedback

Learning objectives

- To learn how successful the training was in achieving its objectives; post-training reflection is aimed at determining if objectives and expectations of trainees were met.
- To identify what needs to be modified for the next training programme.
- Evaluation also provides good indicators as to what information gained during the training sessions will lead the trainee to actually use it during the course of their duties in cases pertaining to treatment of child victims and witnesses.

Methodology and activities

- Answering the training evaluation questionnaire (evaluation and feedback forms are provided in annex II).

Closing the training programme

The following aspects should be addressed by the training coordinator at the closure of the training programme:

- Provide a very brief summary of the entire training programme and the topics covered.
- Acknowledge all trainees for their hard work, participation and cooperation.
- Obtain commitment from the trainees regarding application of the learning during the course of duties in cases pertaining to child victims.

Following the valedictory address by the chief guest, the training agency may organize distribution of certificates for active participation and completion of training.

module

1

INTRODUCTION ON
TREATMENT OF CHILD VICTIMS
AND WITNESSES OF CRIME

“Injustice anywhere is a threat to justice everywhere.”

Dr. Martin Luther King, Jr.

(leader in the African-American civil rights movement)

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GOAL



To develop the ability of prosecutors and judges to understand the phenomenon of child victims and child witnesses of crime in general, and specifically of child victims of sexual exploitation, in the relevant international and national legal contexts.

LEARNING OBJECTIVES FOR MODULE 1

At the end of this module, trainees will have the necessary knowledge and skills to:

- ▶ Recognize the crucial importance of dealing sensitively with child victims and witnesses of crime.
- ▶ Gain knowledge and a good understanding of the guiding principles underlying the implementation of rights of child victims and witnesses of crime.
- ▶ List the international and national laws applicable to the treatment of child victims and witnesses in general and sexual exploitation of children in particular.
- ▶ Define the terms “child victims and witnesses” and “child sexual exploitation” and demonstrate a general understanding of the subject.
- ▶ Explain the current situation regarding sexual exploitation of children in the national context.
- ▶ Identify the various manifestations of child sexual exploitation and elucidate the behavioural and emotional state of child victims and witnesses.

Suggested duration: 1 hour 30 minutes (90 minutes)

Prior to the module

Set up the training room. Ensure there are handouts, case studies, reference notes and copies of relevant legislation for the trainees.

Materials, equipment and logistics

Ensure that appropriate training aids such as computers, LCD projectors, white boards, flip charts and marker pens are available in the training room.

LESSON PLAN FOR MODULE 1

Lesson outline	Content	Activity	Time	Reference material
1.1	The Four Guiding Principles	Lecture/presentation/discussion	10 min.	Paragraphs 1.1.1 and 1.1.2 Presentation slides
1.2	Definition of “child” as per international instruments and national laws	Lecture/presentation/discussion	15 min.	Paragraph 1.2 Presentation slides
1.3	Meaning of the terms “victim” and “child victim and witness”	Lecture/presentation/discussion	10 min.	Paragraph 1.3 Presentation slides
1.4	Basic definition of child sexual exploitation as per international instruments and national laws	Lecture/presentation	20 min.	Paragraphs 1.4.1 and 1.4.2 Presentation slides
	Exercise 1. Impact of child sexual exploitation	Learning exercise	5 min.	One sheet of paper
1.5	Overview of the national legal framework on protection of the rights of children	Lecture/presentation/discussion	30 min.	Paragraph 1.5 Presentation slides Handout on the national legal framework on protection of the rights of child victims and witnesses

1.1 The Four Guiding Principles

The United Nations Economic and Social Council adopted in its resolution 2005/20 of 22 July 2005 the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (hereinafter referred to as “the Guidelines”). The Guidelines are part of the body of United Nations standards and norms in crime prevention and criminal justice.

The Guidelines provide a practical framework to achieve the following objectives:

- To assist in the review of national and domestic laws, procedures and practices
- To assist in designing and implementing legislation, policy, programmes and practices related to child victims and witnesses of crime
- To guide professionals and, where appropriate, volunteers working with children
- To assist those caring for children in dealing sensitively with child victims and witnesses of crime

The Guidelines in chapter III provide for principles on which the Guidelines are based.

Guidelines – Chapter III. Principles

...

8. As stated in international instruments and in particular the Convention on the Rights of the Child as reflected in the work of the Committee on the Rights of the Child, and in order to ensure justice for child victims and witnesses of crime, professionals and others responsible for the well-being of those children must respect the following cross-cutting principles:

(a) Dignity: Every child is a unique and valuable human being and as such his or her individual dignity, special needs, interests and privacy should be respected and protected;

(b) Non-discrimination: Every child has the right to be treated fairly and equally, regardless of his or her or the parent’s or legal guardian’s race, ethnicity, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability and birth or other status;

(c) Best interests of the child: While the rights of accused and convicted offenders should be safeguarded, every child has the right to have his or her best interests given primary consideration. This includes the right to protection and to a chance for harmonious development:

(i) Protection: Every child has the right to life and survival and to be shielded from any form of hardship, abuse or neglect, including physical, psychological, mental and emotional abuse and neglect;

(ii) Harmonious development: Every child has the right to a chance for harmonious development and to a standard of living adequate for physical, mental, spiritual, moral and social growth. In the case of a child who has been traumatized, every step should be taken to enable the child to enjoy healthy development;

(d) Right to participation: Every child has, subject to national procedural law, the right to express his or her views, opinions and beliefs freely, in his or her own words, and to contribute especially to the decisions affecting his or her life, including those taken in any judicial processes, and to have those views taken into consideration according to his or her abilities, age, intellectual maturity and evolving capacity.



Children have specific rights that recognize their special need for protection.

1.1.1 Responsibilities of prosecutors in cases of child victims and witnesses of crime

Prosecutors come into contact with both child victims and witnesses of crime. However, not all children who have experienced and/or witnessed crime actually meet with a prosecutor, because their victimization or their observation does not lead to the actual prosecution of an alleged perpetrator. If it comes to a criminal case, public prosecutors play a unique role in that they appear on behalf of the government as the representative of the people rather than the individual child victim/witness. Prosecutors have crucial responsibilities at the pretrial stage as well as the trial stage and they may also play a role after the conclusion of the proceedings. Prosecutors ensure that the rights of child victims and witnesses are respected throughout the justice process and, at the same time, that the rights of the accused and the right to a fair trial are protected. They have the responsibility to ensure that unnecessary delays in cases involving crimes against children are avoided and that children are supported throughout the justice process. They take appropriate measures to guarantee that contact between the child and the alleged perpetrator(s) is prevented during the investigation, prosecution and trial, and organize protective measures for child victims and witnesses who are intimidated.

In this training programme, the term “prosecutors” is used for all professionals involved in the prosecution of crimes committed against children in their day-to-day practice.

1.1.2 Responsibilities of judges in cases of child victims and witnesses of crime

Judges come into contact with both child victims and child witnesses of crime. However, not all children who have experienced and/or witnessed crime actually meet with a judge, because their victimization or their observation does not lead to the actual trial of an alleged perpetrator. If it comes to a criminal case, judges play a crucial role. Judges ensure that cases involving child victims and witnesses are handled without delay. They guarantee essential protection throughout the justice process and especially in the trial stage. They can order special arrangements to facilitate children’s testimony and protective measures to reduce secondary victimization, intimidation and undue distress as much as possible. They also play an important role in guaranteeing that children are treated with respect and fairness while giving their testimony. They supervise the debates and questioning in court so that the proceedings are conducted in an appropriate and child-sensitive manner.

1.2 Definition of “child” as per international instruments and national laws

The Convention on the Rights of the Child of 1989

The Convention on the Rights of the Child (hereinafter referred to as “the Convention”) spells out the basic human rights that children everywhere have, i.e. the right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life. It protects children’s rights by setting standards in health care, education and

legal, civil and social services. The Convention contains a universally agreed set of non-negotiable standards and obligations.

Article 1 of the Convention defines a “child” as every human being under the age of 18 years unless, under the law applicable to the child, majority is attained earlier.

Three Optional Protocols to the Convention

The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000): This Optional Protocol places obligations on Governments to criminalize the sale of children, child prostitution and child pornography and emphasizes the importance of fostering increased public awareness and international cooperation in efforts to combat these serious violations of children’s rights.

The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000): This Optional Protocol establishes 18 as the minimum age for compulsory recruitment. It also requires Governments to do everything they can to prevent individuals under the age of 18 from taking a direct part in hostilities.

The two Optional Protocols mainly deal with child victims of crime. The Convention includes a direct reference to child victims of crime, i.e. article 39, “Rehabilitation of child victims”.

Article 39. Rehabilitation of child victims

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.

The Optional Protocol to the Convention on the Rights of the Child on a communications procedure (2012): This Optional Protocol recognizes that children’s special and dependent status may create real difficulties for them in pursuing remedies for violations of their rights and encourages States parties to develop appropriate national mechanisms to enable a child whose rights have been violated to have access to effective remedies at the domestic level. This Protocol also recognizes that the best interests of the child should be a primary consideration to be respected in pursuing remedies for violations of the rights of the child, and that such remedies should take into account the need for child-sensitive procedures at all levels.



Trainer’s note

Provide details on the definition of “child” from:

- The national legal framework (with names of laws, section or article numbers).
- Relevant regional instruments to which the country is a signatory.
- Court rulings and judgements (that form precedent in common law countries).

1.3 Meaning of the terms “victim” and “child victim and witness”

The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) defines “victims of crime” as follows:

“Victims” means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.

A person may be considered a victim under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term “victim” also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

The Guidelines, 9 (a), define child victims and witnesses as follows:

“Child victims and witnesses” denotes children and adolescents, under the age of 18, who are victims of crime or witnesses of crime regardless of their role in the offence or in the prosecution of the alleged offender or groups of offenders.



Trainer’s notes

- Provide information to the trainees on any national laws or regulations that define the terms “victims of crime” and “child victims and witnesses”.
- If no specific definitions are available in the national laws, mention any court rulings or judgements (that form precedent especially in common law countries) that define the two terms.
- Provide definitions of the two terms under regional instruments to which the country is a signatory.
- Invite the trainees to consider whether the two definitions make any discrimination or distinction on the basis of the child’s, parents’ or legal guardians’ race, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability, and birth or other status.
- Discuss the two definitions from a gender perspective (that is, whether the definitions are applicable only to girls or only to boys, or whether they are gender-neutral).

1.4 Basic definition of “child sexual exploitation” as per international instruments and national laws

A wide range of international legal standards set the framework for the development of domestic criminal justice responses to child sexual exploitation. The key international instruments are the Convention on the Rights of the Child (1989) (CRC) and its Optional Protocol on the sale of children, child prostitution and child pornography (2000) (CRC Optional Protocol), the United Nations Convention against Transnational Organized Crime (2000) (UNTOC) and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000) (United Nations Trafficking

Protocol), and the International Labour Organization (ILO) Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) (ILO Convention 182).

The Convention on the Rights of the Child (1989), in article 34, obligates the States parties 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.

Child sexual exploitation

Child sexual exploitation is a gross violation of human rights in general and of the rights of children in particular.

Child sexual abuse is defined as:

“Contacts or interactions between a child and an older or more knowledgeable child or adult (a stranger, sibling or person in a position of authority, such as a parent or caretaker) when the child is being used as an object of gratification for an older child’s or adult’s sexual needs. These contacts or interactions are carried out against the child using force, trickery, bribes, threats or pressure.”

Child sexual abuse becomes exploitation when a child or a third party benefits through a profit. Article 5 of the Declaration and the Agenda for the Action of the World Congress against Commercial Sexual Exploitation of Children (1996) provides this definition of the practice in general:

“The commercial sexual exploitation of children is a fundamental violation of children’s rights. It comprises sexual abuse by the adult and remuneration in cash or kind to the child or a third person or persons. The child is treated as a sexual object and as a commercial object. The commercial sexual exploitation of children constitutes a form of coercion and violence against children, and amounts to forced labour and a contemporary form of slavery.”

The sexual exploitation of children is also broadly defined as follows:

“The use of children under 18 years for the sexual satisfaction of adults.”

An all-encompassing meaning of child sexual exploitation refers to various kinds of behaviour of a sexual nature directed at children and aimed at the erotic satisfaction of the adult.



Trainer’s notes

- Invite the trainees to explain “child sexual exploitation” in their own words, based on their general understanding of the problem/phenomenon.
- Provide information on any national laws and regulations that define the term “child sexual exploitation”. Mention the full name of the relevant law.
- If no specific laws are available, include the relevant articles and sections of the penal code that seek to define the offence of child sexual exploitation and make it a punishable offence.
- If no specific definitions are available in the national laws, mention any court rulings or judgements (that form precedent especially in common law countries) that provide such a definition.

- Provide details on definitions of “child sexual exploitation” under regional instruments to which the country is a signatory.
- Invite the trainees to consider whether the definitions (international and national law) make any discrimination or distinction on the basis of child’s race, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability, and birth or other status.
- Discuss the definitions (international and national law) from a gender perspective (whether the definitions are applicable only to girls or only to boys or whether they are gender-neutral).
- Encourage the trainees to explain their perspective on “consent” of a child victim. Is “consent” by the child a valid defence by the accused during an investigation or trial?

1.4.1 Current situation regarding sexual exploitation of children in the national context

Publications and reports from governmental and non-governmental organizations (NGOs) suggest that the most common sexual offences against children include rape, having sexual intercourse with children and performing indecent and obscene acts on children. In addition, children are trafficked specifically for commercial sexual exploitation. Studies also indicate that the number of child sexual abuse and exploitation cases in general and trafficking in children in particular has the tendency to increase. Victims of child sexual abuse are extremely vulnerable. Research shows that child victims usually come from low-income families and lack the attention, care and protection of adults. All available research thus suggests that children are made more vulnerable due to financial constraints that permeate families. Although children from well-to-do families may also be victimized by sexual predators when the child is unable to fathom the true intentions of the offender.

Most victims are still very young and innocent and easily become targets of child sex molesters who would solicit them for sex with or without force. Sex offenders mostly exploit the vulnerability of the victims to sexually abuse them. The perpetrator can be a person known to the victim, a trusted friend, or an acquaintance.



Trainer’s notes

Present information on:

- The country-specific situation of sexual exploitation of children.
- Crime statistics pertaining to child sexual exploitation.
- The estimated number of victims.
- Victim profiles: age, sex, background.

1.4.2 Various manifestations of child sexual exploitation and the behaviour and emotional state of the child victim/witness

1.4.2.1 Various forms of child sexual exploitation

There are various ways in which children are sexually abused and exploited, whether for sexual gratification or for monetary benefits which accrue to a third party. The two predominant forms of sexual abuse of children are physical sexual contact and erotic non-contact sexual exposure.

Child sexual exploitation	
Contact	Non-contact
<ul style="list-style-type: none"> • Inappropriately touching the child with a sexual intention (such as groping and fondling) • Having the child masturbate another person • Sexually penetrating the child (inserting objects into a child's vagina or anus or inserting a sexual device into a child's mouth) • Raping the child (vaginal sex, anal sex and oral sex) • Using the child as a pornographic object (such as taking pictures and videos of sexual activities with children) 	<ul style="list-style-type: none"> • Performing sexual activities (masturbation or sex with another person) in front of the child • Exhibitionism (such as showing one's erect penis to a child) • Persuading the child to participate in sexual interaction and erotic play • Showing the child pornographic materials depicting acts of sexual intercourse by other children or adults • Using the child as a pornographic object (such as taking pictures of children in swimsuits for sexual arousal) • Viewing or downloading sexualized images of children • Talking to a child using sexual innuendoes • Grooming by engaging the child in sexual conversations

Statistical evidence on child sexual exploitation points to the conclusion that there is a relationship between gender and abuse, in the sense that:

- Girl children appear to be far more likely to be victims of sexual abuse and exploitation than are boy children, although the incidents of boy child sexual abuse and exploitation may often go unrecognized, unreported and less documented.
- Males are far more likely than females to commit sexually exploitative acts for personal gratification.

The Preamble to CRC Optional Protocol also recognizes that a number of particularly vulnerable groups, including girl children, are at greater risk of sexual exploitation, and that girl children are disproportionately represented among the sexually exploited.

Sexual abuse and exploitation of children takes place in various situations and settings and in diverse places:

- Sexual abuse at home (also called “intra-familial sexual abuse”)
- Institutional sexual abuse (or “extra-familial sexual abuse”)
- Sexual abuse at the workplace of children
- Sexual abuse/exploitation of children within the context of traditional, cultural and religious practices
- Sexual abuse/exploitation of street children

- Sexual abuse and commercial sexual exploitation of children for:
 - Prostitution
 - Pornography
 - Sex tourism

1.4.2.2 Behaviour and emotional state of child victims and witnesses

It is of utmost significance for prosecutors and judges to recognize the physical and psychological state of a child victim/witness.



Child victims' rights and needs are not additional to the investigation or pretrial and trial process; they are in fact at the core of the whole process.

Why children don't speak up

Children rarely ever talk about the crimes they are subjected to. There are a great many reasons why children might keep silent. Sometimes they may not understand the gravity of what has been done to them. Often they are fearful of the consequences for themselves, their family and the offender. Some children are accustomed to thinking no one would ever believe them, or they are silenced by the thought that they deserved what happened and so are not entitled to help. The children often believe they may be threatened and punished if they speak about their abuse and exploitation. Children also sometimes remain silent about the abuse because the perpetrator is someone close to them or known to them, making it harder for them to confide in someone about their experiences. Reasons for children to keep silent will ultimately depend on individual and environmental circumstances.

Specifically in cases of sexual abuse and exploitation, children often suffer from lifelong effects and suffer physical, mental and emotional damage.

It is imperative for prosecutors and judges to understand the multiple reasons why children do not speak about their violations or exploitations easily, and the initial challenges that their silence may impose for the prosecution and trial processes. However, this is not to suggest that prosecutors and judges should diagnose the psychological problems of the child victims and witnesses themselves, but rather they should know what to look out for and when to refer the child to medical and/or psychology professionals.

Physical manifestations of child sexual abuse	
<ul style="list-style-type: none"> • Bleeding in the genital and anal area • Bruises in the genital and anal area • Difficulty walking • Itching in the genital area • Pregnancy 	<ul style="list-style-type: none"> • Self-harm injuries (such as from suicide attempts) • Significant weight gain or loss (from appetite disturbances) • Sleep problems
Behavioural manifestations of child sexual abuse	
<ul style="list-style-type: none"> • Alcohol and substance abuse • Aggression • Bed-wetting • Delinquency • Disrupted peer relations • Eating disorders • Hostility • Hyperactivity 	<ul style="list-style-type: none"> • Impaired trust • Lying • Nightmares • Phobias • Running away from home • Sexualized behaviour • Self-harm or self-mutilation • Suicidal thoughts and attempts
Emotional manifestations of child sexual abuse	
<ul style="list-style-type: none"> • Anxiety • Anger • Blame • Denial • Depression • Distress • Frustration • Guilt 	<ul style="list-style-type: none"> • Low self-esteem • Self-hatred or self-loathing • Shock • Sympathy and pity toward offender • Vengefulness • Emotional withdrawal • Worthlessness

Extreme stress and trauma resulting from victimization or from witnessing the crime can lead to an identifiable long-term illness called post-traumatic stress disorder (PTSD). PTSD can be difficult to diagnose and to treat. It is characterized by the following symptoms:

- Denial of any involvement in any exploitative situation
- Inability to remember or recall things clearly
- Inability to recall events in a chronological or sequential way
- Re-living the event through dreams, nightmares, flashbacks and intrusive thoughts
- Avoidance of reminders of the event
- The person's general responsiveness is numbed to current events
- Persistent symptoms of high arousal such as sleep disturbance, aggressive behaviour and poor concentration

PTSD is known to affect memory in different ways. Children suffering from PTSD may even be unable to produce a description of what happened. Lack of cooperation, hostility and impaired ability to recall events in detail are all likely to occur as a result of trauma.

EXERCISE 1. IMPACT OF CHILD SEXUAL EXPLOITATION

Estimated time: 5 minutes

Materials needed: One sheet of paper

Objective of the exercise: To facilitate trainees' understanding of the consequences and impact of child sexual exploitation on a child victim.

Activity: Ask the trainees to take a single sheet of paper and start crushing and crumpling it until it resembles a ball of paper. Once this process is finished, tell the trainees to open up the paper and try and get it back to its original shape and form. The trainees should be asked to use several methods to iron out the creases. At this stage, ask the trainees, "Can we bring the paper back to its original smooth shape and form?"

Expected outcome of the exercise: This exercise will enable trainees to identify the sheet of paper symbolically as a child victim of sexual exploitation. The crushing and crumpling of the sheet of paper symbolically represents the abuse and exploitation undergone by the child and the resultant physical, psychological and emotional trauma that a child victim endures. With the efforts of all stakeholders, the child victim would get justice and reintegration. But the scars left by the trauma (represented by the creases on the paper) sometimes continue for a longer time.

This exercise should, however, not end on a despairing and negative note. The purpose of this exercise is to demonstrate that all constituents of the criminal justice system, including other informal justice providers, can help a child victim to recover and reintegrate and eventually get over the trauma of the horrific crimes committed against him or her.

1.5 Overview of the national legal framework on protection of the rights of children

International and regional agreements relevant to protection of child victims and witnesses and child sexual exploitation represent a country's commitment to protect its most vulnerable children. In this section, the focus is on child sexual exploitation, and child victims and witnesses within the overall framework of national laws and regulations that seek to protect the rights of children. Effective knowledge of national laws and legal procedures would enable prosecutors and judges to deal professionally with child victims and witnesses and provide the fullest protection of their rights.



Trainer's notes

In the nationally contextualized and adapted version of this module, the following topics should be covered:

1. An overview of the national legal framework listing out all the relevant laws that are applicable to crimes against children in general and crimes of child sexual exploitation in particular.
2. Any specific law on child sexual exploitation:
 - Mention the full name of the relevant law and list the offences punishable under that law.
 - Provide definitions for the following terms based on the language of the legislation:

- Child
- Child sexual exploitation
- Child trafficking
- Child sex tourism

3. If no specific laws are available, include the relevant articles and sections of the penal code that seek to define the offence of child sexual exploitation and make it a punishable offence.

4. A list of the most significant articles and sections with respect to treatment of child victims and witnesses from the specific law, penal code or criminal procedure code may be identified and highlighted.

5. The punishment/sentencing structure applicable to crimes of child sexual exploitation, listing the:

- Maximum to the minimum sentences.
- Fines that may be imposed in such offences.
- Aggravating circumstances impacting the sentencing (if any).
- The differences in punishment (if any) based on the age of the child victim.

6. The law applicable to accomplices/conspirators:

- Definition of an accomplice under the law
- Applicable provisions of law to those who aid or abet the main offender
- Elements to establish collaboration with the main offender
- The penalties that can be imposed on the accomplices

7. The law applicable to “attempts” to commit offences:

- Definition of an “attempt” to commit an offence
- Provisions of law applicable to “attempt”
- Elements to establish “attempt” to commit an offence
- The penalties that can be imposed on “attempt” to commit an offence

8. Describe the extraterritorial jurisdiction (power to prosecute a national in the country even if the entire crime took place outside the country) available under the national laws.

- Does the law contain such a provision?
- Describe limitations and conditions (if any) under such laws.

9. Regulations, policies and orders issued by the relevant ministries/departments in cases involving crimes committed against children may be identified and listed.

Prepare and distribute a handout on the national legal framework on protection of rights of child victims and witnesses (with specific focus on sexual exploitation of children) based on points 1 to 9.

SUMMARY OF KEY CONCEPTS FOR MODULE 1

1.1 The Four Guiding Principles

- Professionals and others responsible for the well-being of child victims and witnesses must respect the following four guiding principles:
 - Dignity
 - Non-discrimination
 - Best interests of the child
 - Right to participation (section 1.1, Guidelines table)
- Children have specific rights that recognize their special need for protection (section 1.1).
- Prosecutors have the responsibility to ensure that the rights of child victims and witnesses are respected throughout the justice process and, at the same time, that the rights of the accused and the right to a fair trial are protected (section 1.1.1, paragraph 1).
- Judges have the responsibility to guarantee all essential protections throughout the justice process, especially at the trial stage, to child victims and witnesses (section 1.1.2, paragraph 1).

1.2 The definition of “child” as per international instruments and national laws

- The Convention on the Rights of the Child defines a “child” as “every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier” (section 1.2, paragraph 2).
- *[Note to trainer: Include key concepts that suit the national context.]*

1.3 Meaning of the terms “victim” and “child victim and witness”

- The term “child victims and witnesses” denotes children and adolescents, under the age of 18, who are victims of crime or witnesses of crime regardless of their role in the offence or in the prosecution of the alleged offender or groups of offenders (section 1.3, paragraph 3).

1.4 Basic definition of child sexual exploitation as per international instruments and national laws

- Child sexual exploitation is a gross violation of human rights in general and the rights of children in particular (section 1.4, paragraph 3).
- Child sexual exploitation has various forms and manifestations (section 1.4.2.1, paragraph 1 and table).
- Child victims’ rights and needs are not additional to the investigation or pretrial and trial process; they are in fact at the core of the whole process (section 1.4.2.2, paragraph 1).
- *[Note to trainer: Include key concepts that suit the national context.]*

1.5 Overview of the national legal framework on protection of the rights of children

- International and regional agreements relevant to protection of child victims and witnesses and child sexual exploitation represent a country’s commitment to protect its most vulnerable children (section 1.5, paragraph 1).
- Effective knowledge of national laws and legal procedures would enable prosecutors and judges to deal professionally with child victims and witnesses and provide the fullest protection to their rights (section 1.5, paragraph 1).
- *[Note to trainer: Include key concepts that suit the national context.]*

PRESENTATION SLIDES FOR MODULE 1

The suggested slides for this module are provided below in the left-hand column. During the training session, be sure to cover at least the key concepts identified in the right-hand column.

<p>Slide 1 Module 1. Introduction on treatment of child victims and witnesses of crime</p>	
<p>Slide 2 Module goal To develop the ability of prosecutors and judges to understand the phenomenon of child victims and child witnesses of crime in general and specifically of child victims of sexual exploitation in the relevant international and national legal contexts</p>	
<p>Slide 3 Learning objectives</p> <ol style="list-style-type: none">1. To deal sensitively with child victims and witnesses of crime2. To gain knowledge and a good understanding of the guiding principles underlying the implementation of the rights of child victims and witnesses of crime3. To list the international and national laws applicable to the treatment of child victims and witnesses in general and sexual exploitation of children in particular	
<p>Slide 4 Learning objectives</p> <ol style="list-style-type: none">4. To define the terms “child victims and child witnesses” and “child sexual exploitation” and to demonstrate a general understanding of the subject5. To explain the current situation regarding sexual exploitation of children in the national context6. To identify the various manifestations of child sexual exploitation and elucidate the behavioural and emotional state of child victims and witnesses	

<p>Slide 5 The Four Guiding Principles for prosecutors and judges:</p> <ul style="list-style-type: none"> Guidelines – Chapter III. Principles Responsibilities of prosecutors in cases of child victims and witnesses Responsibilities of judges in cases of child victims and witnesses 	<ul style="list-style-type: none"> Professionals and others responsible for the well-being of those child victims and witnesses must respect the following four guiding principles: <ul style="list-style-type: none"> Dignity Non-discrimination Best interests of the child Right to participation (section 1.1, Guidelines table) Children have specific rights that recognize their special need for protection (section 1.1). Prosecutors have the responsibility to ensure that the rights of child victims and witnesses are respected throughout the justice process and, at the same time, that the rights of the accused and the right to a fair trial are protected (section 1.1.1, paragraph 1). Judges have the responsibility to guarantee all essential protections throughout the justice process and especially at the trial stage to the child victims and witnesses (section 1.1.2, paragraph 1).
<p>Slide 6 Definition of “child” as per international instruments and national laws</p> <ul style="list-style-type: none"> Convention on the Rights of the Child, 1989 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2000 The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 2000 	<ul style="list-style-type: none"> The Convention on the Rights of the Child defines a “child” as “every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier” (section 1.2, paragraph 2). [Note to trainer: Include key concepts that suit the national context.]
<p>Slide 7 Meaning of the terms “victim” and “child victim and witness”</p> <ul style="list-style-type: none"> Victim Child victim and witness 	<ul style="list-style-type: none"> The term “child victims and witnesses” denotes children and adolescents, under the age of 18, who are victims of crime or witnesses of crime regardless of their role in the offence or in the prosecution of the alleged offender or groups of offenders (section 1.3, paragraph 3).
<p>Slide 8 Basic definition of child sexual exploitation as per international instruments and national laws</p> <ul style="list-style-type: none"> Child sexual exploitation 	<ul style="list-style-type: none"> Child sexual exploitation is a gross violation of human rights in general and of the rights of children in particular (section 1.4, paragraph 3).
<p>Slide 9 Current situation regarding sexual exploitation of children in the national context</p>	<ul style="list-style-type: none"> [Note to trainer: Include key concepts that suit the national context.]
<p>Slide 10 Various manifestations of child sexual exploitation and the behaviour and emotional state of the child victim/witness</p> <ul style="list-style-type: none"> Various forms of child sexual exploitation Behaviour and emotional state of the child victim/witness 	<ul style="list-style-type: none"> Child sexual exploitation has various forms and manifestations (section 1.4.2.1, paragraph 1 and table). Child victims’ rights and needs are not additional to the investigation or pretrial and trial process; they are in fact at the core of the whole process (section 1.4.2.2, paragraph 1).

Slide 11

Overview of the national legal framework on protection of the rights of children

- International and regional agreements relevant to protection of child victims and witnesses and child sexual exploitation represent a country's commitment to protect its most vulnerable children (section 1.5, paragraph 1).
- Effective knowledge of national laws and legal procedures would enable prosecutors and judges to professionally deal with child victims and witnesses and provide the fullest protection to their rights (section 1.5, paragraph 1).
- *[Note to trainer: Include key concepts that suit the national context.]*

module

2

DIGNITY OF CHILD VICTIMS AND
WITNESSES OF CRIME

“Dignity does not consist in possessing honours,
but in deserving them.”

Aristotle

(ancient Greek philosopher and scientist)

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GOAL



To provide trainees with the necessary knowledge and skills to treat all child victims and child witnesses of crime with dignity and compassion so that they are protected from hardship throughout the justice process; and to build up interview skills in order to interview child victims as witnesses according to legal requirements and accepted best practices.

LEARNING OBJECTIVES FOR MODULE 2

At the end of this module, trainees will have the necessary knowledge and skills to:

- ▶ Have a good understanding of the meaning of “the right to be treated with dignity and compassion” as it pertains to child victims and witnesses.
- ▶ Identify the reasons which lead to victimization of child victims during the criminal justice process.
- ▶ Acquire knowledge on the right of child victims and witnesses to be protected from hardship at all stages of the justice process.
- ▶ Compile an interview plan based upon a victim-first, human rights approach.
- ▶ Develop and demonstrate skills in conducting the interview of the child victim.

Suggested duration: 2 hours 50 minutes (170 minutes)

Prior to the module

Set up the training room. Ensure that there are handouts, case studies, reference notes and copies of relevant legislation for the trainees.

Materials, equipment and logistics

Ensure that appropriate training aids, such as computers, LCD projectors, white boards, flip charts and marker pens are available in the training room.

LESSON PLAN FOR MODULE 2

Lesson outline	Content	Activity	Time	Reference material
2.1	The right to be treated with dignity and compassion	Lecture/presentation/discussion	40 min.	Paragraphs 2.1.1 to 2.1.6 Presentation slides
2.2	The right to be protected from hardship during the justice process	Lecture/presentation/discussion	30 min.	Paragraphs 2.2.1 to 2.2.2 Presentation slides
2.3	Child-sensitive communication	Lecture/presentation/discussion	60 min.	Paragraphs 2.3.1 to 2.3.4 Presentation slides
	Exercise 2. Role play on conducting testimony of child victim	Learning exercise through problem-solving	40 min.	Handout on the facts of the case

2.1 The right to be treated with dignity and compassion

Prosecutors should respond without delay to any case involving a child victim or child witness. In jurisdictions where prosecutors have the discretion whether or not to proceed with prosecutions, they should always consider cases involving children as victims and witnesses—by their very nature—as serious. If there is sufficient evidence, prosecution should normally follow. Prosecutors have the unique and crucial responsibility to decide whether or not to pursue the case and to assess the level of participation in the proceedings the child is able to withstand. Prosecutors may decide, if it is in the best interests of the child, to pursue without the participation, or with limited participation, of the child. When prosecutors consider any alternative measures to prosecution, they should exercise caution and inform the child, and her or his parents or guardian, about the alternatives as well as the reasons why they may be taken into account. The views and concerns of the child should be given due consideration according to her or his maturity and evolving capacities.

If judges are involved in cases of child victims and child witnesses, it is crucial that they treat the children, as well as their parents or legal guardians, in a dignified and compassionate manner. Child victims and child witnesses consider judges to be authority figures and expect judges to shield them from re-victimization and further hardship. If judges treat child victims and child witnesses—and their families—with dignity and compassion, they might be capable of fully recovering from their victimization and distress. Of course, respecting children’s right to dignity and compassion also implies that judges, like all other professionals involved in the justice process, should maintain a certain distance so that their relationship with the child does not lead them to commit a false judgement.

The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) provides that victims should be treated with compassion and respect for their dignity; and that they are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered. Article 39 of the Convention on the Rights of the Child, which deals with the rehabilitation of child victims, also obligates States parties to take all appropriate measures to promote the physical and psychological recovery and social reintegration of a child victim, which should take place in an environment which fosters the health, self-respect and dignity of the child.

The Principles from the Guidelines deal with “dignity” as a cross-cutting principle.

The right to be treated with dignity and compassion is one of the ten fundamental rights of child victims and witnesses of crime promoted by Guidelines 10-14 of the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.

Guidelines – Chapter V. The right to be treated with dignity and compassion

10. Child victims and witnesses should be treated in a caring and sensitive manner throughout the justice process, taking into account their personal situation and immediate needs, age, gender, disability and level of maturity and fully respecting their physical, mental and moral integrity.
11. Every child should be treated as an individual with his or her individual needs, wishes and feelings.
12. Interference in the child’s private life should be limited to the minimum needed at the same time as high standards of evidence collection are maintained in order to ensure fair and equitable outcomes of the justice process.

13. In order to avoid further hardship to the child, interviews, examinations and other forms of investigation should be conducted by trained professionals who proceed in a sensitive, respectful and thorough manner.

14. All interactions described in these Guidelines should be conducted in a child-sensitive manner in a suitable environment that accommodates the special needs of the child, according to his or her abilities, age, intellectual maturity and evolving capacity. They should also take place in a language that the child uses and understands.

Prosecutors and judges who treat child victims and witnesses with dignity and compassion make an enormous difference in children's lives and ensure that they feel unique, respected, supported, understood and meaningful while participating in the justice process.

2.1.1 The concepts of “dignity” and “compassion”

The two main components of the right to be treated with dignity and compassion—that is, dignity and compassion—are very closely related.

Dignity: The right to be treated with dignity implies that child victims and witnesses shall be approached as human beings who are entitled to full rights and not as passive recipients of adult care and protection. This does not mean that children should be treated like adults or like little adults. Professionals should deal with each child victim and each child witness in each phase of the justice process in accordance with her or his individual rights, special needs, wishes, feelings and evolving capacities, and with full respect for the child's privacy, personal situation, gender, disability and his or her physical, mental and moral integrity.



Dignity: Every child is a unique and valuable human being and as such, his or her individual dignity, special needs, interests and privacy should be respected and protected.

Compassion: Child victims and witnesses have the right to be treated with compassion. This implies that professionals are sensitive to and try to understand the child's feelings, needs, wishes, beliefs, communication style and individual experiences as a victim and/or witness. They try to empathize with the child. Every child experiences crime differently, reacts differently and needs professionals to understand her or his special needs. Prosecutors and judges should recognize that child victims and witnesses of crime may not be capable, at a certain time or in a particular developmental stage, to fully understand and recount events that have happened or to comprehend the full impact of the crime. If professionals approach children in such a manner, it means that they treat them compassionately. However, putting oneself in the child's shoes to understand her or him better does not mean “becoming the child's friend” or “sympathizing with the child”. Professionals also need some distance to be able to appropriately judge the situation.

For professionals working in the justice system it is relevant to remember at all times that each child victim and each child witness should be treated with dignity and compassion during the detection of the crime, making of the complaint, investigation, prosecution and trial and post-trial procedures.



Trainer's note

Ask the trainees to share their personal experiences on:

- How they treated a child victim/witness in a specific case with dignity and compassion.
- The child's responses to being treated with respect, dignity and compassion.
- The child's reactions in a specific case at not being treated with dignity and compassion either by them or another colleague.

2.1.2 The right to be treated with dignity and compassion in the national legal framework



Trainer's notes

Provide details of the national legal provisions (with names of laws, section or article numbers) on the:

- General rights of the child victim/witness to be treated with dignity and compassion.
- Specific rights of the child victim/witness to be treated with dignity and compassion in cases of sexual exploitation.
- Relevant procedures of national laws or special legislation regarding children and the criminal procedure code that relate to protection of rights of child victims and witnesses to be treated with dignity and compassion.
- National policies, procedures and guidelines issued by the relevant ministry or government department on the treatment of child victims and witnesses with dignity and compassion.
- Court judgements protecting the right of the child victim/witness to be treated with dignity and compassion (that form precedent in common law countries).

Bearing in mind the available time for the session, provide brief information on the compatibility of the national laws and legal procedures vis-à-vis the international framework on the subject of the right to be treated with dignity and compassion.

2.1.3 Victimization of children

Being a child victim/witness is always an extremely distressful experience, irrespective of the child's age, maturity and gender. It has many detrimental effects on the child's physical, psychological, emotional, social and moral development. It is desirable that professionals who work with child victims and witnesses of crime are aware of the various effects that experiencing and/or witnessing crime may have on children. Understanding the various responses of children to crime encourages professionals to treat the children with dignity and compassion.

2.1.3.1 Primary and secondary victimization of children

Distress that children may suffer as a direct result of a crime is called "primary victimization".

The United Nations *Handbook on Justice for Victims on the Use and Application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (1999)⁵ states that "secondary victimization"

⁵United Nations Office for Drug Control and Crime Prevention, Centre for International Crime Prevention (New York, 1999).

refers to the victimization that occurs, not as a direct result of the criminal act, but through the response of institutions and individuals to the victim. Institutionalized secondary victimization is most apparent within the criminal justice system. It may result from intrusive or inappropriate conduct by police or other criminal justice personnel. More subtly, the whole process of criminal investigation and trial may cause secondary victimization, from investigation, through decisions on whether or not to prosecute, the trial itself and the sentencing of the offender, to his or her eventual release. Secondary victimization through the criminal justice process may occur because of difficulties in balancing the rights of the victim against the rights of the accused or the offender. More normally, however, it occurs because those responsible for ordering criminal justice processes and procedures do so without taking into account the perspective of the victim.

Prosecutors and judges have the greatest responsibility for preventing secondary victimization of the child victim. Working with child victims and witnesses of crime, they need to be aware of the range of consequences that victimization can have on children and how victimization may endanger children's lives and development in the short and long term.



Trainer's notes

The possible consequences of primary and/or secondary victimization to children have already been discussed under Module 1, section 1.4.2.2, "Behaviour and emotional state of the child victim".

At this stage, it would be appropriate to briefly refresh the trainee's memory on the emotional state of the child victim/witness.

2.1.3.2 Child witnesses

The right to be treated with dignity and compassion applies to child victims as well as to child witnesses. However, it is often believed—also by professionals involved in the justice system—that children who have witnessed a crime without being the victim themselves do not suffer as much as children who are victims of crime. Without trying to compare the extent of suffering of different groups of children—that is, the grief of child victims versus child witnesses—it goes without saying that child witnesses also suffer a lot and can be very much distressed by the crime they have seen and/or heard. The crime may have a serious impact on their daily lives. Especially when children have witnessed a violent crime or a crime committed in their direct environment, such as domestic violence or sexual abuse committed against a sibling by a family member or a known person, the consequences can be very serious and long-lasting. Therefore, prosecutors and judges are encouraged to treat child witnesses with as much dignity and compassion as child victims and to tailor the protection and support to the child's special needs and specific situation.



Trainer's notes

Provide details of the national legal provisions (with names of laws, section or article numbers) on the:

- Protection of child victims and witnesses from secondary victimization.
- Extant national policies, procedures and guidelines on prevention and protection of child victims and witnesses from secondary victimization.

2.1.4 Strategies to ensure dignity and compassion

Crime takes an enormous physical, psychological, emotional and social toll on child victims and witnesses. The right to be treated with dignity and compassion lays the foundation for the sensitive treatment of all child victims and witnesses. Strategies (as adopted from the Guidelines) and a few time-tested techniques employed by professionals around the world are provided for information. The list below is only indicative and not exhaustive.



Remember: Ultimately, any reduction of stress experienced by a child victim/witness helps to make her or his evidence of the best quality possible.

Strategy 1 (Guideline 10)

- Treating children in a caring and sensitive manner
- Taking into account children's personal situation
- Taking into account children's immediate needs
- Taking into account children's age, gender, disability and level of maturity
- Fully respecting children's physical, mental and moral integrity

Strategy 2 (Guideline 11)

- Treating children as individuals
- Respecting children's individual needs, wishes and feelings

Strategy 3 (Guideline 12)

- Limiting interference in children's private life to the minimum needed (but maintaining high standards of evidence collection)

Strategy 4 (Guideline 13)

- Avoiding further hardship of children involved in the justice process
- Conducting interviews, examinations and other forms of investigation by trained professionals
- Proceeding in a sensitive, respectful and thorough manner

Strategy 5 (Guideline 14)

- Interacting in a child-sensitive manner
- Interacting in a suitable environment that accommodates children's special needs
- Interacting according to children's abilities, age, intellectual maturity and evolving capacity
- Using language that the children use and understand

2.1.4.1 Parents and child victims and child witnesses

Although the immediate victim or witness is the child and he or she has the right to priority of attention, prosecutors should not forget to assist and comfort parents and other caregivers as well. The parents of the child also need a dignified and compassionate attitude. It is also a good practice strategy to assist parents in coping with the difficult situation at hand, which will ultimately also benefit the child who has been victimized.

Possible ways in which prosecutors may assist caregivers of child victims and witnesses are:

- Informing them about available services and how to access them
- Referring them to counselling services where they can learn how to cope with the situation
- Informing them about what they may expect from the justice process
- Explaining how to talk and deal with their child
- Providing them with brochures and other documentation and aids (if available)

In actual practice, demonstrating dignity and compassion is a real challenge to most professionals who work with child victims and witnesses.



Trainer's notes

Invite the trainees to share their experiences on:

- The use of different strategies and approaches when dealing with child victims and witnesses towards protection of their right to dignity and compassion.
- The application of some specific strategy when dealing with child victims of sexual exploitation towards ensuring their right to dignity and compassion.
- The challenges in implementing the various strategies while dealing with child victims and witnesses.
- Whether or not they feel hampered due to lack of training, lack of time, lack of support structures or any other reasons.

Having discussed the challenges that prosecutors and judges encounter in using different strategies for a sensitive interaction with child victims and witnesses, the trainer should introduce the topic of concrete tips on how to ensure and demonstrate dignity and compassion.

2.1.5 Concrete tips on how to demonstrate dignity and compassion

Prosecutors can contribute to the right to be treated with dignity and compassion of child victims and witnesses of crime in various ways. Concrete suggestions in the discharge of their main responsibilities in this respect are:

1. Recognizing that children are particularly vulnerable and require effective protection appropriate to their age, level of maturity and individual needs.
2. Treating child victims and witnesses with respect and care and in a child-sensitive manner, by:
 - Being guided by the rights of child victims and witnesses and taking the child's best interests as a primary consideration.
 - Being aware of the effects of victimization and witnessing crime.
 - Ensuring the presence of the child's parent(s), if appropriate, during all contacts.
 - Being patient and friendly.
 - Allowing the child to use his or her own words to explain what has happened.
 - Respecting the child's wishes and consent.
 - Respecting the cultural and religious background as well as the gender of the child.
 - Assigning a single prosecutor—preferably of a gender of the child's choice—to follow the child throughout the proceedings.

- Being sensitive to the child's feelings of embarrassment and vulnerability.
 - Using child-sensitive language in all interactions.
 - Never forcing a child to report a crime and/or to give evidence and allowing her or him to withdraw her or his informed consent at any time.
3. Deciding whether or not to pursue the case and, if in the best interests of the child, pursuing without the participation of the child.
 4. Assessing and deciding the level of participation in the proceedings the child is able to withstand.
 5. Explaining that the child may be accompanied by her or his parents as well as a support person and may have assistance from an expert, and organizing necessary support.
 - In principle, the law enforcement professional with whom the child had the initial contact has already taken care of the presence of parents or other trustworthy adults. However, if the child appears in the prosecutor's office without her or his parents or legal guardian, it is the prosecutor's responsibility to explain to the child that the presence of the parents may be comfortable or another family member or another adult supports the child during the justice process. If the child gives consent, the presence of the person of the child's wish may be organized to accompany the child during the investigation stage and subsequent proceedings.
 - Irrespective of the presence of the parents, child victims and witnesses have the right to receive assistance from a support person commencing at the time of the initial report. Prosecutors have the responsibility to inform the child of this possibility (if the law enforcement professional has not yet done so) and what the role of a support person is. If the child consents to the designation of a support person, the prosecutor then contacts the competent authority and requests the appointment of a support person.
 6. Ensuring that all interactions with child victims and witnesses, including interviews, are carried out in a way that is respectful of the cultural and religious background as well as the gender of the child.
 - Prosecutors should always be aware of the various sensitive cultural and religious issues they may come across during all interactions with child victims and witnesses. For example, having eye contact, naming of intimate body parts, the use of anatomically correct dolls and acknowledgement of homosexuality may be culturally and/or religiously inappropriate in some countries. Another difference between children with different cultural and/or religious backgrounds may include the manner in which love, affection and other emotions are demonstrated and the degree to which extended family members are involved in the parenting of the child. In some cases, it might be necessary for prosecutors to seek cultural advice about particular customs and beliefs of children, especially when the child victim is a foreign national.
 - With respect to gender, prosecutors need to know if, when and how girls and boys have to be approached differently. It is recommended, especially when dealing with victims of sexual crimes, that child victims and witnesses are allowed to choose the gender of the prosecutor. Some children may have very strong views on the preferred gender of the interviewer and these should be accommodated wherever possible.
 - Therefore, specially trained prosecutors of both sexes should be made available (wherever possible) for the purpose of interviewing girl as well as boy victims and witnesses.
 7. Ensuring that all interactions with child victims and witnesses, including interviews, are carried out in a child-sensitive environment.
 - The location(s) where the interactions with child victims and witnesses take place—especially

the interview room—is an important consideration towards establishing the proper atmosphere for the interview(s), as well as for all other communications. Ideally, specialized prosecution offices are created for the purpose of dealing with child victims and witnesses of crime.

- Prosecutors are invited to create a location that is neutral, comforting and child-sensitive as well as quiet and free from distractions. At no time during any proceeding, including during interviews, may a child victim/witness be placed in the same room as the alleged perpetrator, as it may lead to intimidation of the child to not report to the law enforcement agency or not to testify and can result in secondary victimization of the victim/witness.
- If possible, the interview room should be equipped with non-intrusive video and audio equipment in order to accurately record any information the child may provide. If domestic legislation allows, anatomically correct dolls, male and female, and other communication aids should be available in the interview room as well.

Exercising caution when using toys as interview aids

Prosecutors should carefully weigh the pros and cons of the use of toys as a means to seek information from the child. On the one hand, there is the risk of distraction and on the other hand, the likelihood of improving the child's situation and response, especially in cases involving sexual exploitation. Do not use toys and other props to demonstrate what happened unless you have been trained in the method. Even where trained staff are used, this is a controversial technique. Let children have a toy if this comforts them, but do not try to interpret what they do with the toy. An alternative method could be to let the child make a drawing. If the child is too young, a "template" of a "human body" without any details could be utilized, based on which the child could then further develop that drawing.

Source: Module 9, "Interviewing Child Victims of Trafficking in Persons", Anti-Human Trafficking Manual for Criminal Justice Practitioners (UNODC, Vienna, 2009).

8. Explaining to the child what she or he may expect and what the justice process includes.
9. Promoting an interdisciplinary approach towards cases of child victims and witnesses through creating specialized prosecution offices and participating in interdisciplinary teams.

2.1.6 Responsibilities of judges: treating child victims and witnesses with dignity and compassion

Judges can contribute to the right to be treated with dignity and compassion of child victims and witnesses of crime in various ways. Their main responsibilities are similar to those of the prosecutors, as mentioned in section 2.1.5. The specifics with respect to the responsibilities of judges are as follows:

1. **Child-sensitive communication:** This is a precondition for the full and meaningful participation of children in the justice process. Inappropriate communication, on the other hand, can make the experience of testifying deeply upsetting and detrimental. Recalling painful events in an unfamiliar environment such as a court is already a stressful experience in itself and can make child victims and witnesses feel ashamed, guilty, distressed and vulnerable. The way judges communicate with children during court proceedings determines the quality of the outcome to a large extent. Judges are encouraged to acquire and practice child-sensitive communication skills, and be familiar with the legal provisions on which kinds of questions are allowed during hearings of children so that

effective interventions can be made, if necessary. It is also an important responsibility to ensure that court proceedings relevant to the testimony are conducted in language that is simple and comprehensible to a child and thus does not secondarily victimize him or her.

2. **Child-sensitive court environment:** This is an important consideration in establishing the proper atmosphere for the child's testimony. Judges may take some special measures in this regard, including:
 - Separate waiting rooms for children, away from the accused, the defence counsel(s) and adult witnesses.
 - Toys, cartoons, books and other things to occupy the child in waiting areas and during breaks.
 - Waiting rooms furnished with a toilet, drinks and food.
 - Waiting areas in a safe place within the court environment.
 - Seating arranged so that the child can sit close to her or his parents, support persons and/or lawyers.
 - Seating arrangements whereby the child sits at the same level as the professionals who interview him or her.
 - Microphones at the child's location to ensure that her or his testimony is audible at key locations in the courtroom.
3. **Protective measures during testimony:** This can include the use of shields or screens, testimony via videoconference, anonymous testimony, scheduling children's appearances in a way that is compatible with their own rhythm and daily programme, etc.
4. **Expeditious trials:** Judges are encouraged to give priority to hearings in which children are involved, guarantee expeditious trials and avoid any unnecessary delays so that child victims and witnesses do not have more contact with the justice system than is strictly necessary. Sufficient breaks should be given during court hearing(s). Judges are responsible for monitoring the appearance of the child to ensure that he or she is not unduly tired, distressed or otherwise suffering undue discomfort.



Trainer's notes

Invite the trainees to share their personal experiences on:

- Using any measures (sections 2.1.5 and 2.1.6) to demonstrate dignity and compassion to child victims and witnesses in a specific case handled by them.
- Any other innovative and creative approach used by them to demonstrate dignity and compassion to child victims and witnesses.
- The child's responses in a specific case where the child was treated with dignity and compassion.

2.2 The right to be protected from hardship during the justice process

The right to be protected from hardship during the justice process is one of the ten fundamental rights of child victims and witnesses of crime promoted in Guidelines 29-31. Prosecutors and judges who treat child victims and witnesses in a sensitive manner and guarantee that they are not additionally

victimized through their participation in the justice process make an enormous difference in children's lives and protect them from unnecessary further hardship and stress.

This approach is crucial, but it is a very difficult task to protect children from secondary victimization and to ensure that they feel free and willing to participate in the various stages of the justice process.

The Guidelines in chapter XI provide for the parameters of the rights of child victims and witnesses to be protected from hardship at all stages of the justice process. Provisions specifically applicable to prosecutors and judges (collated from articles 29 and 30 of the Guidelines) that will assist them in ensuring the protection of child victims and witnesses from hardship are presented in the box below.

Guidelines – Chapter XI. The right to be protected from hardship during the justice process

- Professionals should take measures to prevent hardship during the prosecution process in order to ensure that the best interests and dignity of child victims and witnesses are respected.
- Professionals should approach child victims and witnesses with sensitivity, so that they:
 - 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.
 - 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.
 - Ensure that trials take place as soon as practical, unless delays are in the child's best interest.
 - Use child-sensitive procedures, including interview rooms designed for children, and 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.
- Ensure that child victims and witnesses are protected, if compatible with the legal system and with due respect for the rights of the defence, from being cross-examined by the alleged perpetrator. As necessary, child victims and witnesses should be interviewed and examined in court, out of sight of the alleged perpetrator, and separate courthouse waiting rooms and private interview areas should be provided.
- Ensure that child victims and witnesses are questioned in a child-sensitive manner and allow for the exercise of supervision by judges, facilitate testimony and reduce potential intimidation, for example by using testimonial aids or appointing psychological experts.

2.2.1 The right to be protected from hardship in the national legal framework



Trainer's notes

Provide details of the national legal provisions (with names of laws, section or article numbers) on the:

- General rights of the child victim/witness to be protected from hardship during prosecution and trial procedures.
- Specific rights of the child victim/witness to be protected from hardship in cases of sexual exploitation.
- National policies, procedures and guidelines issued by the relevant ministry or government department on the treatment of the child victim/witness so as to protect her or him from hardship.
- Court judgements (that form precedent in common law countries) protecting the right of the child victim/witness from hardship during prosecution and trial procedures.
- Do the laws include provisions on:
 - Expeditious prosecution and trial procedures?
 - Child-sensitive procedures?
 - Avoiding cross-examination and/or direct contact with the alleged perpetrator?

2.2.2 Strategies to protect child victims and child witnesses from hardship

Hardship can occur in the course of the following three stages of the justice process: hardship during the reporting and recounting of the crime (pertains to law enforcement officials and the investigation process); hardship while awaiting trial; and hardship while testifying in court.

Hardship while awaiting trial: The waiting period before trial can be a very stressful experience for child victims and witnesses, especially for young children. It can cause additional stress for a child who is victim or witness of interfamilial crime, because she or he may continue to have direct or indirect contact with the alleged perpetrator(s) and may experience pressure to amend or not deliver his or her testimony.

Hardship while testifying in court: Child victims and witnesses, like adults who have to testify, can have various fears, uncertainties and frustrations regarding testifying in court. For example:

- Not understanding what it is all about
- Fear of facing the accused and/or the public
- Shame in describing intimate and/or shameful details, especially in a case of sexual abuse
- Uncertainty due to not being able to understand the questions put to them
- Feeling of injustice
- Feeling powerless and helpless
- Feeling that they are not being believed
- Feeling that they are not giving appropriate answers
- Feeling blamed for what happened

- Feeling that they are themselves being accused
- Feeling that they are not in the right place
- Feeling that they are alone

Both Guidelines 30 and 31 deal with strategies and measures to protect child victims and witnesses from additional hardship during their participation in the justice process. Some strategies and concrete tips that are relevant to prosecutors and judges to prevent hardship are suggested.

Strategy 1. Certainty about the judicial process

Predictability and continuity during the justice process are the two main methods to provide child victims and witnesses with as much certainty as possible. Professionals may increase the predictability of the justice process for child victims and witnesses by providing the child with clear expectations and planning the child's participation in hearings and trials ahead of time. It is essential that child victims and witnesses, their parents and support persons know in advance what is going to happen so that they have enough time to prepare themselves. Concretely, this means that they need to know if and when the child has to testify; whether or not arrangements can be made to facilitate his or her testimony; who will attend the hearing; which questions may be asked; and what the sequence of events is.

“Continuity during the justice process” means that law enforcement officials, prosecutors, judges, lawyers, health staff, social workers and informal justice providers who deal with a particular child victim/witness continue working until the conclusion of the case. The more the child feels familiar with a professional, the more he or she will feel at ease and the more he or she will assist the professional in the justice process.

Strategy 2. Child-sensitive procedures during prosecution and trial

There are many practical ways in which the prosecution and trial procedures could be made easier for child victims and witnesses. Six specific procedures as per the Guidelines that can facilitate the child's participation without hardship are described below.

Interview rooms designed for children: Child victims and witnesses should be interviewed in specifically designed interview rooms where the child feels (more) comfortable and the alleged or accused offender has no or minimum control. Such interview rooms may be furnished with toys and adjusted chairs and decorated in child-sensitive colours. Interview rooms in courts are spaces that guarantee that the child can give evidence without facing the accused and avoids the intimidating attendance of the public (closed-circuit television).

Interdisciplinary services for child victims integrated in the same location: This ensures that interviews with child victims and witnesses are conducted in a thorough and accurate way. Professionals working in interdisciplinary services act as a team, combine their knowledge and efforts, share information and gear their activities to one another. They understand the possibilities as well as the limitations of both their own expertise and the expertise of other professionals with whom they collaborate. Such an approach significantly reduces the risk of secondary victimization and improves the quality of the case. In actual practice this is realized in two ways: child protection units at the police level and child victim support services at the community level.

Modified court environments that take child witnesses into consideration: Court environments have to be adapted to the special needs of children who have to testify in court and should be child-sensitive. Some examples of child-sensitive courtroom modifications are:

- Separate waiting rooms for children away from the accused, the defence counsel(s) and adult witnesses.

- Toys, cartoons and books to occupy the child in waiting areas and during breaks.
- Waiting rooms furnished with a toilet, bed, drinks and food so the child feels at ease.
- Waiting areas in the garden or another safe place within the court environment.
- Seating arrangements that allow the child to sit close to her or his parents, support persons and/or lawyers.
- Microphones at the child's location in the courtroom to ensure that her or his testimony is audible at key locations in the courtroom.
- Assistance for child victims and witnesses with disabilities.
- Allowing the child to give evidence through closed-circuit television within the courthouse or from an interdisciplinary centre; or from a special interview room within the court's premises (CCTV); or from behind a removable screen or curtain to break the line of sight between the child and the accused.
- Seating the accused in a position where she or he cannot be seen by the child, for example, behind the child.
- No excessive solemnity of court dress in order not to unnecessarily intimidate children, including removal of wigs, robes, etc.

Recesses during a child's testimony: Lengthy questioning sessions of child victims and witnesses should be avoided and allowances should be made for recesses during their testimony. Judges presiding over courts can issue various directions concerning the child's appearance in court, such as:

- Limiting the time of the hearing and the number of questions addressed to the child.
- Allowing for breaks at the request of the child, the support person and/or at his or her own discretion.
- Giving priority to hearing the testimony of a child victim/witness in order to minimize his or her waiting time during the court appearance.

Recesses during the child's testimony should be balanced with guaranteeing expeditious proceedings. Both measures can be in the best interests of children, because both reduce further hardship during the justice process.

Hearings scheduled at times of day appropriate to the child's age and maturity: Professionals should minimize the disturbance of the private lives of children who are involved in the justice process as much as possible. They should schedule hearings at times appropriate to the child's age and maturity. An efficient way to do so is by scheduling their appearance in court on days when they are not expected to go to school, i.e. holidays and in-service days. Moreover, hearings of child victims and child witnesses should, as far as possible, also fit their rhythm.

Appropriate notification system to ensure the child goes to court only when necessary: This is important in order to avoid unnecessary waiting hours in the court environment and last-minute postponements due to overloaded schedules, causing unnecessary travel to the court. The child's support person may play an important role in this respect. She or he is well-placed to inform the child and her or his parents or guardian and to take the views and possible concerns of the child about the scheduling of the hearings into account.



Trainer's notes

Other appropriate measures to facilitate children's testimony

The diversity of domestic legal systems, cultural backgrounds and available means give full opportunity to devise, develop and implement original measures that may fit and be useful in specific country contexts. Invite the trainees to share their thoughts and experiences on other solutions that could be implemented to treat children in a child-sensitive manner and to reduce hardship during the justice process.

Strategy 3. No cross-examination by and confrontation with the alleged perpetrator

Professionals should implement measures to ensure that child victims and witnesses are protected from being cross-examined by and having direct eye contact with the alleged perpetrator. Direct confrontation with the accused can be extremely distressing for children, especially for child victims of abuse and violent crimes, and in cases of potential future threats. The feeling of intimidation that children may have while appearing before the court, and in particular when confronted with or cross-examined by the alleged offender, should be reduced as much as possible. Removal of the accused from the courtroom and pre-recorded evidence of the child could be some of the measures in this direction.

Direct cross-examination is probably the most distressing form of confrontation with the alleged perpetrator. However, protection from being cross-examined is only possible if it is compatible with the domestic legal system and with due respect for the rights of the defence. In common law countries, the right to cross-examine prosecution witnesses constitutes an essential element of the right of the accused to challenge the testimony of her or his accuser. Cross-examination is usually carried out by the legal representative of the accused. However, when the accused refuses to engage a legal representative and wishes to defend herself or himself, direct cross-examination of vulnerable witnesses such as children becomes an issue. In some countries, legislation prohibits unrepresented accused persons from cross-examining child witnesses—especially in the case of sexual offences—and judges must deny such requests. In other countries, it is provided, alternatively, that the judge may appoint a representative for the accused for the specific purpose of such cross-examination and the representative relays the questions of the accused to the child, thereby avoiding direct contact and potential intimidation.

Strategy 4. Child-sensitive questioning and preventing intimidation

The questioning of child victims and witnesses in court, especially cross-examination and direct questioning by parties, can be very intimidating and frightening for children. Presiding judges should exercise close scrutiny and strict supervision of the questioning of child victims and witnesses. Where necessary, it is the responsibility of the judge to remind the parties that intimidating, harassing and disrespectful questions are prohibited. Intimidating tactics are sometimes used by defence lawyers, especially in cases of sexual violence where the child is the only witness. Judges should reflect on whether it is in the best interests of the child to take part in direct questioning by parties, and prevent, inter alia, questioning characterized by:

- Asking irrelevant questions specifically intended to upset the child.
- Asking questions beyond the child's developmental level.
- Demanding unrealistically specific times and details.
- Subjecting the child to questions regarding his or her sexual history.

Questioning of child victims and witnesses can be facilitated, inter alia, through the use of testimonial aids and/or the appointment of psychological experts. In some cases, such as those involving sexual crimes, children have to explain events they do not have words for. Testimonial aids such as maps, plans, photographs, communication boards, anatomically correct dolls, etc. can be used to facilitate children's testimony. Some children may need the assistance of a psychologist, psychiatrist or specialized social worker, especially in cases of violent or long-lasting crime such as rape, incest or trafficking, or when children have witnessed a violent crime such as homicide or domestic violence.

2.3 Child-sensitive communication



Trainer's notes

In many countries, training programmes for prosecutors and judges on child-sensitive communication are very comprehensive, often to create a pool of specialists. Within this training programme, there may not be sufficient time available to discuss the topic in too much detail. Utilize the detailed information provided in this section as guidelines and try and cover all the important subtopics in brief so as to provide an overview of this very significant subject matter.

Children are not small adults. They think, speak, experience and behave in their own manner and in a way that reflects their age, maturity, gender, disabilities and other characteristics. Adults, and thus also professionals, need to adapt their language, behaviour and attitude when communicating with children in general and with child victims and witnesses in particular in order to enable them to participate in the justice processes in a meaningful manner and to protect them from further hardship.

2.3.1 The crucial importance of child-sensitive communication

Prosecutors, judges and all other professionals who come into contact with child victims and witnesses should be able to communicate in a child-sensitive manner. Children can only fully participate in the various stages of the justice process if they understand what is being communicated.



Sensitive and appropriate communication by professionals contributes to the understanding and meaningful participation of child victims and witnesses in the justice process and reduces stress and further hardship.

Information should be given and interviews should be conducted very carefully to allow children to express their opinions and concerns freely and to obtain information in the best way possible. Recalling painful events in an unfamiliar environment is already a stressful experience in itself and can make children feel ashamed and guilty. If guided in an insensitive manner, the justice process can be increasingly stressful and can have long-term harmful consequences on all aspects of the child's life. It goes without saying that insensitive and inappropriate communication with child victims and witnesses of crime is not in their best interests and is a violation of their rights, and it compromises and contaminates their understanding and meaningful participation in the justice process.

2.3.2 Characteristics of child-sensitive communication by professionals

What child-sensitive communication implies in a particular case and at a particular moment or stage in the justice process also depends on the purpose of the communication. In general, the following two purposes of communication during children's involvement in the justice process are recognized:

- Giving information about the justice system, justice process, the particulars of the case and the rights of child victims and witnesses of crime.
- Interviewing or questioning child victims and witnesses of crime during the various stages of the justice process.



Child-sensitive communication implies that professionals adapt their language and attitude to the special needs, views and concerns of an individual child victim/witness.

The characteristics of child-sensitive communication are discussed in the following sections:

- A. Posing questions to child victims and child witnesses
- B. Non-verbal communication by professionals
- C. Special needs and specific characteristics of the child
- D. Development sensitivity of professionals
- E. Choosing the most appropriate professional

A. Posing questions to child victims and child witnesses

Child victims and witnesses involved in the justice process are invited to answer questions and to provide accurate information. When questioning is done in an appropriate manner, it helps child victims and witnesses to feel (more) comfortable, to understand the questions and to be able to answer them accurately. All this increases the quality of the child's participation as well as the quality of his or her evidence. Although questions need to be tailored to the individual capacity of each child, there are some general rules about the kinds of questions that are best to use or to avoid when communicating with child victims and witnesses. In general, three categories of questions within the framework of the justice process are recognized:

1. Appropriate questions
2. Avoidable questions
3. Inappropriate questions

1. Appropriate questions

The following three kinds of questions can be considered appropriate and thus child-sensitive when communicating with child victims and witnesses:

Open-ended questions are neutral questions that do not indicate any form of answer or response that is expected from the child. They encourage the child to recall information from memory. For example, "Please tell me exactly what happened when your mother arrived." or "Please tell me what you did after the man left the house."

Open-ended questions invite children to give longer, more detailed and more accurate responses than other kinds of questions, especially when questioning school-age children and adolescents.



Open-ended questions are unarguably recommended when professionals interview a child victim/witness.

Appropriate questions are also of the following two types: cue questions and “Wh-” questions. Cue questions are questions in which the professional refers to something that the child has already mentioned and invites him or her to elaborate further. Examples are “Can you tell me more about the house where it happened?” or “You mentioned/told me that he touched you. Can you tell me more about that?” In principle, cue questions are also open-ended questions and are very useful when questioning child victims and witnesses.

The “Wh-” questions are questions that start with “who”, “what”, “where”, “when”, “why” or “how”. They are often open-ended cue questions. For example, “When did it happen?”, “Where were you?”, “How did you feel after it happened?”, “Who was in the house?” or “Who could you see in the shop?” Professionals should be careful with “Why” questions when questioning child victims and witnesses because they may sometimes sound accusatory or blaming to the child. For example, “Why did you go home alone?” or “Why did you call your neighbour?”

“Wh-” questions can be an effective way of triggering the recall of information and are also a more appropriate alternative than forced-choice or closed “yes or no” questions, because the risk that the child’s answer is manipulated is considerably lower.

2. Avoidable questions

The following two kinds of questions can still be considered child-sensitive, but should be avoided as much as possible. They should be used only if essential information is still missing after open-ended questions, cue questions and “Wh-” questions have been exhausted.

Close-ended questions are questions that require a simple answer from the child, i.e. either “yes” or “no” or a simple fact such as one’s age, one’s place of residence, etc. For example, “Did you continue going to school after the incident?”, “Did you run away when the man came into the room?”, “How old were you when this happened?” or “Who else was in the room?”

Some research suggests that especially young children have a tendency to respond affirmatively to a “yes or no” question. Therefore, close-ended questions may lead to untrue statements. Professionals should avoid close-ended questions as much as possible, except if neutral facts are required, like name, age, place of residence, etc.

Forced-choice questions are questions in which the professional presents the child with a limited number of response options. For example, “Did the man wear brown or black shoes?” or “Did you go home before or after it started raining?”

Forced-choice questions in which the professional, by definition, introduces information, should be avoided as much as possible and may only be used if essential information is still missing after open-ended questions, cue questions and “Wh-” questions have been exhausted.

3. Inappropriate questions

One kind of question, i.e. a leading question, should always be considered inappropriate and thus insensitive when communicating with child victims and witnesses. Leading questions—also called “suggestive questions”—are those in which the professional already offers an indication of a possible answer;

they should be avoided whenever communicating with child victims and witnesses. For example, “Did the man have a gun in his hand?” (introduces the idea of a gun to the child) or “Did you like what he did to you?” (suggests that the child liked the events) or “So you were scared, no?” (gives the impression that the interviewer already knows the answer, namely that the child was scared).

Children do not feel free to answer leading questions and most of the time these questions lead to untrue statements. All children, but especially younger ones, are very susceptible to suggestion and manipulation by adults and perhaps even more so by professional adults who are supposed to assist and protect them throughout the justice process. Therefore, professionals should avoid asking such inappropriate questions to child victims and witnesses, whatever the circumstances.

Continuum of questions

The six kinds of questions discussed in the previous three subsections can be considered a continuum. Open-ended questions are unarguably recommended. If the child victim/witness does not understand the open-ended question or does not respond freely or accurately, professionals may ask cue questions and/or “Wh-” questions. If essential information is still missing, the professional may decide as a last resort to ask close-ended questions and forced-choice questions. Leading questions should be avoided by professionals in all circumstances.

B. Non-verbal communication by professionals

When giving information to child victims and witnesses or when interviewing them, professionals are encouraged to take into account the following three non-verbal components of their communication:

Appearance: Be aware of how the child may perceive the interviewer and reduce as much as possible the factors that might block contact with the child through clothes, jewellery, hairstyle and make-up. For example:

- Do not wear a uniform or a judge’s robe.
- Do not wear a gun or handcuffs (applicable to law enforcement officials).
- Do not wear a dress with a low neckline (for female professionals).
- Do not wear eye-catching and/or very expensive jewellery.

Body language and tone of voice: Always make sure the child feels comfortable while being interviewed. For example, in some situations it may help to make the child feel less intimidated through:

- Making eye contact; but do not stare.
- Using a soft, friendly voice.
- Sitting at the same level as the child.

Active listening and listening posture: Adopt a culturally appropriate listening posture and use reassuring body language. For example:

- Do not place a table in between the interviewer and the child.
- Do not sit behind a desk.
- Nodding, leaning forward to the child, saying “I understand.”
- Allow silence in the conversation.
- Include a break regularly.
- Switch off mobile phones (or use silent mode).

C. Special needs and specific characteristics of the child

Cultural sensitivity: Professionals should use culturally appropriate language. They have to be aware whether, for example, being on first-name terms and using straight terms for sexually-related body parts is culturally acceptable for the child and his or her caregivers when giving information or interviewing him or her. Therefore, it may be advisable to choose a professional from the same cultural background or someone who knows the cultural background of the child well to communicate with and assist the child and his or her caregivers while they are involved in the justice process. This is especially applicable in cases of child trafficking, where the child may be a foreign national.

Gender sensitivity: A gender-sensitive approach recognizes that girls and boys—like women and men—differ in terms of both sex and gender. As power is distributed unequally in most societies, girls and women typically have less access to and control over information, care services and resources to protect and assist them. For example, girls and women are more vulnerable to sexual crimes. Boys are more vulnerable to getting involved in physically violent crimes and armed conflict. They are also often expected not to show the emotional and psychological consequences as much as girls and women. Especially if a child is a victim of a sexual offence, it may be advisable to choose a professional of the same sex to communicate with and assist the child during the justice process.

Development sensitivity and maturity sensitivity: Being sensitive to the child's developmental stage or the child's maturity implies many different professional skills and a lot of knowledge about children's development.

D. Development sensitivity of professionals

Professionals need to adapt their verbal and non-verbal communication to the developmental stage and maturity of the child victim/witness. Giving child-sensitive information and asking child-sensitive questions requires a basic understanding of the evolving capacities of each child victim/witness concerned in these domains:

Linguistic development refers to children's achievement of language skills. If children do not understand or they misunderstand the information or questions of professionals, he or she will not be able to understand the justice process and/or give accurate answers. This limits the child's capacity to participate in a justice process and to give a statement.

Cognitive development refers to the achievement of the ability to perceive and store information, to form abstract concepts and to reason about various ideas. This development determines how well children understand information about the justice process and their possible role in it. Specific aspects professionals may keep in mind are: if the child can understand and use numbers, accurately estimate distances or sizes, compare periods of time and use abstract concepts, or does he or she understand things in a concrete, literal sense and think about hypothetical situations, about his or her own thinking processes and about the motives of other people.

E. Choosing the most appropriate professional

Choosing the right professional is very important for the well-being of the child in general as well as for the quality of the child's participation in the justice process and the quality of his or her testimony. The following aspects should be taken into consideration when selecting the professional:

Training and experience: The professional should have experience working with child victims and witnesses; should have had extensive previous training on child-sensitive communication or counselling and should be able to establish rapport with a child.

Gender: The gender of the professional is an important aspect to take into consideration. This does not mean that a child victim/witness should automatically be informed and interviewed by a person of the same sex. It is important to give the child the choice whether he or she wants to be interviewed by a woman or a man.

Age and cultural and ethnic background: These characteristics of the professional may influence the participation of the child and communication with the child. It may benefit the child's participation if he or she is able to identify with the professional through a common factor such as cultural or ethnic background. However, this may differ significantly depending on the characteristics of the child as well as the context or the circumstances of the incidents.

2.3.3 Questioning child victims and witnesses of crime in a child-sensitive manner

Some issues that are of particular importance when interviewing child victims and witnesses are understanding the different stages of development, the structure of the interview and key considerations during the interview.

2.3.3.1 Understanding the different stages of development

Each child is unique and factors such as social environment, education, culture, etc. influence his or her capacities and development. The stages of child development give an indication of which capacities a child normally achieves at a certain age. However, professionals should be aware that a child who is in a new environment and/or who is upset, for example, due to having experienced crime, may regress to an earlier developmental stage. This means that the child may not be able to understand information or a question nor to accurately answer questions which he or she might have been able to understand and answer under less threatening circumstances.



Child-sensitive professionals tailor information and questions to the capacities of the individual child victim/witness in order to assure understanding, full participation and reliable statements.

Pre-school children (from about 4 to 6 years old)

- Children, especially pre-school children, may have difficulties with the use of numbers and time. They can often recite numbers before they know how to count, and can count objects before they can count events in memory. Therefore, when asked how often something happened, a child may pick a number arbitrarily and change it from interview to interview. This can lead to inconsistent statements, not because the child is lying, but because he or she does not fully understand the concepts of numbers.
- Similarly, children learn the names of the hours, days and months before they are able to use them accurately. Therefore, the answer to a time question may sound quite accurate to the interviewer, when in fact the young child has answered at random.
- Young children also reason differently than adults and this can lead to answers that seem strange or inaccurate.
- Young children can only focus on one idea at the time. Questions should therefore be kept very simple and each question should only contain one idea.

School-aged children (from about 6 to 13 years old)

- School-aged children have a more sophisticated use of language and better reasoning skills than pre-school children. However, they may still have difficulties with more complex sentences. Also, the use of technical terms should be avoided. It is best to use the words that the child is using himself or herself and to adapt questions if the child does not understand the question.
- Children make substantial gains in cognitive and moral development during the school-age phase. They become aware of differing perspectives, which allow them to consider more ideas. They develop logical thinking, which helps them to reason and solve problems as well as to predict events and foresee consequences of events.

Adolescents (from about 13 to 18 years old)

- Younger adolescents in general are very close to achieving the language level of adults. However, legal jargon may still be misunderstood.
- Adolescents develop a strong sense of justice. They can think about ethics and answer questions about whether actions were right or wrong.
- In later adolescence, children can accurately estimate times, distances and physical dimensions. They also have a better sense of time than younger children.
- It is very important to take into consideration adolescents' emotional and social development as well as their vulnerability. Adolescents are very focused on the development of their own identities and are therefore often very self-aware and sensitive to the opinions of others.

2.3.3.2 Structure of the interview

In order to ensure that child victims and witnesses feel comfortable participating in the justice process it is advisable to use a phased approach during any interview. Following the different phases of an interview also helps professionals to stay focused on the fundamental rights of the child victim/witness. Information in this section would be more relevant to prosecutors while interviewing child victims and witnesses.

Most structured interview protocols consist of clearly identifiable stages. The three key stages are:

- Phase 1. Introduction and rapport-building
- Phase 2. Asking questions
- Phase 3. Closing the interview

Phase 1. Introduction and rapport-building

The main goals of this phase are: introducing the interviewer; clarifying the child's task; explaining the ground rules of the interview; building a rapport with the child; and addressing safety and other issues that may inhibit the child.

The steps of the first phase are:

1. Introducing yourself and other people present. If relevant, explaining your work and your role in the interview.
2. Introducing the purpose of the interview. Check with the child to see if he or she knows why he or she has come to see you, explain the child's task.
3. Addressing issues related to safety and explaining the concrete steps that will be taken to avoid further harm.

4. Explaining the set-up of the room and, if relevant, the equipment present.
5. Clarifying confidentiality and explaining how information will be used and who will have access to it. Repeating the importance of safety and confidentiality throughout the interview.
6. If relevant, asking if the child wants a support person to be present during the interview, always keeping in mind that the person accompanying the child may be complicit in abuse!
7. Asking for informed consent of the guardian and of the child.
8. Before the start of the interview the child needs to be informed about the process and the potential scenarios after the interview. Based on this information the child should be asked for his or her informed consent.
9. Explaining the ground rules of the interview.
10. Conducting a short pre-interview to assess the child's developmental level and to establish rapport.

Phase 2. Asking questions



Trainer's note

This phase is covered in section 2.3.2 of this module. Briefly refresh the points without going into details.

Phase 3. Closing the interview

The main goals of this phase are summarizing the statement; allowing the child to add anything to the statement; and organizing follow-up.

The steps of the third phase are:

1. Summarize the statement in the child's own words.
2. Ask if the child and/or guardian have further questions or want to add anything to the statement.
3. If relevant, discuss with the child and his or her guardian the follow-up, including possibilities for referral.
4. Repeat the measures that will be taken to ensure the child's safety.
5. Thank the child for his or her collaboration.

2.3.3.3 Key considerations during the interview

A number of key considerations need to be kept in mind throughout the interview, as they may influence the well-being and safety of the child victim/witness and the quality of the interview and evidence. These are:

Safety concerns and fear of retaliation: The safety of the child victim/witness should be the most important concern of professionals at all times and should be thoroughly assessed and addressed. In particular in cases of sexual abuse, trafficking, domestic violence, institutional abuse and involvement in armed conflicts, the safety of the child after the interview should be considered. The fear of retaliation makes a child often hesitant to talk. Very often the children are forced to keep the secret.

Prosecutors should work closely with the investigating officers by being aware of the safety concerns in ensuring the protection of the child victim/witness. Presiding officers of courts should also make

themselves aware of any safety concerns while ordering bail for the suspect or custody of the child to a safe place or such other related matters.

Feelings of shame, self-blame and guilt: Child victims and witnesses may feel very ashamed about the crime that happened to them or that they have witnessed. Because of their perception and age, children may easily have the feeling that they are guilty or responsible for the crime. These feelings can be harmful for the future development of the child and may also form a serious blockage during the interview, which may inhibit disclosure or may influence the way the child answers questions.

Prosecutors should work closely with the support person or any other assigned professional to understand the psychological profile of the child victim/witness.

Ambiguous relationship with the perpetrator: In many cases, the perpetrator of a crime is a trusted caregiver of the child, especially in crimes such as child abuse, which often occur over a long period of time. As a result, there might be an ambiguous relationship between the perpetrator and the child. It may also cause conflicts of loyalty with the perpetrator and/or other members of the family or environment. This may be the case, for example, in incestuous situations. Or children do not want their caregiver to be punished, to be taken away or locked up. This dynamic can make it difficult for the child victim/witness to give evidence against the perpetrator and, if not addressed, may cause further emotional and social harm to the child.

Communication blockages: It is very important that professionals address all communication blockages that might bother the child victim/witness, preferably at the beginning of the interview. For example:

- Giving the child the chance to freely express fears and worries about the consequences of the interview, so the interviewer can identify the issues and address them.
- Ensuring the child victim that the crime is not his or her fault and/or that abuse or neglect is not normal.
- Explain to the child what confidentiality of the interview entails, who will be informed about the content of the statement and what the consequences of the statement will be.

2.3.4 DOs and DON'Ts of interviewing and communicating with children



DOs

- The interview should be carried out by specially trained professionals.
- If video recording has been done by the law enforcement professional, prosecutors should check this fact before they commence interviewing the child victim/witness.
- Inform the child about the interview process.
- Always use a three-phased structure for the interview.
- Seek the consent of the child and the child's parent or guardian to conduct the interview.
- Explain that the interview is NOT an interrogation.
- Create a safe and non-threatening environment.
- The interview room should be made as child-sensitive as possible.
- The content of the interview should be strictly confidential.

- The purpose of interview is to gather facts and prove the case on the basis of the evidence collected by the investigating officer; it is not to counsel the child, but the atmosphere of the interview must be child-friendly and comforting.
- Bear in mind all important considerations when asking questions.
- Be patient and allow the child to take all the time he or she needs to tell you what you want to know.
- Give the child the opportunity to express himself or herself in a way he or she feels comfortable with.



DON'Ts

- Do not frequently interrupt the child.
- Don't show any signs of frustration.
- Do not repeat the same question. Reformulate the question for further clarification.
- Do not force the child to speak.
- Do not threaten that something bad will happen if the child refuses to speak.
- Don't promise any incentive during the interview.
- Do not make any promises that cannot be kept. Be honest with the child.

EXERCISE 2. ROLE PLAY ON CONDUCTING TESTIMONY OF A CHILD VICTIM

Estimated time: 40 minutes

Materials needed: Handout of the case study, flip charts and markers

Note to the trainer: Names of persons (victims and offenders) as well as the place of incident in the role play are fictitious; they are mentioned only for ease of reference during performance by the actors. All fictitious names can be changed and contextualized according to the country where the training is being imparted in order to have a better impact on the trainees.

Objective: To conduct brief testimony of child victims of sexual abuse and exploitation. The objective of the role-play exercise is to demonstrate good practices in the use of child-sensitive communication.

Facts of the case

Delonix, a 54-year-old man from the country of Agartha, set up an unregistered foundation run from a rented house in the poor province of Lemuria in the country of Loki. Delonix has been living in Lemuria for the past seven months. He used to offer scholarships, school supplies and uniforms to children, especially girls from the neighbouring school with the active cooperation of the principal of the school, some elders in the community, including the parents of the children. He often stated to the community members and parents that he was committed to girl child education and empowerment. He also used his website to solicit funds from his native country for the benefit of the children of the province of Lemuria. Inclusive of such support was his offer to send girls to the big cities of Loki for sponsored educational tours. During these trips Delonix would accompany the girls. The girls were

between the ages of seven and thirteen. Every night he would take one young girl to his bedroom in the rented house where he and the children would stay during their “educational trips”. Sometimes at his home in Lemuria, he would call over two to three children to provide them extra tuition classes at his residence, and the girls would be asked to sleep over at his house. At such times he would also take one of the girls to his bedroom.

The sexual abuse was discovered when the school principal gathered reports that some of the girls were having urinary tract infections. Subsequent medical examinations found evidence of vaginal laceration and infection in some of the girls. Parents of at least three girls, Rose (age 8), Jasmine (age 9) and Marigold (age 12) lodged formal police complaints. From initial statements it seemed that two Lemurian nationals were also involved in the case.

Upon completion of the investigation, the perpetrators were charge-sheeted. The matter is currently at the stage of recording of testimony of the child victim.

Role players

Apply discretion and take into account all training and administrative issues while selecting the following for the role-play exercise:

- Members of the training faculty from the training institution
- Student actors from the drama faculty of the local university
- The trainees themselves

The role players that will be required to conduct the exercise based on the above facts of the case are:

1. Child victims and witnesses

One role player is required to play the role of the child victim (Rose, Jasmine or Marigold). A young-looking female staff member of the training institution, a female student actor from the drama faculty of the local university or any one of the female trainees may play this role. Provide a detailed briefing regarding the facts of the case and the expected performance as a child victim/witness during the role play.

2. Prosecutor

The role of the prosecutor should preferably be played by the chief trainer of Module 2. Alternatively, consider preparing one of the trainees (male or female) to perform this role.

3. Support person

The role of the support person could be played by a member of the training institution or one of the trainees.

4. Presiding officer of the court

The role of the judge may be played either by a staff member of the training institution or by one of the trainees.

Note to the trainer: The number of role players at points 1-4 are suggestive only. Use discretion to involve only the “victim” and the “prosecutor” in the role play if paucity of time is a constraint.

Preparatory steps for the role-play exercise

1. Be fully aware of the purpose and objective of conducting this role-play exercise.
2. Identify the required number of role players and meet all of them at least one day in advance of the actual performance for purposes of briefing and discussions.

3. Where trainees are to be a part of the role-play exercise, request volunteer actors from among the trainees a day in advance of the demonstration. At this stage, do not provide the entire facts of the case to the trainees.
4. All the role players should be provided the facts of the case in a handout and informed of their expected roles.
5. Nominate one person from the staff of the training institution to observe the entire role-play demonstration for purposes of taking notes on the “good practice” points that emerge during the exercise. These points may be noted on a flip chart for use at the end of the role-play exercise. At each stage of the discussions and question and answer sessions, the “good practice” and “not so good practice” points should be noted in brief and collated for use during the concluding phase of the exercise.

Conducting the role-play exercise

Activity 1. Introductions

- Explain to the trainees the objective of the demonstration of the role-play exercise.
- Read the facts of the case from the handout, which is also provided to the trainees.
- Introduce persons who will participate in the role play and the various roles that each one of them will play.
- Inform the trainees that the entire role-play exercise is interactive with brief discussion and question and answer sessions. However, prompt trainees to ask questions when directed to ensure smooth flow and minimal disruptions to the role play.
- After the role play, trainees can ask questions and share their concerns.

Activity 2. Preparing the interview room and equipment

- Explain the layout of the courtroom. Designate an area for this role play.
- Explain the seating arrangement and the layout of the furniture for the role play. Ask trainees where and how they think the child victim and all the other actors should be seated. The purpose is to emphasize the point that the child victim should be made to feel comfortable, safe and protected.
- The child victim could be seated at a distance (symbolically to show that the child victim is in a separate room) to provide testimony through closed-circuit television.
- Place stationery on the table prior to the actual role play.
- After the role play, trainees can ask questions and share their concerns.

Activity 3. Demonstrating testimony of a child victim in a child-sensitive manner

- The prosecutor, along with the other actors, should now demonstrate the actual interview process of the child victim during recording of testimony on the basis of information in section 2.3 of Module 2.
- Introduce some elements of the “not so good” practice methods and contrast them with the good practice methods so that the trainees get a fair idea of the correct vis-à-vis the incorrect way of recording testimony of the child. For instance, the trainer may use technical legal jargon in one question and simple language in another question. This would create a contradistinction between the appropriate vis-à-vis the inappropriate use of language by the prosecutor while interviewing a victim.
- The “presiding officer” may also intervene in favour of the child victim at appropriate places in the role play when “not so good” practices are being demonstrated.

Activity 4. Final group discussion

- The “good” and “not so good” practice points that have been collated may be read out by the person writing them down on the flip chart during the entire demonstration. This would be helpful in summarizing the good practice methods to be followed during interviewing child victims of sexual exploitation.
- Discuss the entire process of interviewing. The actors as well as the trainees may be encouraged to narrate their experiences on performing and observing the various characters in the role play. Encourage the role players to speak about their impressions of their roles with the aid of questions, such as, “How did they feel when they played their roles?”, “Why did we do this exercise by using the role-play technique?” and “What did the actor playing the girl victim feel during the role play?”

SUMMARY OF KEY CONCEPTS FOR MODULE 2

2.1 The right to be treated with dignity and compassion

- The right to be treated with dignity and compassion is one of the ten fundamental rights of child victims and witnesses of crime promoted by the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (section 2.1, paragraph 5).
- The concept of dignity means that every child is a unique and valuable human being and as such, his or her individual dignity, special needs, interests and privacy should be respected and protected (section 2.1.1, paragraph 2).
- Treating a child victim/witness with compassion implies that professionals are sensitive to and try to understand the child’s feelings, needs, wishes, beliefs, communication style and individual experiences (section 2.1.1, paragraph 3).
- When working with child victims and witnesses of crime, prosecutors and judges need to be aware of the range of consequences that secondary victimization can have on children and how it may endanger children’s lives and development in the short term and in the long term (section 2.1.3.1, paragraph 3).
- Prosecutors can contribute to the right to be treated with dignity and compassion of child victims and witnesses of crime in various ways (section 2.1.5, paragraphs 1-9).
- Although their main responsibilities are similar to those of the prosecutors, judges can contribute to the right to be treated with dignity and compassion of child victims and witnesses of crime in many specific ways (section 2.1.6, paragraphs 1-4).

2.2 The right to be protected from hardship during the justice process

- The right to be protected from hardship during the justice process is one of the ten fundamental rights of child victims and witnesses of crime promoted by the Guidelines, placing responsibility on prosecutors and judges to prevent child victims and witnesses from unnecessary stress during the prosecution and trial process (section 2.2, paragraph 1).

2.3 Child-sensitive communication

- Sensitive and appropriate communication by professionals contributes to the understanding and meaningful participation of child victims and witnesses in the justice process and reduces stress and further hardship (section 2.3.1, paragraph 1).
- Child-sensitive communication implies that professionals adapt their language and attitude to the special needs, views and concerns of an individual child victim/witness (section 2.3.2, paragraph 1).

PRESENTATION SLIDES FOR MODULE 2

The suggested slides for this module are provided below in the left-hand column. During the training session, be sure to cover at least the key concepts identified in the right-hand column.

<p>Slide 1 Module 2. Dignity of child victims and witnesses of crime</p>	
<p>Slide 2 Module goal</p> <p>To provide trainees with the necessary knowledge and skills to treat all child victims and child witnesses of crime with dignity and compassion so that they are protected from hardship throughout the justice process; and to build up interview skills to interview child victims as witnesses according to legal requirements and accepted best practices.</p>	
<p>Slide 3 Learning objectives</p> <ol style="list-style-type: none"> 1. Have a good understanding of the meaning of “the right to be treated with dignity and compassion” of child victims and witnesses. 2. Identify the reasons which lead to victimization of the child victim during the criminal justice process. 	
<p>Slide 4 Learning objectives</p> <ol style="list-style-type: none"> 3. Acquire knowledge on the right of child victims and witnesses to be protected from hardship at all stages of the justice process. 4. Compile an interview plan based upon a victim-first, human rights approach. 5. Develop and demonstrate skills in conducting the interview of the child victim. 	
<p>Slide 5 The right to be treated with dignity and compassion</p> <ul style="list-style-type: none"> • The concepts of “dignity” and “compassion” • The right to be treated with dignity and compassion in the national legal framework 	<ul style="list-style-type: none"> • The right to be treated with dignity and compassion is one of the ten fundamental rights of child victims and witnesses of crime promoted by the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (section 2.1, paragraph 5). • The concept of dignity means that every child is a unique and valuable human being and as such, his or her individual dignity, special needs, interests and privacy should be respected and protected (section 2.1.1, paragraph 2). • Treating a child victim/witness with compassion implies that professionals are sensitive to and try to understand the child’s feelings, needs, wishes, beliefs, communication style and individual experiences (section 2.1.1, paragraph 3).

<p>Slide 6</p> <ul style="list-style-type: none"> Victimization of children <ul style="list-style-type: none"> Primary and secondary victimization of children Child witnesses 	<ul style="list-style-type: none"> When working with child victims and witnesses of crime, prosecutors and judges need to be aware of the range of consequences that secondary victimization can have on children and how it may endanger children's lives and development in the short term and in the long term (section 2.1.3.1, paragraph 3).
<p>Slide 7</p> <ul style="list-style-type: none"> Strategies to ensure dignity and compassion <ul style="list-style-type: none"> Parents of child victims and child witnesses Responsibilities of prosecutors: treating child victims and witnesses with dignity and compassion Responsibilities of judges: treating child victims and witnesses with dignity and compassion 	<ul style="list-style-type: none"> Prosecutors can contribute to the right to be treated with dignity and compassion of child victims and witnesses of crime in various ways (section 2.1.5, paragraphs 1-9). Although their main responsibilities are similar to those of the prosecutors, judges can contribute to the right to be treated with dignity and compassion of child victims and witnesses of crime in many specific ways (section 2.1.6, paragraphs 1-4).
<p>Slide 8</p> <p>The right to be protected from hardship during the justice process</p> <ul style="list-style-type: none"> The right to be protected from hardship in the national legal framework Strategies to protect child victims and child witnesses from hardship 	<ul style="list-style-type: none"> The right to be protected from hardship during the justice process is one of the ten fundamental rights of child victims and witnesses of crime promoted by the Guidelines, placing responsibility on prosecutors and judges to prevent child victims and witnesses from unnecessary stress during the prosecution and trial process (section 2.2, paragraph 1).
<p>Slide 9</p> <p>Child-sensitive communication</p> <ul style="list-style-type: none"> The crucial importance of child-sensitive communication Characteristics of child-sensitive communication by professionals 	<ul style="list-style-type: none"> Sensitive and appropriate communication by professionals contributes to the understanding and meaningful participation of child victims and witnesses in the justice process and reduces stress and further hardship (section 2.3.1, Paragraph 1). Child-sensitive communication implies that professionals adapt their language and attitude to the special needs, views and concerns of an individual child victim/witness (section 2.3.2, paragraph 1).
<p>Slide 10</p> <ul style="list-style-type: none"> Questioning child victims and witnesses of crime in a child-sensitive manner <ul style="list-style-type: none"> Understanding the different stages of development Structure of the interview Key considerations during the interview 	
<p>Slide 11</p> <ul style="list-style-type: none"> DOs and DON'Ts of interviewing and communicating with children 	

module

3

NON-DISCRIMINATION OF CHILD VICTIMS AND WITNESSES OF CRIME

“Until justice is blind to colour, until education is unaware of race,
until opportunity is unconcerned with the colour of men’s skins,
emancipation will be a proclamation but not a fact.”

Lyndon B. Johnson

(36th President of the United States of America)

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GOAL



To provide trainees with the necessary knowledge and skills to treat all child victims and child witnesses of crime without any discrimination and to understand the sensitivities involved to particularly vulnerable and disadvantaged child victims and child witnesses.

LEARNING OBJECTIVES FOR MODULE 3

At the end of this module, trainees will have the necessary knowledge and skills to:

- ▶ Formulate the meaning of “general protection” and “additional protection” from discrimination as per the national legal framework.
- ▶ Recognize examples of child-sensitive treatment as well as insensitive treatment in a concrete case involving a child victim/witness.
- ▶ Develop an understanding of the concepts “age-based discrimination” and “multiple discrimination” in cases involving child victims and witnesses.

Suggested duration: 1 hour 20 minutes (80 minutes)

Prior to the module

Set up the training room. Ensure there are handouts, case studies, reference notes and copies of relevant legislation for the trainees.

Materials, equipment and logistics

Ensure that appropriate training aids, such as computers, LCD projectors, white boards, flip charts and marker pens are available in the training room.

LESSON PLAN FOR MODULE 3

Lesson outline	Content	Activity	Time	Reference material
3.1	Protecting child victims and child witnesses from discrimination	Lecture/presentation/discussion	5 min.	Paragraph 3.1 Presentation slides
3.2	The right to be protected from discrimination in the national legal framework	Lecture/presentation/discussion	10 min.	Paragraph 3.2 Presentation slides
3.3	General protection from discrimination	Lecture/presentation/discussion	10 min.	Paragraph 3.3 Presentation slides
3.4	Additional protection from discrimination	Lecture/presentation/discussion	10 min.	Paragraphs 3.4.1 to 3.4.3 Presentation slides
	Case study 1. Dealing with foreign national child victims	Learning exercise through problem-solving	25 min.	Handout of case study
3.5	Age as a prohibited discriminatory ground for participation in the justice process	Lecture/presentation/discussion	10 min.	Paragraphs 3.5.1 to 3.5.2 Presentation slides
3.6	Concrete tips on how to protect child victims and child witnesses from discrimination	Lecture/presentation/discussion	10 min.	Paragraphs 3.6.1 to 3.6.2 Presentation slides

3.1 Protecting child victims and child witnesses from discrimination

The right to be protected from discrimination is one of the ten fundamental rights of child victims and witnesses promoted by Guidelines 15 to 18 of the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime; it is also one of its four cross-cutting principles.

Guidelines – Chapter III. Principles, 8 (b) – Non-discrimination

Every child has the right to be treated fairly and equally, regardless of his or her or the parent's or legal guardian's race, ethnicity, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability and birth or other status.

Prosecutors and judges who protect child victims and witnesses from various forms of discrimination make a great difference in children's lives and ensure that they are fairly and equally treated while participating in the justice process.

This is a crucial but difficult task that contributes to a fair and equal justice system that includes all child victims and witnesses so that they can participate in the justice process and are able to give quality evidence.

Non-discrimination is also mentioned in Guideline 7 (c) of chapter II, "Special consideration". It states, "The Guidelines were developed ... recognizing that girls are particularly vulnerable and may face discrimination at all stages of the justice system."

The Convention on the Rights of the Child explicitly deals with the guiding principle of non-discrimination in article 2. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000) refers to non-discrimination in article 9(4). It states, "States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible."

The United Nations Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice (1997) also provides for a comprehensive set of criminal justice strategies and measures to address all forms of violence against women and girls.

Guidelines – Chapter VI. The right to be protected from discrimination

15. Child victims and witnesses should have access to a justice process that protects them from discrimination based on the child's, parent's or legal guardian's race, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability and birth or other status.

16. The justice process and support services available to child victims and witnesses and their families should be sensitive to the child's age, wishes, understanding, gender, sexual orientation, ethnic, cultural, religious, linguistic and social background, caste, socio-economic condition and immigration or refugee status, as well as to the special needs of the child, including health, abilities and capacities. Professionals should be trained and educated about such differences.

17. In certain cases, special services and protection will need to be instituted to take account of gender and the different nature of specific offences against children, such as sexual assault involving children.

18. Age should not be a barrier to a child's right to participate fully in the justice process. Every child should be treated as a capable witness, subject to examination, and his or her testimony should not be presumed invalid or untrustworthy by reason of the child's age alone as long as his or her age and maturity allow the giving of intelligible and credible testimony, with or without communication aids and other assistance.

3.2 The right to be protected from discrimination in the national legal framework



Trainer's notes

Provide details of the national legal provisions (with names of laws, section or article numbers) on the:

1. General rights of the child victim/witness to protection from discrimination: mention the full name of the relevant law and constitutional provisions, if any.
2. Specific rights of the child victim/witness to protection from discrimination in cases of sexual abuse and exploitation.
3. Relevant procedures of national laws, special legislation regarding children and the criminal procedure code that relates to the right of child victims and witnesses to protection from discrimination.
4. National policies, procedures and guidelines issued by the relevant ministry or government department on treatment of child victims and witnesses for protection against discrimination.
5. Court judgements (that form precedent in common law countries) on the right to be protected from discrimination of child victims and witnesses.
6. Within the relevant legislation and policies:
 - Which discriminatory grounds are prohibited?
 - Which additional discriminatory grounds for child victims and witnesses are included?
 - Is the age of the child accepted as a ground to disregard the child as a capable witness?
7. Bearing in mind the available time for the session, provide brief information on the compatibility of the national laws and legal procedures vis-à-vis the international framework on the subject of the right to be protected from discrimination.

3.3 General protection from discrimination

Children are entitled to protection because of their vulnerable status as children compared to adults. General protection of children from discrimination implies that all children should be protected from all forms of discrimination. General protection of children from discrimination—as a specific aspect of the general protection of all citizens—is often provided by child protection laws. These laws focus on specific child-related grounds of discrimination that are usually not included in general and constitutional provisions on discrimination, such as the fact that the child was born in or out of wedlock, whether the child lives in a two-parent or single-parent family, if he or she is adopted or with a guardian, etc.

An example of general protection from discrimination that is directly related to the practice of professionals working in the justice system concerns gender-based discrimination. Gender-based discrimination may concern girls as well as boys. For example, various countries have a lower minimum age of marriage, which assumes sexual consent, for girls than for boys. Such legislation makes girls more vulnerable to sexual abuse and exploitation than boys. Another example of gender-based discrimination, but against boys, is that some countries maintain a narrow definition of rape, namely as an act committed by a male against a female. Such an interpretation implies that boys who are victims of rape receive less protection from professionals than girls who are raped.

Under the provisions of the Guidelines, prosecutors and judges should treat all children fairly and equally. Every child should have equal access to the justice process; whether a girl or a boy; whether he or she was involved in a burglary, abduction, domestic violence or trafficking; whether he or she remembers the details of the circumstances of the crime or only a few flashes; whether he or she lives in a house with his or her family or on the streets, in a slum or an institution; whether he or she gets a lot of support from significant adults and peers or no support at all; whether he or she is Hindu, Muslim, Catholic or Buddhist; whether he or she belongs to the cultural majority or a cultural minority; whether he or she performs well in school or dropped out; whether he or she speaks the language fluently or not at all; etc. The “prohibited discriminatory grounds” explicitly mentioned in Guideline 15 that relate to the child, the child’s parents or the child’s legal guardians are:

- Race
- Colour
- Gender
- Language
- Religion
- Political or other opinion
- National, ethnic or social origin
- Property
- Disability
- Birth

Such a broad approach of “general protection from discrimination” of child victims and child witnesses is desirable. It gives prosecutors and judges the necessary flexibility to adapt the guideline to each specific situation of a child victim/witness.

3.4 Additional protection from discrimination

Additional protection from discrimination implies that particular children and particular groups of children need additional protection from adults because of their particularly vulnerable status and the disadvantaged situation in which they grow up. Because of their disadvantaged situation they have special needs that require the additional protection of adults. In other contexts, this form of protection is also called positive discrimination or affirmative action.



Adults should guarantee that all children are treated equally. For particularly vulnerable children and groups of children who grow up in particularly disadvantaged situations, this requires that adults provide them with additional protection.

The Convention on the Rights of the Child mentions various groups of children, including child victims of crime, that have the right to additional protection from adults. A few examples of children in particularly disadvantaged situations mentioned in the Convention, without being comprehensive, are: adopted children; refugee children and children seeking refugee status; children with disabilities; minority or indigenous children; children deprived of liberty; child victims; and children in conflict with the law.

When it comes to the specific group of child victims of crime, the Convention also indicates a few specific crimes that can be committed against children. Children who are victims of these crimes may require—decided on a case-by-case basis—additional protection from professionals. The following crimes are mentioned in the Convention:

- Kidnapping and trafficking
- All forms of violence while in the care of parents, legal guardians or any other person who has the care of the child
- Harmful and exploitative child labour
- Drug abuse and used in drug trade
- Sexual exploitation
- Abduction, sale and trafficking
- Other forms of exploitation
- War and armed conflicts, when children are victims and/or witnesses of war crimes

It is beyond question that professionals play a crucial role in ensuring additional protection from discrimination for child victims and witnesses of crime. These children constitute a very vulnerable group and without prosecutors and judges taking their special needs and specific situations into account, they will definitely run the risk of secondary victimization.

3.4.1 Protection from multiple discrimination

The ways in which children experience discrimination in reality can be very complex. Sometimes, children are discriminated against on more than one ground. This is called “multiple discrimination”. For example:

- A child is discriminated against because she is a girl and because she has a disability.
- A child is discriminated against because he belongs to a minority group and because he is homosexual.

- A child is discriminated against because he is a beggar and lives on the streets.
- A child is discriminated against because she is a single mother and because she is affected by HIV.

An example of protection from multiple discrimination that is directly related to the practice of professionals working in the justice system concerns trafficking. Trafficking can be considered a gender issue, but such a single-ground approach neglects the age aspect of the crime and the ways age may interact with gender to make girls more vulnerable to being trafficked than women and boys. It is obvious that child victims and witnesses who are subjected to discrimination on more than one ground have the right to additional protection and additional assistance from adults, and especially from professionals working in the justice system.



Discussion

Based on the subject-matter discussed in sections 3.3 and 3.4, involve the trainees in a discussion on inherent attitudes vis-à-vis the protection of child victims and witnesses from discrimination by justice providers. Pose some of the following suggested questions to initiate discussions: Is it possible to be totally free from discrimination while dealing with child victims and witnesses? Have you ever introspected as a prosecutor or judge on whether you possess some personal bias or prejudices with respect to children who become victims of crime? Can inherent beliefs and attitudes be changed completely in one training programme or does it require constant internal evaluation of the professional concerned? How does one deal with certain discriminatory beliefs that may affect interaction with the child victim? Would more training and the consequent challenging of discriminatory attitudes help a professional to provide complete justice to a child victim?

3.4.2 Particular sensitivity of child victims and witnesses

The specific factors that prosecutors and judges should take into account when dealing with a particular child victim/witness and that may justify particular sensitivity, also called “differential treatment” are:

Factors related to the personal circumstances of the child: age, wishes, understanding, gender, sexual orientation.

- Factors related to the special needs of the child: health, abilities, capacities, other special needs.
- Factors related to the social environment of the child: ethnic and cultural background, religious background, linguistic and social background, caste.
- Factors related to the socioeconomic situation of the family of the child: socioeconomic condition, immigration status, refugee status.



“Child-sensitive” denotes an approach that takes into account the child’s individual needs, wishes, opinions and concerns.

However, prosecutors and judges need to be aware that they may only treat an individual child victim/witness differently from his or her peers based on arguments related to the best interests and special needs of that particular child. The following examples are relevant to prosecutors and judges:

Psychologist: The decision to provide the special assistance of a psychologist to a mentally disabled child based on his or her best interests and special needs if, without such additional support, there is a real danger that he or she will not be able to participate in the justice process and/or will be secondarily victimized.

Intermediary: The decision to provide a child who has been sexually assaulted with the assistance of an intermediary is based on his or her best interests and special needs if, without such additional support, he or she will not be able to explain what has happened and his or her participation in the justice process is hampered.

Closed-circuit television: The decision to allow a child whose father has committed a crime against him or her to testify via closed-circuit television is based on his or her best interests and special needs if the risk of being secondarily victimized is higher should he or she testify in an open-court-session.

Testimony from another or an adjusted room: The decision to allow a child victim with a physical disability to give his or her statement or to testify from another or an adjusted room is based on his or her best interests and special needs if the interview room or courtroom is not accessible with a wheelchair or the furniture cannot be adjusted to the specific needs of the child and he or she cannot or not fully participate in the justice process.

3.4.3 Instituted protection and services for child victims and witnesses

Special services and protection that might need to be taken into account:

Gender: Girls, and in some circumstances also boys, may require particular sensitivity and additional protection from professionals during prosecution and trials. Girls are particularly vulnerable and may face discrimination at all stages of the justice process. Child-sensitive professionals give girls as much attention and time as boys to express their feelings, wishes and views, to understand the details of the justice process and to decide if and how they want to participate in the justice process. However, in some societies, boys who are victims of sexual assault—especially if the crime is of a homosexual nature and/or committed within the family or by a prominent person of the society—are also discriminated against by the justice system. Prosecutors and judges should make an additional effort to treat these boy-victims equally to other boy-victims and girl-victims, and never ignore or minimize the boy's victimization and the consequences of the crime. In general, we may say that discriminatory patterns that exist in a particular society are usually reflected in the justice system and in the decisions and actions of professionals working within the justice system.

Different nature of specific offences: Prosecutors and judges should be aware of and sensitive to the different nature of offences committed against children. Sexual assault against children—girls as well as boys—may have very severe, long-lasting consequences and specific psychological, physical and social consequences, such as HIV/AIDS, permanent disability, social exclusion and post-traumatic stress disorder. Such child victims are entitled to professional assistance in order to address their special needs, to recover physically and psychologically and to reintegrate socially. Sometimes prosecutors and judges do not fully realize how severely victimized these children are and that sexual assault may have very different consequences for each individual child. It is necessary that professionals understand the different nature of particular crimes such as sexual assault and are aware that child victims of such

crimes have the right to special attention and additional protection in order to guarantee that they are not secondarily victimized, not discriminated against and have equal access to rights.

CASE STUDY 1. DEALING WITH FOREIGN NATIONAL CHILD VICTIMS



Trainer's notes

Names of persons (victims and offenders) and the place of incident in the case study are fictitious. They are mentioned only for ease of reference during discussions. However, all the fictitious names should be changed to contextualize them according to the country where the training is being imparted to have a better impact on the trainees.

Estimated time: 25 minutes

Materials needed: Case study handout, pen, paper, flip charts and markers

Objective: Dealing with a case of child trafficking for purposes of commercial sexual exploitation; the legal position of a foreign national child victim without valid papers; and the right of the child victim to be protected from discrimination.

Activity: Depending on the number of trainees, divide the trainees into several groups and provide each group with the case study to deliberate upon; OR ask all the trainees to read this case study and then initiate a general group discussion based on the questions provided in the self-assessment section.

Facts of the case

Jasmine is a 14-year-old girl who lives in the poor province of Lemuria in the country of Loki with her parents and five other siblings. She is the eldest child and her parents are farm labourers. One day, a neighbour's relative, Delonix, who comes to visit them, tells her parents that Jasmine should go to Agartha, a rich neighbouring country and work as a domestic helper. That way she can earn and send more money home so that her younger brothers and sisters can get educated and so there will be enough food in the house.

Jasmine, accompanied by Delonix, boards a bus from her village and after two days reaches a village bordering Agartha. She has neither a passport nor other travel documents with her, nor is she aware of the requirement of valid travel documents. At the border, Jasmine sees Delonix talking to some men in uniform. In the middle of the night, along with few other people, Jasmine and Delonix cross the border and reach Agartha the next day. Delonix takes her to a brothel and leaves her there.

Realizing the horror that awaits her, Jasmine refuses to succumb and as a result is beaten every day by Madame Rose, who runs the brothel. She is provided no food and water for five days. On the sixth day, a stranger enters her room and rapes her. Thereafter, she is forced to provide sex for money to at least 8-10 customers each day. She gets nothing from the earnings. She continues in the present state in the brothel for the next six months.

On a tip-off from a non-governmental organization (NGO), one night the police raids the brothel and removes Jasmine along with three other girls. Three men are also found with the girls in their rooms. One of them is a foreign national and the other two are nationals of Agartha. Jasmine and the apprehended foreign national do not speak the language of Agartha. Madame Rose and the three customers/clients are apprehended by the police.

Upon completion of the investigation, the police file charge sheets in court against all the perpetrators.

Self-assessment questions

1. Is this a case of child trafficking? If yes, how should Jasmine's legal status in Agartha be dealt with, since she does not possess any valid travel and stay documents?
2. Does Jasmine have any legal rights in Agartha, even though she is an alien foreign national?
3. Do the other three girls rescued with Jasmine have different rights under the national laws? Should Jasmine be discriminated against because she is not a national of Agartha?
4. Does the situation of Jasmine make her more vulnerable to discrimination? Does she already suffer from multiple forms of discrimination?
5. Make a list of all legal provisions that protect the right of non-discrimination of a child victim of trafficking who is a foreign national.



Trainer's note

Questions 1-5 are suggestive. More questions could be prepared from the case study on the aspect of protection of child victims and witnesses from discrimination.

3.5 Age as a prohibited discriminatory ground for participation in the justice process

The last aspect of protection from discrimination concerns the specific right of child victims and witnesses to fully participate in the justice process irrespective of their age. It states that the child's age alone cannot be an adequate ground to:

- Disregard him or her as a capable witness.
- Disregard him or her as subject to examination.
- Presume his or her testimony invalid or untrustworthy.

Professionals working with child victims and witnesses have the difficult task of assessing and deciding whether the child's age and maturity allow the giving of intelligible and credible testimony. For this determination, the concept of "evolving capacities" should be well understood.

3.5.1 Competency examination

Guideline 18 clearly states that "every child should be treated as a capable witness" and specifies that "age should not be a barrier to the right of child victims and child witnesses to participate fully in the justice process". The Convention also explicitly states that the starting point for evidence given in court by a child is that he or she should be provided with the opportunity to be heard.



Irrespective of whether the child will provide testimony or whether such testimony is found to be inadmissible, the child shall have the opportunity to express his or her views concerning his or her involvement in the justice process.

However, the right to fully participate in the justice process is not unconditional but linked to the age and maturity or evolving capacities of the child victim/witness. The child's age and maturity should allow the giving of an intelligible and credible testimony.

In actual practice, this implies that the court may pose the question of whether the child's age and maturity allow the giving of intelligible and credible testimony. The court may carry out a so-called competency examination in order to assess the extent to which the child is able to give valid testimony. The court may appoint an expert for the purpose of examining the child's competency or the court itself may conduct the examination on the basis of questions submitted by the public prosecutor and the defence lawyer. The purpose of a competency examination is to determine whether the child is able to understand questions put to him or her as well as the importance of telling the truth. If the child does not pass the examination, his or her evidence must be declared inadmissible for the purposes of the court proceedings. Obviously, if the child passes the examination, his or her evidence is admissible.

Once a child's testimony is considered to be admissible, the court may give particular weight to the testimony of the child in accordance with his or her age, maturity and ability to give an intelligible account. Again, the court may not base this decision on the child's age alone. If children may be subjected to a competency examination, then safeguards should be in place. These are:

- A competency examination may never be used routinely for child victims and witnesses, but only when there are compelling reasons.
- The best interests of the child shall be a primary consideration in deciding whether or not to carry out a competency examination.
- A competency examination may not be repeated in order to protect the child from further hardship in case the defence lawyer might try to undermine the credibility of the child by re-examining him or her.
- The questions shall be asked using child-sensitive language appropriate to the age and developmental level of the child.
- The questions shall not be related to the issues involved in the trial, but should focus on determining the child's ability to understand simple questions and answer them truthfully.
- Irrespective of whether the testimony of a child witness is found to be inadmissible, the child should get the opportunity to express his or her views and concerns about his or her participation in the justice process.

In case a child does testify, it is recommended that—at the discretion of the presiding magistrate or judge—child witnesses be exempted from testifying under oath. A good alternative to testimony under oath is permitting the child to make an informal promise to tell the truth. Irrespective of whether the court allows child witnesses to give sworn or unsworn evidence, they should be given complete immunity from criminal prosecution for giving false testimony.



Trainer's note

Inform trainees on whether national laws permit a child to give testimony without taking an oath. Are child witnesses provided immunity from criminal prosecution for giving false testimony?

3.5.2 Communication aids and other assistance

In order to guarantee that age alone is not a barrier to the child's full participation in the justice process, the Guidelines mention that child victims and witnesses have the right to be provided with communication aids and other assistance.

"Communication aids" refer to devices that enable questions to be communicated effectively to the child and the child's answers to be understood. The tools can accommodate factors such as the child's age, level of maturity and development, but also any disability, disorder or other impairment from which the child may suffer. Communication aids may include pictures, books, maps, plans, photographs, coloured pencils and drawing paper, anatomically correct dolls and other cuddly toys and animals. In principle, only persons who are specially trained may use such communication aids.



Trainer's note

Refer to section 2.1.5 of Module 2 (specifically, to the box entitled "Exercising caution when using toys as interview aids").

Also, other assistance may contribute to the full participation of young and/or relatively immature child victims and witnesses. Such assistance may be offered, inter alia, by:

- **A support person:** This is a specially trained person who assists and accompanies the child throughout the justice process in order to prevent the risk of duress, re-victimization or secondary victimization.
- **A translator:** This person supports child victims and witnesses by translating the questions from the interviewing officer into language that the child understands. The only caution that needs to be exercised is regarding the neutrality of the translator, who must have no connection with the perpetrator.

3.6 Concrete tips on how to protect child victims and child witnesses from discrimination

Below are a few concrete examples on how prosecutors and judges can discharge their responsibilities in protecting child victims and witnesses of crime from discrimination:

- **Support person:** Ensure the appointment of a support person for all child victims and witnesses and guarantee that their views are taken into account in the appointment procedure.
- **Legal assistance:** Try to ensure cost-free legal assistance for child victims and witnesses from economic disadvantaged families if they cannot pay for the service themselves. If such assistance cannot be provided by a lawyer within the justice system, a community-based service to legally support the child and his or her family could be arranged for. Many countries also have court-provided free legal-aid services which could be availed of.
- **Disabilities:** Ensure that child victims and witnesses with disabilities such as dyslexia, speech impediments, blindness or deafness are provided with the assistance and communication aids they need in order to participate at the interview. Definitely involve specialists who can communicate with such children.
- **No birth certificate:** Make sure that medical treatment and other necessary services such as legal, financial, social and emotional assistance are provided to child victims and witnesses who were not registered at birth and are unable to present their birth certificates.

An example of a communication aid—in the context of the justice system, also called a “testimonial aid”—that is frequently used in various countries is the use of drawings. Children use drawing to express and contain their experiences, emotions, fantasies and fears. Inviting child victims and witnesses to draw can help them in various ways. For example, to explain the incident and what happened to them, to express how they feel about the events, to express how they experience their participation in the justice process, to communicate their opinion about the impact of the crime, and to communicate their thoughts and feelings about justice in general.

Two specific examples of how prosecutors may protect particularly vulnerable child victims and witnesses from discrimination while they participate in the justice process are provided below as good practice models.

Very young children (pre-school age/from about 4 to 6 years old): The preparation phase for the interview needs to be undertaken with great care. Young children may find the unfamiliar surroundings of the prosecution office and interview room intimidating. Adequate time is needed for rapport building. Age-appropriate toys and colouring materials should be provided to calm the child. Consideration should be given to seeking specialist advice or bringing in an interviewer with particular skills and experience in interviewing very young children. It may also help to distribute the interview over a number of short interview sessions conducted by the same interviewer, spread out over a number of days. When this decision is made, repetition of the same focused questions over time should be avoided, as that may lead to unreliable or inconsistent responses.

Children with disabilities: They may participate in an interview—usually with the special assistance of an expert—if the setting is tailored to the particular needs and circumstances of the child. This may require some additional planning by the interviewer and a degree of flexibility in scheduling the interview. Particular attention is needed to ensure that a safe and accessible environment is created for the child and that the furniture is adapted to the child’s particular needs. Where children have specific communication difficulties, communication aids such as drawings, photographs and/or dolls need to be prepared in order to facilitate questioning.

3.6.1 Children with disabilities and the use of communication aids

Professionals may encourage child victims and witnesses to draw for various purposes and in different stages of the justice process. For example, to build rapport with the child, to collect evidence, to clarify statements made by the child, to enhance the recall of details of events, to confirm information, to demonstrate the child’s credibility, or to take away the intensity of the process.

- **Toys, dolls and stuffed animals:** Children use all kinds of toys to play. Through play they express themselves, process emotions, experiences and expressions. In the context of the justice process, toys can be used to build rapport with a child; to make the child feel comfortable; to help the child to correct the interviewer; and to express aspects that are difficult. For example, a doll or a stuffed animal can be used as a “communicator”: whenever the child has to say or ask something difficult, he or she can take the doll to talk to and/or communicate with the doll to help the him or her describe people, the crime scene or the chronology of events. To enhance comfort throughout the justice process, children may be invited to pick a favourite toy that can stay with them throughout all the stages of the proceedings. Prosecutors and judges need to exercise caution in using these aids; only highly trained professionals should attempt this approach.
- **Charts or diagrams:** Different types of charts and diagrams may be used to facilitate interviews with child victims and witnesses. As it concerns specialized tools, they may only be used in very specific situations and by qualified and highly trained professionals. For example, anatomical

diagrams that depict the body of a girl or boy can help children to indicate or name body parts in a safe way or to explain events. Pictograms expressing different facial expressions can help children to express how they feel or felt at a certain moment. These can be useful, for instance, in completing a “victim impact statement”. An important condition for the use of diagrams, charts and pictograms is that the child be familiar with these types of drawings. Especially in the case of pictograms, cultural differences in the expression or attribution of emotions should be taken in consideration.

- **Videoconferencing:** An example of a communication aid that requires more advanced technological means is the use of videoconferencing. This enables a child to testify from a remote place—even from another country—without attending the court. Videoconferencing is not the same as closed-circuit television. Closed-circuit television implies a separate room within the court environment from which a child witness can give his or her testimony, while videoconferencing is organized from another location.

3.6.2 Children with disabilities and the justice system

A major problem facing child victims and witnesses with physical disabilities in many countries is that the criminal justice system is inaccessible. Police stations and courthouses that can only be entered by steps are not accessible to children who use a wheelchair. A rather limited explanation and support for child victims and witnesses with intellectual disabilities or mental health problems means that many children with these disabilities find the act of reporting crime or giving testimony against an alleged offender—or otherwise seeking justice—too complicated to pursue.

While inaccessibility is a significant barrier to reporting one’s case and seeking protection from crime for child victims and witnesses with a disability, equally troubling is the fact that children with a disability are rarely believed when they do seek help. All too often, charges of violence or rape from children with a disability are dismissed by law enforcement officials, prosecutors and judges who are unfamiliar with disabilities. They may assume that a “misunderstanding” has occurred or that children with a disability are easily confused. Even more troubling is the assumption that a child with a disability is unable to distinguish right from wrong or unable to decide for themselves what they want and do not want done to their bodies. Even when professionals recognize that violence or rape is not less distressing for a child with a disability than for a child without a disability, it is often assumed that they will not make good witnesses on their own behalf. The result is that they are discouraged from pressing charges. Indeed, in a number of countries, child victims and witnesses with certain types of disability are barred from presenting testimony in court, swearing an oath or signing their names to legal documents.

In such a climate, those who try to perpetrate crime against children often seek out children with disabilities, as there may be few or no consequences, even if the crime should come to light. To put it bluntly, criminal individuals and sexual perpetrators specifically target children with disabilities because they can often get away with it.

Child witnesses

Prosecutors and judges should never discriminate against children who have witnessed a crime without being the victim themselves and assume that these children have suffered and/or are suffering less than children who have been victims of crime. Professionals should take the individual needs and specific situations of child witnesses into account on a case-by-case basis, especially when it comes to actually giving evidence. There is no reason to assume that these children need less protection and less assistance from professionals at the various stages of the justice process than their peers against whom a crime has been committed.



Trainer's notes

Invite the trainees to share their personal experiences on:

- Using any of the concrete tips (section 3.6) which helped in protecting child victims and witnesses of crime from discrimination in a specific case handled by them.
- Any other innovative and creative approach used by them to protect child victims and witnesses of crime from discrimination.
- The child's responses in a specific case where the child victim was inadvertently discriminated against by the prosecutor or judge.

SUMMARY OF KEY CONCEPTS FOR MODULE 3

3.1 Protecting child victims and child witnesses from discrimination

- The right to be protected from discrimination is one of the ten fundamental rights of child victims and witnesses of crime promoted by the Guidelines (section 3.1, paragraph 1).
- Every child has the right to be treated fairly and equally, regardless of his or her or the parent's or legal guardian's race, ethnicity, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability and birth or other status (section 3.1, Guidelines table).

3.2 The right to be protected from discrimination in the national legal framework

- *[Note to trainer: Include key concepts that suit the national context.]*

3.3 General protection from discrimination

- Children are entitled to protection because of their vulnerable status as children compared to adults (section 3.3, paragraph 1).

3.4 Additional protection from discrimination

- Additional protection from discrimination implies that particular children and particular groups of children need additional protection from adults because of their particularly vulnerable status and the disadvantaged situation in which they grow up (section 3.4, paragraph 1).
- Girls are particularly vulnerable and may face discrimination at all stages of the justice system (section 3.4.3, paragraph 2).

3.5 Age as a prohibited discriminatory ground for participation in the justice process

- Every child should be treated as a capable witness and age should not be a barrier to the right of child victims and witnesses to participate fully in the justice process (section 3.5.1, paragraph 1).
- The right to fully participate in the justice process is not unconditional, but linked to the age and maturity or evolving capacities of the child victim/witness. The child's age and maturity should allow the giving of an intelligible and credible testimony (section 3.5.1, paragraph 2).

3.6 Concrete tips on how to protect child victims and child witnesses from discrimination

There are many concrete tips that can be used by prosecutors and judges which will help in protecting child victims and witnesses of crime from discrimination (sections 3.6, 3.6.1 and 3.6.2).

PRESENTATION SLIDES FOR MODULE 3

The suggested slides for this module are provided below in the left-hand column. During the training session, be sure to cover at least the key concepts identified in the right-hand column.

<p>Slide 1 Module 3. Non-discrimination of child victims and witnesses of crime</p>	
<p>Slide 2 Module goal</p> <p>To provide trainees with the necessary knowledge and skills to treat all child victims and child witnesses of crime without any discrimination and to understand the sensitivities involved in relation to particularly vulnerable and disadvantaged child victims and child witnesses.</p>	
<p>Slide 3 Learning objectives</p> <ol style="list-style-type: none"> 1. Formulate the meaning of “general protection” and “additional protection” from discrimination as per the national legal framework. 2. Recognize examples of child-sensitive treatment as well as insensitive treatment in a concrete case of a child victim/witness. 2. Develop understanding of the concepts of “age-based discrimination” and “multiple discrimination” in cases involving child victims and witnesses. 	
<p>Slide 4</p> <ul style="list-style-type: none"> • Protecting child victims and child witnesses from discrimination 	<ul style="list-style-type: none"> • The right to be protected from discrimination is one of the ten fundamental rights of child victims and witnesses of crime promoted by the Guidelines (section 3.1, paragraph 1). • Every child has the right to be treated fairly and equally, regardless of his or her or the parent’s or legal guardian’s race, ethnicity, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability and birth or other status (section 3.1, Guidelines table)
<p>Slide 5</p> <ul style="list-style-type: none"> • The right to be protected from discrimination in the national legal framework 	<ul style="list-style-type: none"> • <i>[Note to trainer: Include key concepts that suit the national context.]</i>
<p>Slide 6</p> <ul style="list-style-type: none"> • General protection from discrimination 	<ul style="list-style-type: none"> • Children are entitled to protection because of their vulnerable status as children compared to adults (section 3.3, paragraph 1).
<p>Slide 7</p> <ul style="list-style-type: none"> • Additional protection from discrimination <ul style="list-style-type: none"> ▸ Protection from multiple forms of discrimination ▸ Particular sensitivity of child victims and witnesses ▸ Instituted protection and services for child victims and witnesses 	<ul style="list-style-type: none"> • Additional protection from discrimination implies that particular children and particular groups of children need additional protection from adults because of their particularly vulnerable status and the disadvantaged situation in which they grow up (section 3.4, paragraph 1). • Girls are particularly vulnerable and may face discrimination at all stages of the justice system (section 3.4.3, paragraph 2).

<p>Slide 8</p> <ul style="list-style-type: none"> • Age as a prohibited discriminatory ground for participation in the justice process <ul style="list-style-type: none"> ▸ Competency examination ▸ Communication aids and other assistance 	<ul style="list-style-type: none"> • Every child should be treated as a capable witness and age should not be a barrier to the right of child victims and witnesses to participate fully in the justice process (section 3.5.1, paragraph 1). • The right to fully participate in the justice process is not unconditional, but linked to the age and maturity or evolving capacities of the child victim/witness. The child's age and maturity should allow the giving of an intelligible and credible testimony (section 3.5.1, paragraph 2).
<p>Slide 9</p> <ul style="list-style-type: none"> • Concrete tips on how to protect child victims and child witnesses from discrimination 	<ul style="list-style-type: none"> • There are many concrete tips that can be used by prosecutors and judges that will help in protecting child victims and witnesses of crime from discrimination (sections 3.6, 3.6.1 and 3.6.2).

module



BEST INTERESTS OF CHILD VICTIMS AND WITNESSES OF CRIME

“Your children are not your children. They are the sons and daughters of life’s longing for itself. They came through you but not from you and though they are with you, yet they belong not to you.”

Khalil Gibran

(19th century Lebanese artist, poet and writer)

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GOAL



To equip trainees with the necessary knowledge and skills to ensure that all child victims and witnesses are provided with effective assistance, and to develop an understanding of the crucial importance of the protection of their right to privacy and safety.

LEARNING OBJECTIVES FOR MODULE 4

At the end of this module, trainees will have the necessary knowledge and skills to:

- ▶ Summarize the effective assistance measures that will be needed by child victims and witnesses to address the wide range of harms caused by the crime.
- ▶ Understand and describe why it is of crucial importance to protect the right to privacy of child victims and witnesses, especially victims of sexual exploitation.
- ▶ Recognize the risks to child victims and witnesses and identify the measures to protect the safety of children.
- ▶ Identify the optimal approaches in implementing special preventive measures along with other relevant justice providers to child victims and witnesses.

Suggested duration: 3 hours (180 minutes)

Prior to the module

Set up the training room. Ensure that there are handouts, case studies, reference notes and copies of relevant legislation for the trainees.

Materials, equipment and logistics

Ensure that appropriate training aids, such as computers, LCD projectors, white boards, flip charts and marker pens are available in the training room.

LESSON PLAN FOR MODULE 4

Lesson outline	Content	Activity	Time	Reference material
4.1	The right to effective assistance	Lecture/presentation/discussion	40 min.	Paragraphs 4.1.1 to 4.1.5 Presentation slides
4.2	The right to privacy	Lecture/presentation/discussion	30 min.	Paragraphs 4.2.1 to 4.2.4 Presentation slides
4.3	The right to safety	Lecture/presentation/discussion	30 min.	Paragraphs 4.3.1 to 4.3.5 Presentation slides
	Case study 2. Online and offline investigation of crimes against children	Learning exercise through problem-solving	60 min.	Handout of case study
4.4	The right to special preventive measures	Lecture/presentation/discussion	20 min.	Paragraphs 4.4.1 to 4.4.3 Presentation slides

4.1 The right to effective assistance

The right to effective assistance is one of the ten fundamental rights of child victims and witnesses of crime promoted by Guidelines 22 to 25 of the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime. The right to effective assistance is also connected to the right to be protected from discrimination, which explicitly refers to assistance, and is considered a precondition for the right to be heard and to express views and concerns, as well as for the right to be protected from hardship during the justice process of child victims and witnesses.

The Convention on the Rights of the Child and the two Optional Protocols (on the sale of children, child prostitution and child pornography (2000), and on the involvement of children in armed conflict (2000)) refer to “assistance” to children in various articles. Principle 11 of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (2013) deals with provisions on legal aid which are in the best interests of the child. Specific provisions regarding children are mentioned in articles 34 and 35 of Principle 11, in article 48 of Guideline 7, in article 49 of Guideline 8, and in articles 53 and 54 of Guideline 10.

Guidelines – Chapter 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.

23. In assisting child victims and witnesses, professionals should make every effort to coordinate support so that the child is not subjected to excessive interventions.

24. Child victims and witnesses should receive assistance from support persons, such as child victim/witness specialists, commencing at the initial report and continuing until such services are no longer required.

25. Professionals should develop and implement measures to make it easier for children to testify or give evidence to improve communication and understanding at the pre-trial and trial stages. These measures may include:

- (a) Child victim and witness specialists to address the child’s special needs;
- (b) Support persons, including specialists and appropriate family members to accompany the child during testimony;
- (c) Where appropriate, to appoint guardians to protect the child’s legal interests.

4.1.1 The right to effective assistance in the national legal framework



Trainer's notes

Provide details of the national legal provisions (with names of laws, section or article numbers) on the:

1. General rights of the child victim/witness to effective assistance.
2. Specific rights of the child victim/witness to effective assistance in cases of sexual abuse and exploitation.
3. National policies, procedures and guidelines issued by the relevant ministry or government department on the right to effective assistance to child victims and witnesses.
4. All the specific kinds of assistance that are provided in points 1 to 3.
5. Court judgements protecting the right of the child victim/witness to effective assistance (that form precedent in common law countries).

4.1.2 Different kinds of assistance to the child's special needs

Being a victim of crime and witnessing crime, especially violent crimes and crimes committed by family members, is a serious violation of children's rights. Girls and boys who have suffered from crimes are more vulnerable to being re-victimized and to becoming victims of violence, abuse and exploitation again at a later stage of their lives. Being a child victim/witness may have an incapacitating effect on their lives as adults.

4.1.2.1 Assistance as early as possible and as long as needed

In order to prevent or mitigate the far-reaching and long-lasting consequences of victimization as much as possible, professionals who deal with child victims and witnesses should provide access to effective assistance. Prosecutors and judges have the responsibility to take every step to address children's special needs and to enable distressed child victims and witnesses to enjoy a harmonious physical, mental, spiritual, moral and social life again. Assistance should be provided as early as possible after the crime has been committed and should continue after the conclusion of the proceedings as long as the child needs support to fully recover from the injuries and harm and to fully reintegrate into society. In some cases, this might be long after the crime is committed and long after the conclusion of the proceedings.

4.1.2.2 Assistance tailored to the child's special needs

The concrete kinds of assistance that children need vary depending on the context and culture in which they live. In many countries, the usual way to offer assistance is through public services, while in other countries, the family, community and other kinds of social support may be more culturally accepted and appropriate. In any case, the assistance has to be tailored to the child's specific needs in order to be effective. It depends on the needs of the individual child what assistance professionals should provide in order to ensure the child's physical and psychological recovery and social reintegration. According to Guideline 22, effective assistance may, inter alia, consist of:

- Financial assistance
- Legal assistance
- Counselling
- Health services
- Social services
- Educational services
- Physical recovery services
- Psychological recovery services
- Other services

This list of assistance and support services is not comprehensive, which can be concluded from the addition of “other services” necessary for the child’s reintegration. Concretely, professionals may assist child victims and child witnesses, inter alia, by:

- Guaranteeing the child’s well-being
- Ensuring the child’s privacy
- Ensuring the child’s safety
- Supporting the child’s physical recovery
- Supporting the child’s psychological and emotional coping and recovery
- Supporting the child’s social reintegration
- Supporting the child’s communication and sharing of views and concerns
- Supporting the child’s participation in decision-making
- Supporting the child’s testimony
- Mitigating secondary victimization of the child
- Diminishing reactivation of the child’s distressing experiences
- Ensuring reparation of the consequences of the crime

Ideally, the referral of a child victim/witness to a particular support service is made as soon as possible, i.e. at the time of the initial contact, and thus by the law enforcement professional involved in the case. Where law enforcement professionals have not referred a child victim/witness to the service or assistance he or she needs, the prosecutor or the presiding officer of the court (where prosecutors have not already done this) have the responsibility to inform the child and the family about the available support services. Of course, this implies that prosecutors and judges should be aware of all existing support services in their district. Therefore, it is recommended that prosecutors and judges familiarize themselves with the wide array of available services, and that they keep the information on services and assistance for child victims and witnesses available in their respective offices.



Trainer’s note

Inform the trainees that, from the list of various services mentioned in section 4.1.2.2 by which the child victim/witness can be provided effective assistance, prosecutors and judges may have a limited role to play. Providing effective assistance comprehensively and holistically would also involve other professionals such as law enforcement officials (as first responders), lawyers, health staff, social workers and informal justice providers.

4.1.2.3 Legal assistance

Effective assistance for child victims and witnesses during the justice process may require access to legal assistance. It is recommended in considering the best interests of the child, that children involved in the justice process be assigned a lawyer by the government, free of charge, throughout the justice process in the following instances:

- At the child's request
- At the request of his or her parents or guardian
- At the request of the support person, if one has been designated
- Pursuant to an order of the court

Judges, on their own motion, may also decide to assign a lawyer if they consider such assistance in the best interests of the child victim/witness.

It is important to distinguish legal assistance from legal representation. Legal assistance implies that the lawyer provides basic information about all relevant rights and proceedings to the child victim/witness and, where appropriate, also to his or her parents or guardian. Legal assistance may include assistance during the criminal proceedings, i.e. in helping the child to assert his or her rights as a victim or witness of crime. Legal assistance does not include taking any actual action in the name of the child. Legal representation, on the other hand, is required when the child wants the lawyer to assist him or her to reach a particular decision or take action on his or her behalf. Legal representation requires the fulfilment of legal requirements, such as providing the lawyer with a power of attorney. In this case, the lawyer is bound by ethics rules, such as confidentiality, that benefit the child.

4.1.2.4 Medical services

A specific responsibility of prosecutors and judges concerns the referral of child victims and witnesses to medical services. Prosecutors and judges may provide the written authorization for a medical examination or the taking of a body tissue sample of a child victim/witness in case such examination is indispensable and in the best interests of the child. A child may only be subjected to forensic examination if the prosecutor, the court or a senior law enforcement official has provided written authority. Another precondition is that the child's parent(s) or guardian and/or his or her support person should accompany him or her, unless the child decides otherwise. Wherever possible, additional forensic examinations should be avoided, as they often result in secondary victimization of the child.

4.1.3 Coordinated assistance

Child victims and witnesses should receive as much assistance as they need and for as long as they need it. However, professionals also have the responsibility to ensure that children are not subjected to unnecessary and too many interventions.

No excessive interventions

Prosecutors and judges should make every effort to coordinate support so that child victims and witnesses are not subjected to excessive interventions. Coordinated assistance at all stages of the justice process, including at the pretrial and post-trial stages, avoids excessive interventions and ensures that the assistance is in the child's best interests. Excessive interventions are not in the best interests of children and may cause secondary victimization. Having too much assistance and too many professionals who try to provide the child with what he or she needs is counterproductive and might be

disruptive to the child's life. It can have negative consequences for the child's physical and emotional well-being and results in confusion, more stress, insecurity, more contact with the justice process than necessary and, as a consequence, reduced motivation on the part of the child to participate in the justice process and to give quality evidence. Such additional stress and unnecessary hardship can be alleviated if the activities of the different professionals involved in the process are well coordinated and collaboration among professionals is established.

In cases of child trafficking, "coordinated assistance" has a special meaning. Trafficking is often a cross-border phenomenon that cannot always be dealt with effectively at the national level. International, multilateral and bilateral cooperation plays an important role. Coordination and collaboration among all organizations and institutions concerned is critical for the care and protection of child victims.

Interdisciplinary assistance

Assistance has to be interdisciplinary or multidisciplinary and cooperative in order to be effective. Interdisciplinary cooperative assistance implies that professionals work together, combine their knowledge and efforts and gear their activities to one another so that they understand the possibilities as well as the limitations of both their own expertise and the expertise of other professionals with whom they collaborate. Coordination and cooperation can be encouraged through the use of protocols and agreements.

Cooperation among professionals limits the contacts of child victims and witnesses with the justice system to a minimum and ensures that interviews and investigations are conducted in a child-sensitive manner and in a more thorough and accurate way. Information sharing and combining skills and experience significantly reduces the risk of secondary victimization and improves the quality of the evidence.

However, in various countries, specialized assistance and services for child victims—and especially for child witnesses—do not exist. In such settings, legal, psychosocial and other kinds of support can be offered by community-based organizations (CBOs) and non-governmental organizations (NGOs) as well as by governmental services.

The provision of comprehensive interdisciplinary services to child victims and witnesses requires that prosecutors develop constructive and professional relationships with law enforcement officials, social workers, court staff, psychologists, health professionals, CBOs and NGOs. Such a coordinated interdisciplinary approach ensures not only that all special needs of the child are met, but also that continuity in service is provided.

Coordinated interdisciplinary investigation and interviews

An interdisciplinary approach in the investigation stage, such as interdisciplinary child abuse teams, implies that prosecutors collaborate with law enforcement professionals, child specialists, mental health professionals and social workers. The main responsibilities of prosecutors in such a team are:

- Developing and defining the roles and responsibilities of the professionals who participate in the investigation of the case.
- Explaining the criminal court proceedings, if necessary.
- Assisting law enforcement and other professionals in the investigation, especially explaining what sufficient evidence implies.
- Informing colleagues about the criminal court status, whether an arrest was made, the scheduled trial date, conviction and sentencing status and status of orders of protection.
- Providing information regarding compensation for child victims.

- Determining whether any expert evidence is required, including medical evidence, psychological evidence or evidence regarding the dynamics of violence to children or the effect of sexual abuse on children.
- Advising the court, in appropriate cases, of any aggravating circumstance, including whether the case involved an element of breach of trust or whether the accused had a special relationship with the child.
- Requiring that the court take into account the severity of the physical and psychological harm experienced by the child. This may include an oral or written victim impact statement.
- Contacting the appropriate authorities to ensure the safety and well-being of the child.
- Collaborating across borders in prosecuting offenders involved in trafficking or other transnational crimes involving child victims and witnesses.



Trainer's notes

1. Specific information may be provided to the trainees based on national laws, legal procedures and government plans and policies on the cooperation between the prosecutors and NGOs or child welfare agencies.
2. Practical information regarding child welfare agencies and NGOs may be provided, such as:
 - A list of child welfare agencies and NGOs that provide victim assistance at the central, provincial and local levels.
 - Details of any agreement between prosecutorial services and the NGOs on access to, and provision of assistance.
 - Specific instructions of how prosecutors should establish contact with the NGOs, including contact addresses, 24-hour contact numbers and the identity of the officials to be contacted.

Prepare beforehand a database of NGOs working on child rights and specifically on issues pertaining to child sexual exploitation (rescuing and sheltering children, assisting the law enforcement agencies and prosecutors in investigation and prosecution, respectively; counseling, rehabilitation and repatriation of the child).

4.1.3.1 Assistance from support persons

A support person is a specially trained person designated to assist a child throughout the justice process in order to prevent the risk of duress, re-victimization or secondary victimization. Support persons have to be trained and need professional skills to communicate with and assist children of different ages and backgrounds. They accompany child victims and witnesses in addition to their parents or guardian and in addition to their lawyer or other professionals designated to assist the child and do not replace them. Support persons do not represent the child victim/witness in court and do not take any actual action on behalf of the child.

Who may be a support person?

Any child victim/witness specialist, such as a psychologist, criminologist, social worker and other professional specializing in communication and working with children involved in the justice process, may act as support person.

What are the responsibilities of support persons?

The child's support person provides assistance and emotional support throughout the justice process. The specific duties that they may perform are:

- Alleviate the negative consequences of the crime on the child.
- Providing assistance to the child in carrying out his or her daily life.
- Assist the child in dealing with administrative matters arising from the circumstances of the case.
- Advising whether therapy or counselling is necessary.
- Liaising and communicating with the child's parents or guardian, family, friends and lawyer, as appropriate.
- Informing the child about the composition of the investigation team or court and all other relevant issues.
- Discussing with the law enforcement officials, the prosecutor and the court the desirability of having protective measures for the child.
- Being present during any interview with the child.
- Being present during any competency examination of the child.
- Informing the child and his or her parents or guardians about the release of the accused from custody or pretrial detention.
- Informing the child about the scheduling of the hearings.
- Discussing, in coordination with the lawyer representing the child or in the absence of a lawyer representing the child, the different options for giving evidence with the court, the child and his or her parents or guardian.
- Requesting a court recess whenever the child needs one.

Considering the significant role played by support persons, the competent magistrate or judge should verify that the child is already receiving the assistance of a support person before inviting a child victim/witness to court. If a support person has not been designated, the magistrate or judge should appoint one, taking into account the opinion of the child, including his or her wish regarding the gender of the person.

4.1.4 Measures to facilitate children's involvement in the justice process

Some concrete examples of measures, along with the relevant professionals, to facilitate involvement of child victim/witness in the justice process are:

Child victim/witness specialists: Child victims and witnesses may need the assistance of experts during the pretrial stage and/or trial stage for various reasons. For example, the child may require the assistance of an interpreter or translator if he or she does not speak the language of the court, or the child may require the assistance of an intermediary to reformulate the questions put forward by the court in child-sensitive language. The child may also need the assistance of a specialist to ensure that his or her hearing, sight, speech or other disability does not prevent him or her from participating in the justice process. He or she may also require the support of an expert to guarantee that his or her ethnicity or poverty does not hamper his or her participation in the justice process. The assistance of a child specialist or mental health-care provider may be required to mitigate the risk of re-victimization, for example, when the child is invited to recall the crime during the investigation. It is obvious that

such assistance can only be effective and address the individual needs of children if the specialists have received specialized training.

Support persons: These include specialists and appropriate family members who accompany the child during the investigation and testimony. The child's support person may be, inter alia, an appropriate family member: one who is capable of communicating with and assisting children of different ages and backgrounds in a child-sensitive manner and who is capable of preventing the risk of duress, re-victimization and secondary victimization.

Guardians ad litem: These may be appointed to protect the child's legal interests and assist child victims and witnesses during the pretrial and trial stages. In situations where the presence and support of parents is not in the best interests of the child victim/witness, a legal guardian may be appointed to ensure the child's legal interests as long as he or she is involved in the justice process. This may happen, for example, when the parents are the alleged perpetrators, where one parent is murdered by the other or when the child expresses concern about being accompanied by his or her parent(s). In essence, the term "legal guardian" refers to an adult or organization responsible for ensuring that a child's best interests are fully represented during all stages of the justice process. The legal guardian has, by law, the right to make decisions for the child and is accountable to the court.



Trainer's notes

Provide information regarding appointment of professionals as child victim/witness specialists, support persons or guardians under the:

- National legal provisions.
- Guidelines from the relevant ministry, department, prosecutorial services or courts.

4.1.5 Concrete tips on how to ensure effective assistance

A few concrete methods on how professionals working in the justice system may ensure that child victims and witnesses of crime have access to effective assistance are provided hereunder with the caveat that these do not comprise a comprehensive list. The preconditions for access to effective assistance are that:

- Professionals are aware of the available services for child victims and witnesses.
- Professionals are willing to cooperate with colleagues, the responsibilities of all relevant stakeholders are clearly laid out and the cooperation of all professionals is regulated by protocols for the different stages of the justice process.
- Professionals should adequately inform child victims and witnesses, as well as their parents or guardian, about the available services and the means of accessing them.

Concrete tips on effectively assisting child victims and witnesses of crime

- **Child sensitivity:** Explain to the child in child-sensitive language which services and assistance are available. Do not use technical terms such as "reintegration", "counselling", "psychosocial support", "compensation", etc. Assure the child that getting assistance is normal and also necessary. Explain that, after such a terrible experience as being a victim or witness of crime, all children, as well as adults, need assistance.
- **Any assistance:** Explain to the child that the professionals are there to help and to protect him or her. The child may ask for anything he or she needs. Explain that if his or her needs cannot be met,

the professionals will explain why and will do their best to find a solution to improve his or her situation.

- **Tailored assistance:** Never force a child to accept certain assistance. Give the child and his or her parents the time he or she needs to decide which kinds of assistance are required. Also explain that, if the child feels uneasy, he or she may ask for the help of another person he or she trusts.
- **Reoccurrence:** Be aware that some of the physical reactions that the child had during experiencing or witnessing the crime may occur when he or she is interviewed and has to recall the events. Give the child the time he or she needs.
- **Child-focused:** Maintain eye contact with the child. Only address the parents or guardian, and the child's legal representative, to give them specific additional information about the assistance and services. The child should feel that the primary concern is to find the most efficient assistance for him or her.
- **Visual materials:** Show the child brochures or other visual materials related to the services to help him or her better understand what assistance is available.
- **Active listening:** Listen attentively to the wishes and concerns of the child. Open-ended questions may be put to the child to seek further information on which kinds of assistance he or she needs.



Trainer's notes

Ask the trainees to share their personal experiences on:

- Using any of the concrete tips (section 4.1.5) to provide effective assistance to child victims and witnesses in a specific case handled by them.
- Any other innovative and creative approach used by them to provide effective assistance to child victims and witnesses.
- The child's responses in a specific case where effective assistance was provided by the concerned prosecutor or judge.

4.2 The right to privacy

The right to privacy is one of the ten fundamental rights of child victims and witnesses of crime promoted by Guidelines 26 to 28 of the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.

Guidelines – Chapter X. The right to privacy

26. Child victims and witnesses should have their privacy protected as a matter of primary importance.

27. Information relating to a child's involvement in the justice process should be protected. This can be achieved through maintaining confidentiality and restricting disclosure of information that may lead to identification of a child who is a victim or witness in the justice process.

28. Measures should be taken to protect children from undue exposure to the public by, for example, excluding the public and the media from the courtroom during the child's testimony, where permitted by national law.

The right to privacy is further referred to in the Guidelines under “The right to be treated with dignity and compassion” and “The right to be protected from hardship during the justice process”. The Convention on the Rights of the Child and its two Optional Protocols (on the sale of children, child prostitution and child pornography (2000), and on the involvement of children in armed conflict (2000)) make reference to privacy for children in their various articles. These international instruments explicitly state that the law should protect children from attacks against their way of life, their good name, their families and their homes; and that appropriate measures should be implemented to protect the privacy and identity of child victims and to avoid the inappropriate dissemination of information.

4.2.1 The right to privacy in the national legal framework



Trainer’s notes

Provide details of the national legal provisions (with names of laws, section or article numbers) on:

- The general right to privacy of the child victim/witness.
- The specific right to privacy of the child victim/witness in cases of sexual abuse and exploitation.
- National policies, procedures and guidelines issued by the relevant ministry or government department on the right to privacy to a child victim/witness.
- Court judgements (that form precedent in common law countries) protecting the right of the child victim/witness to privacy.
- Whether the national laws and/or policies include protection from release of information.
- Whether the national laws and/or policies include protection from undue exposure.

Bearing in mind the available time for the session, provide brief information on the compatibility of national laws and legal procedures vis-à-vis the international framework on the subject of the right to privacy.

4.2.2 Detrimental effects of release of information

Guideline 26 states without reservations that the privacy of child victims and witnesses should be protected as a matter of primary importance. It is crucial that each professional involved in cases of child victims and witnesses guarantees strict confidentiality of all information they may have acquired in the performance of their duty.

Privacy is extremely important for children involved in the justice process, because the release of information, in particular in the media, may have dramatic effects for the child. For example, it might:

- Endanger the child’s safety.
- Cause the child intense shame and humiliation.
- Discourage the child from revealing what happened.
- Cause him or her severe emotional harm.
- Put a strain on the child’s relationships with family members, peers and the community, especially in cases of sexual abuse.
- Lead to stigmatization by peers, family members and the community, thereby causing further victimization of the child.

- Undermine the building of trust, especially with children who are repeatedly victimized or who are victims of exploitation or exposure to violence.

Because of these detrimental effects, it is internationally acknowledged that victims and witnesses have the right to privacy. However, there is also recognition of the right to privacy as “a competing interest that shall be put in balance with the right of the accused to be tried in public”. In the context of criminal justice proceedings, the principle of the best interests of a child should be a primary consideration of professionals, but cannot jeopardize or undermine the rights of an accused or convicted person. This also applies to the child’s right to privacy.

4.2.3 Measures to protect the privacy of child victims and child witnesses

The Guidelines specify two essential ways of safeguarding the privacy of child victims and witnesses who are involved in the justice process. The Guidelines emphasize that, in cases involving child victims and witnesses, information related to their involvement in the justice process has to be protected. This can be achieved by maintaining confidentiality and restricting disclosure of information.

4.2.3.1 Maintaining confidentiality

Prosecutors and judges should understand that private information—especially in cases of serious violent crimes, domestic violence and sexual crimes—is concealed as a matter of primary importance. Professionals are responsible for guaranteeing the confidentiality of information regarding the identity and whereabouts of child victims and witnesses. Any names, addresses, workplaces, professions or any other information that could be used to identify the child should be expunged from the public record. Organizations must ensure the permanent preservation of their records in a manner that guarantees confidentiality. They may decide to centralize their records under the responsibility of a competent authority. Confidentiality is especially important in relation to sexual crimes. It is recommended that any professional who violates this requirement be considered guilty of an offence.

4.2.3.2 Breach of confidentiality

All professionals who work with child victims and witnesses of crime before, during and/or after the justice process have to ensure the child’s privacy. However, there may be certain rare situations in which confidentiality must or may be breached. In general, there are three such situations:

1. **Legal requirement of disclosure:** It is recommended that professionals working in the justice system who have reasonable cause to suspect that a child is a victim of or a witness to a crime report that to the appropriate authorities. This also applies to teachers, doctors, social workers and other categories of professionals who work with children outside the justice system. In many jurisdictions, disclosure of information is required in cases of child abuse and trafficking. Sometimes professionals also have to report when a child is in need of protection because his or her behaviour threatens to cause harm to himself or herself or others, for example, by participating in risk behaviours such as drug use. If a professional reports a suspected case, he or she has the duty to assist the child to the best of his or her abilities until the child is provided with appropriate professional assistance.
2. **Informed consent of the child:** In case professionals consider it necessary to share private information about child victims and witnesses with their colleagues in the justice system, they have to inform the child, as well as his or her parents or guardian, about their intentions, the circumstances in which they have to disclose information to colleagues and the reasons why they are of the opinion that sharing is required at that particular moment. They should also explain the possible

consequences of sharing private information. Informed consent—or refusal to share private information—is crucial to guaranteeing that the child can maintain control over the information he or she gives or not and to whom.

Another requirement is that private information may only be shared on what is called a “need to know basis”. This restricts the disclosure of information to only those colleagues who are directly involved in the case and who need the details to adequately protect and efficiently assist the child.

3. **Considering the best interests of the child:** Conducting a best interests assessment should be done in cases of breach of confidentiality by taking various elements into consideration, such as:
 - The rights, interests, needs, opinions, wishes, feelings and concerns of the child victim/witness.
 - The opinion of the parents or legal guardian of the child victim/witness.
 - If required, the opinion of experts, such as child development specialists, psychologists, support persons, etc.
 - The potential risks of the possible decisions and the available protective factors in the child’s environment.
 - The potential impact of the various possible decisions on the child’s well-being and the realization of the rights of the child.

Based on all these elements, the professional forms his or her own opinion and, in the end, makes a balanced decision that ensures a positive impact on the child victim/witness and avoids negative consequences as much as possible.

4.2.3.3 Restricting disclosure of information

The privacy of child victims and witnesses should also be protected through restrictions on the disclosure of information that may lead to their identification. Special attention should be given to disclosure of particularly sensitive materials such as psychological and medical reports. Children’s privacy should be safeguarded irrespective of the medium of potential disclosure, i.e. printed media, radio, television or Internet. Professionals can prevent the dissemination of child-related information to the public through prohibition of:

- Publication of child-related information.
- Broadcasting of child-related information.
- Publication of pictures or photographs of the child.



Only with the express permission of the court may information that tends to identify a child as a victim or witness be published.

A specific aspect of the right to privacy concerns the files kept on child victims and witnesses. Many children involved in the justice process have some records or reports written about them and stored somewhere, such as medical files, psychological reports, best-interest determinations, competency examinations, etc. Therefore, an important component of the right to privacy is that the child as well as his or her parents or legal guardian:

- Knows of the existence of information stored about him or her.
- Knows why such information is stored.

- Knows who controls the information.
- Has access to such records, whether stored manually or by electronic means.
- Is able to challenge and, if necessary, correct their contents, if necessary through recourse to an independent body.

4.2.4 Concrete tips on how to protect children’s privacy

A few concrete tips are presented below on how to protect the privacy of child victims and witnesses. The list is indicative and not exhaustive.

- **Taking the child’s views into account:** Convey to the child that his or her views and concerns will be respected. Explain to the child that he or she has the right to keep private information to himself or herself. He or she does not have to share information by answering questions other than those that are relevant to the case.
- **Child sensitivity:** Never insist that the child give information and details. Questions may be reformulated and the child could be given extra time to think about them. Prosecutors and judges should never make statements such as, “If you do not give me that information, then I cannot guarantee your privacy or safety” or “If you do not answer my question, I have to ask your parents.”
- **Trust and rapport:** Take time to establish trust and rapport. Listen to the child and give him or her the opportunity to ask and share whatever he or she wants.
- **Private conversation:** Explain to the child that he or she has the right to talk to persons he or she wants to talk to and may refuse talking to persons he or she does not feel comfortable with. Persons irrelevant to the investigation, interviewing, prosecution or trial processes should be sent away.
- **Nobody will know:** Explain that nobody has the right to know that he or she is a victim or witness of crime and that he or she is involved in the justice process. The child may decide who may know and who may not. Only people the child trusts may know he or she has been a victim or witness and is participating in the justice process.
- **Filing:** Convey to the child and his or her parents that the prosecutor will keep a file with the information that has been shared—and photographs if they exist—but that nobody except the authorized officials and the child will have access to them. Explain that the child may have a look at his or her file at any time during his or her participation in the justice process and that he or she may correct the information if he or she is of the opinion that it is not complete or correct.
- **Disclosure:** Explain to the child when the information needs to be shared with colleagues or disclosing private information about him or her in another way as well as the potential consequences of disclosure. Explain what kinds of situations might occur.
- **Organizational procedures:** Prosecutorial services should establish particular organizational procedures if they are not already in place. The procedures and protocols may make reference to the principle of the best interests of the child and the need-to-know principle, and may also be used to standardize forms for recording information about child victims and witnesses.

4.2.4.1 Responsibilities of prosecutors and judges in ensuring the right to privacy of child victims and witnesses

Prosecutors and judges have the responsibility to guarantee that information that can reveal the identity of a child victim/witness is kept confidential and only shared with colleague professionals having responsibility in the same case. If a child’s right to privacy is violated, prosecutors and judges should

ensure the prosecution of the person(s) or media. However, judges are the only professionals in the justice system who may grant permission to publish information that tends to identify a child victim/witness. In general, responsibilities of prosecutors and judges to ensure the right to privacy of child victims and witnesses of crime may be summed up as:

- Keeping information that can reveal the identity of child victims and witnesses confidential.
- Requesting measures for the protection of the identity of child victims and witnesses, in case these measures do not automatically apply.
- Limiting the interference in the child's private life to the minimum needed.
- Encouraging the implementation of principles, guidelines, protocols and codes of conduct related to the privacy of child victims and witnesses within the prosecution office.

Judges may also take certain specific steps in addition to the general measures to ensure the privacy of child victims and witnesses. They may do so, inter alia, in the following ways:

- Expunging from the public record any names, addresses, workplaces, professions or any other information that could be used to identify the child.
- Forbidding the defence lawyer from revealing the identity of the child or disclosing any material or information that would tend to identify the child.
- Ordering the non-disclosure of any records that identify the child until such time as the court may find appropriate.
- Assigning a pseudonym or a number to a child, in which case the full name and date of birth of the child shall be revealed to the accused within a reasonable period for the preparation of his or her defence.
- Designating separate waiting areas for children that are not visible to or accessible to persons accused of having committed a crime.
- Concealing the features or physical description of the child giving testimony, including testifying: behind an opaque shield; using image- or voice-altering devices; through examination in another place, transmitted simultaneously to the courtroom by means of closed-circuit television, by means of videotaped statement of the child witness prior to the hearing (in which case the counsel for the accused shall attend the examination and be given the opportunity to examine the child witness or victim); and through videoconference.
- Excluding the public and the media from the courtroom.
- Giving orders to temporarily remove the accused from the courtroom.
- Taking any other measure that the court may deem necessary, including anonymity where applicable.



Trainer's notes

Encourage the trainees to share their personal experiences on:

- Using any of the concrete tips (section 4.2.4) to protect the right to privacy of child victims and witnesses in a specific case handled by them.
- Any other innovative and creative approach used by them to protect the right to privacy of child victims and witnesses.
- The consequences in any specific case where the right to privacy could not be protected and there was inadvertent disclosure of information.

4.3 The right to safety

Involvement as a victim or witness, or both, in the justice process may be a dangerous and even life-threatening experience for children. Especially in cases of organized crime and war crimes, children may fear for their lives. In such extreme circumstances it is literally of vital importance to ensure children's safety. However, the safety of children might be at stake in all kinds of crimes. The right to safety includes protection from any form of further harm, including physical, psychological, mental and emotional abuse and neglect, and any form of intimidation or retaliation.

The right to safety is one of the ten fundamental rights of child victims and witnesses of crime promoted by Guidelines 32 to 34. The right to safety is further developed in other guidelines that deal with the right to be heard and to express views and concerns. The safety of child victims and child witnesses is also indirectly included in one of the cross-cutting principles, i.e. Guideline 8 (c) (i), "Protection", that states, "Every child has the right to life and survival and to be shielded from any form of hardship, abuse or neglect, including physical, psychological, mental and emotional abuse and neglect." Safety is a precondition to the efficient participation of child victims and witnesses of crime in the justice process.

The two Optional Protocols to the Convention on the Rights of the Child were specifically developed to protect the safety of two particularly vulnerable groups of children. The Optional Protocol on the sale of children, child prostitution and child pornography (2000) explicitly refers to "safety" by making it obligatory for States parties to adopt appropriate measures to protect the rights and interests of child victims ... providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation; and protecting the safety and integrity of those persons and/or organizations involved in the prevention and/or protection and rehabilitation of victims of such offences.

The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) also recommends that measures be taken to guarantee the safety of (child) victims from intimidation and retaliation. It also mentions the need to ensure the safety of the families of the children and witnesses on their behalf.

Guidelines – Chapter XII. The right to safety

32. Where the safety of a child victim or witness may be at risk, appropriate measures should be taken to require the reporting of those safety risks to appropriate authorities and to protect the child from such risk before, during and after the justice process.

33. Professionals who come into contact with children should be required to notify appropriate authorities if they suspect that a child victim or witness has been harmed, is being harmed or is likely to be harmed.

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 pretrial 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.

4.3.1 The right to safety in the national legal framework



Trainer’s notes

Provide details of the national legal provisions (with names of laws, section or article numbers) on the:

- General rights of child victims and witnesses to “right to safety”.
- Specific rights of child victims and witnesses to right to safety in cases of sexual abuse and exploitation.
- National policies, procedures and guidelines issued by the relevant ministry or government department on the right to safety of child victims and witnesses.
- Court judgements (that form precedent in common-law countries) protecting the right of child victims and witnesses to safety.
- Do the national laws and policies include measures on reporting safety risks and/or suspected crimes?

4.3.2 Appropriate measures to deal with safety risks

A child may feel intimidated when he or she is afraid that the accused or his or her parents or others may force him or her to do or to say something against his or her will. A child may feel threatened when the accused or someone related to the accused tells him or her that something bad will happen if he or she refuses to do what that person says. Offenders may threaten child victims and witnesses—directly or indirectly through associates—to kill or hurt them or to harm someone close to them if they tell anybody about the event, officially report the crime and/or give evidence against the perpetrator. Offenders can also put pressure on family members of child victims and witnesses in order to prevent the child from telling his or her story or to testify.



Feeling safe is a precondition for the efficient participation of children in the various stages of the justice process.

During the justice process, the perpetrator can also intimidate the child victim/witness, i.e. through eye contact, gestures or words. Children can also be intimidated after they have been involved in the justice process through retaliation. In case a family member of a child is the perpetrator, the child victim/witness can also be threatened or harmed by other members of his or her family in order to prevent or stop his or her participation in the justice process and to try to ensure that the perpetrator is not punished and, possibly, imprisoned.

Children who are victims or witnesses of the following crimes are particularly vulnerable to harm, intimidation and retaliation: sexual abuse, trafficking, and in cases where the alleged perpetrator is someone close to the child.

In situations where the personal safety of child victims and witnesses may be at risk, appropriate measures should be taken to:

- Require the reporting of safety risks to appropriate authorities.
- Protect the child from safety risks before, during and after the justice process.

Protective measures are usually applied before the trial in order to ensure that the child will be available and as comfortable as possible to testify. However, the measures should in principle continue to apply as long as they remain necessary to protect the child victim/witness. That includes after his or her testimony; for example, to avoid possible retaliation when the offender is released from prison, in which case the law enforcement official may be responsible.

4.3.2.1 Particular safety risks for children with disabilities

Children with disabilities are more vulnerable to all forms of abuse—be it mental, physical or sexual—in all settings, including the family, schools, private and public institutions, work environment and the community at large. In the home and in institutions, children with disabilities are often subjected to mental and physical violence and sexual abuse, and are particularly vulnerable to neglect and negligent treatment, since they often present an extra physical and financial burden on the family. In addition, the lack of access to a functional complaint-receiving monitoring system is conducive to systematic and continuing abuse. School bullying is a particular form of violence that children are exposed to, and more often than not, this form of abuse targets children with disabilities. Prosecutors and judges need to be aware of the particular safety risks for children with disabilities who become victims of crime so that they may be able to provide proper remedial measures to ameliorate the risks during prosecution and trial.

4.3.3 Reporting suspected crime against children

The Guidelines state that mandatory reporting of suspected crime against child victims and witnesses should be regulated by national law. States should require professionals who come into contact with child victims and witnesses to notify appropriate authorities if they have reasonable cause to suspect that a child involved in the justice process has been harmed, is being harmed or is likely to be harmed. The obligation to report any circumstance that might compromise a child should apply to all professionals involved in the justice system, i.e. law enforcement officials, prosecutors, judges, lawyers, health staff, social workers, formal justice providers and, additionally, all other professionals who come in contact with children, for example, teachers and doctors. It is recommended that professionals report suspected crime immediately upon discovery and that they assist the child to the best of their abilities until he or she is provided with appropriate professional support.

4.3.4 Measures to protect the safety of children

There are four concrete protective measures mentioned in Guideline 34 that may ensure the safety of child victims and child witnesses. These are:

1. **Avoiding direct contact with the alleged offender:** At any point in the justice process. For example, by means of pretrial videotaped interviews; separate waiting rooms in courts; one-way screens; removal of the accused from the courtroom; and closed court sessions.

2. **Restrictions of freedom of movement of the alleged offender:** The use of police custody, pretrial detention and other restraining orders are common measures to ensure the safety of children. Restraining orders may also be issued by the judge after the perpetrator has been released from prison in order to guarantee the safety of a child victim/witness.
3. **Protection of the child victim/witness by police or other relevant agencies** through protection of the right to privacy of the child victim/witness and by taking all necessary steps towards such protection.
4. **Temporary removal of the child from home** and placing him or her in a shelter or another temporary or emergency centre. However, professionals may only decide to temporarily place the child in a safe environment in order to protect him or her from a potential dangerous situation if all other protective measures have been discussed and considered together with the child and, where appropriate, with his or her parents or guardian, and none of the measures is suitable. Children, especially young children, may consider the decision a form of punishment.

4.3.5 Concrete tips on how to protect children's safety

- **Rapport-building:** An important component of facilitating feelings of safety is creating a comfortable and trusting working relationship with a child victim/witness. Rapport-building requires the ability to demonstrate genuine care while maintaining appropriate boundaries. This must begin at the first meeting with the child and must be given ongoing attention.
- **Setting:** Choose a secure and comfortable setting to meet and/or interview the child. If such a setting is not available, choose a location that is as comfortable and child-sensitive as possible.
- **Information sharing:** A key aspect of creating a sense of safety is to ensure that the child victim/witness is fully aware of all relevant information related to the process and the trial. Therefore, professionals should share their information with the children, which should be updated on a regular basis, as that may help them to develop a sense of safety.
- **Awareness and expertise:** Many child victims and witnesses look at professionals as knowledgeable and having expertise in various forms of child victimization and child exploitation. Child victims are seeking information to understand what happened to them and the law enforcement official and prosecutor handling that particular case is an important source for them.
- **Taking the child's views into account:** Convey to the child that his or her views and concerns regarding his or her safety will be respected. Explain that nobody has the right to know that he or she is a victim or witness of crime and that he or she is involved in the justice process. Only people the child trusts may know he or she has been a victim or witness and is participating in the justice process.
- **Support the parents:** Provide parents (who are not suspects) with the information they need to assist their child to feel safe. Explain to them that it is important that they believe their child and that they emphasize that he or she has done nothing wrong.

4.3.5.1 Responsibilities of prosecutors and judges to protect the safety of child victims and witnesses

Measures to protect children's physical and psychological safety are of paramount concern during the investigation stage and throughout the justice process, but usually they are applied before the trial in order to ensure that the child will be available and as comfortable as possible to testify. However,

prosecutors and judges are responsible for protecting the safety of child victims and witnesses, and, where required, the safety of their families, as long as necessary. That includes after their testimony; for example, to avoid possible retaliation when the offender is released from prison. Prosecutors and judges may contribute to the right to safety of child victims and witnesses of crime in various ways. Their main responsibilities (as are relevant to their work) in this respect are:

- Complying with the obligation to report child victimization if required by national legislation.
- Avoiding direct contact between a child victim/witness and the accused at any point in the justice process, through such means as pretrial videotaped interviews, separate waiting rooms, one-way screens, removal of the accused from the courtroom and closed court sessions.
- Requesting restraining orders from a competent court, supported by a registry system.
- Requesting a pretrial detention order for the accused from a competent court, with “no contact” bail conditions.
- Requesting an order from a competent court to place the accused under house arrest.
- Requesting protection for a child victim by the law enforcement agency or other relevant agencies and safeguarding the whereabouts of the child from disclosure.
- Where appropriate, requesting measures for child victims and witnesses to protect them from intimidation, threats and harm, which should continue for as long as necessary.
- Making or requesting from competent authorities other protective measures that may be deemed appropriate, including all measures to ensure the right to privacy of the child (refer to section 4.2.4).

The support person of the child victim/witness may take the initiative to discuss the advisability of protective measures with the prosecutor or law enforcement professional involved in the child’s case.



Trainer’s notes

Encourage the trainees to share their personal experiences on:

- Using any of the concrete tips (section 4.3.5) to protect the safety of child victims and witnesses in a specific case handled by them.
- Any other innovative and creative approach used by them to protect the safety of child victims and witnesses.
- The child’s responses in a specific case where right to safety of child victims and witnesses could not be protected by the concerned prosecutor or judge.

CASE STUDY 2. ONLINE AND OFFLINE INVESTIGATION OF CRIMES AGAINST CHILDREN



Trainer’s note

Names of persons (victims and offenders) and the place of incident in the case study are fictitious. They are mentioned only for ease of reference during discussions. However, all the fictitious names should be changed to contextualize them according to the country where the training is being imparted to have a better impact on the trainees.

Estimated time: 60 minutes

Materials needed: Handout of the case study, pen, paper, flip charts and markers.

Objective: Dealing with new emerging crimes such as online and offline crimes against children and their victimization; and the responsibilities of prosecutors and judges in the application of the right to effective assistance, the right to privacy and the right to safety in this specific case.

Activity: Depending on the number of trainees, divide them into several groups and provide each group with the case study to deliberate upon; OR ask all the trainees to read this case study and then initiate a general group discussion based on the questions provided in the self-assessment section.

Facts of the case

A police precinct in Loki, Lemuria received a call from a woman who found that her 12-year-old son had been receiving sexually explicit messages via a sports-oriented electronic bulletin board at school. The messages, purportedly received from another 12-year-old boy, included graphic descriptions of sexual experiences, offers to send pornographic pictures via electronic mail, and suggestions that the two boys meet for some “fun”. The messages also urged her son not to reveal this correspondence to his parents or anyone else, as they would “not understand” the friendship.

The investigating officer contacted a police expert in Internet-related crimes. The investigating officer’s check with the Internet service provider revealed that the IP address of the sports-oriented electronic bulletin board was registered to a 28-year-old man who was a national of Agartha and was living on the outskirts of Loki. The Agarthan national was volunteering as a soccer coach at the school. Investigators consulted with the Prosecutor’s Office and obtained a warrant to search the man’s home. This warrant specified the seizure of all photographs, videotapes, cameras and computer files, as well as any and all equipment that could be used to create, store, or transfer these materials.

The search of the suspect’s home revealed a big collection of child abuse material, along with a number of non-pornographic photographs of boys, including some photographs of boys with the suspect. The suspect was also found to have uploaded child abuse images on the Internet. The archived messages in the suspect’s computer revealed that he was corresponding with a number of young boys he had met through the bulletin board. Material contained in a database in the suspect’s computer led to the identification of some of the boys in the photographs. Questioning by the investigators, with help from the victim assistance staff, revealed that at least two of these boys had engaged in sexual activities with the suspect.

The case caught the attention of the media and all newspapers and TV channels started reporting the details of the crime. Some newspapers revealed the name of the school where the victims studied.

Self-assessment

1. List the legal provisions from the national legal framework on the right to effective assistance, right to privacy and the right to safety as applicable to child victims in this case.
2. Identify the practical, concrete steps that would be taken by prosecutors and judges in protecting the right to privacy of the child victims.
3. Identify the practical, concrete steps that would be taken by prosecutors and judges in providing comprehensive effective assistance to the child victims.
4. List the practical, concrete steps that would be taken by prosecutors and judges in enforcing the right to safety of the child victims.

4.4 The right to special preventive measures

The right to special preventive measures is one of the ten fundamental rights of child victims and child witnesses of crime promoted by Guidelines 38 and 39. However, it is important to realize that, in contrast with Guideline 38, Guideline 39 only applies to child victims and not to child witnesses.

The Convention on the Rights of the Child and the two Optional Protocols (on the sale of children, child prostitution and child pornography (2000), and on the involvement of children in armed conflict (2000)) also make direct reference to “prevention of crime” and/or “prevention of victimization” in various articles. Article 10(1) calls for attention to 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.

Guidelines – Chapter XIV. The right to special preventive measures

38. In addition to preventive measures that should be in place for all children, special strategies are required for child victims and witnesses who are particularly vulnerable to recurring victimization or offending.

39. Professionals should develop and implement comprehensive and specially tailored strategies and interventions in cases where there are risks that child victims may be victimized further. These strategies and interventions should take into account the nature of the victimization, including victimization related to abuse in the home, sexual exploitation, abuse in institutional settings and trafficking. The strategies may include those based on government, neighbourhood and citizen initiatives.

4.4.1 The right to special preventive measures in the national legal framework



Trainer's notes

Provide details of the national legal provisions (with names of laws, section or article numbers) on the:

- General rights of child victims and witnesses to special preventive measures. Mention the full name of the relevant law and constitutional provisions, if any.
- Specific rights of child victims and witnesses to special preventive measures in cases of sexual abuse and exploitation.
- Relevant procedures of national laws and special legislation regarding children and the criminal procedure code that relate to rights of child victims and witnesses to special preventive measures.
- National policies, procedures and guidelines issued by the relevant ministry or government department on special preventive measures for child victims and witnesses.
- Court judgements (that form precedent in common law countries) on special preventive measures for child victims and witnesses.

4.4.2 Different kinds of preventive measures

In all countries children are victimized in many ways. Girls and boys are victims of abuse, exploitation and violence. They are recruited, encouraged, entrapped and forced into sexual slavery, prostitution, pornography and sexual exploitation in travel and tourism. They are sold under the cover of intercountry adoptions, for organ transplants, exploited for their labour and used in criminal activities such as selling drugs, robbery, burglary and theft. Girls and boys are neglected and abused by their own parents and family members and other people they trusted. Despite the growing recognition of children's rights as human rights, some adults, including parents, continue to consider children as property and objects which they may sell, buy, exploit or get rid of. The low status of children is reflected, for example, in the fact that only a handful of countries have adopted laws to give children the same protection from physical assault that adults enjoy. In most countries, violent punishment, including beatings, in families, schools and institutional settings remains common and unsanctioned by law. Children are often unable to adequately defend themselves or to take a (strong) position against an adult or, even less so, against a potential perpetrator. Therefore, measures are necessary to prevent children from potential risks, victimization and re-victimization. Some of these measures are:

- **Awareness-raising, information and public education:** Some examples are: children's rights programmes; awareness-raising of the general public; information and public education leading to changes in social norms; public service announcements and declarations; other media-based means of information dissemination.
- **Programmes aimed at combating risk factors:** Focused prevention programmes for children at risk or youth at risk. For example, such prevention programmes may focus on street children, children with disabilities, girls, adolescents or children from ethnic minorities, refugee children and other displaced children.
- **Programmes aimed at strengthening protective factors:** Protective factors refer to those elements in children's lives that contribute to their development as active agents of their own rights. They provide children with the capacity to withstand the pressures from potential risk factors and decrease the possibility of primary victimization. Examples of protective factors in children's lives are: self-esteem; problem-solving and coping skills; parental support; school commitment and attachment; peers and an extensive social support system. In general, schools are considered an important setting for such preventive activities for children.
- **Comprehensive prevention programmes:** Prevention programmes often include comprehensive strategies that aim at preventing children from being victimized, re-victimized or otherwise re-harmed. For example, most child abuse prevention programmes organize awareness-raising campaigns in the community to prevent children from being abused and offer psychosocial assistance for actual child victims of abuse.



Trainer's note

Highlight that the preventive measures discussed in this section may be beyond the realm of normal prosecution and adjudication duties. Most of the preventive measures are undertaken largely by governments, civil society, community-based organizations, non-governmental organizations and others.

4.4.3 The right to special preventive measures in different settings

The right to special preventive measures reiterates that special measures are necessary to prevent children from potential risks, victimization and re-victimization. It is, unfortunately, unlikely that victimization of children will be completely eliminated. However, much more can be done to prevent children from becoming victims and/or witnesses of crime and to prevent child victims and witnesses from being re-victimized, successively victimized and/or otherwise being re-harmed. Professionals working in the justice system should develop and implement preventive strategies and interventions in cases where there are risks that child victims may be victimized further.

The special preventive measures should take into account the nature of the victimization. Some kinds of crime have far-reaching and very detrimental consequences for children and make them particularly vulnerable to re-victimization and successive victimization. Examples of such crimes that are serious violations of children's rights and that require special preventive strategies and interventions are abuse in the home, abuse in institutional settings, sexual exploitation and trafficking.

Prosecutors and judges should do their utmost to ensure that child victims and witnesses, in whichever case they are involved, are not re-victimized or otherwise additionally harmed. They should also try to guarantee that special preventive measures are put in place for child victims and witnesses who are particularly vulnerable to re-victimization and/or successive victimization or offending. Their special attention may be required for children who have suffered from domestic violence, sexual abuse, abuse in institutions and trafficking. In order to prevent or mitigate re-victimization as much as possible, prosecutors and judges should assist child victims and witnesses during their interactions with the child. Also in cases of children with disabilities—who are usually more vulnerable to becoming victims of crime again—prosecutors and judges may consider special preventive measures.

In general, prosecutors and judges have the following responsibilities for ensuring child victims and witnesses right to special preventive measures:

- Making the investigation and prosecution of crimes against children a priority.
- Where necessary, upon discovery of an offence committed against a child, applying appropriate measures for the child's protection.
- Ensuring that the deprivation of liberty of child victims is only taken as a measure of last resort.
- Ensuring that child victims and witnesses are not victimized, re-victimized or otherwise additionally harmed.
- Requiring that special preventive measures are put in place for particularly vulnerable child victims and witnesses.
- Promoting and contributing to programmes of awareness-raising, information and education about primary victimization of children and the risks of re-victimization of children.

SUMMARY OF KEY CONCEPTS FOR MODULE 4

4.1 The right to effective assistance

- The right to effective assistance 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 (section 4.1, Guidelines table).
- Assistance should be provided as early as possible after the crime has been committed and should continue after the conclusion of the proceedings and has to be tailored to the child's specific needs in order to be effective (section 4.1.2.1, paragraph 2 and section 4.1.2.2, paragraph 1).
- Coordinated assistance at all stages of the justice process, including at the pretrial and post-trial stages. This avoids excessive interventions and ensures that the assistance is in the child's best interests (section 4.1.3, paragraph 2).

4.2 The right to privacy

- The right to privacy should be protected as a matter of primary importance. In the context of criminal justice proceedings, there is also recognition of the right to privacy as "a competing interest that shall be put in balance with the right of the accused to be tried in public" (section 4.2.2, paragraph 3).
- Professionals are responsible at all levels of the criminal justice process for guaranteeing the confidentiality of information regarding the identity and whereabouts of child victims and witnesses (section 4.2.2, paragraph 5).
- Prosecutors and judges have the responsibility to guarantee that information that can reveal the identity of a child victim/witness is kept confidential and that the right to privacy of the child needs to be protected at all times (section 4.2.4.1, paragraphs 1 and 2).

4.3 The right to safety

- The right to safety is a precondition for the efficient participation of child victims and witnesses of crime in the justice process (section 4.3, paragraph 2).
- The right to safety includes protection from any form of further harm, including physical, psychological, mental and emotional abuse and neglect, and any form of intimidation or retaliation (section 4.3.2, paragraph 1).
- Measures to protect children's physical and psychological safety are of paramount concern during the trial stage and throughout the justice process. Prosecutors and judges are responsible for protecting the safety of child victims and witnesses and, where required, the safety of their families, as long as necessary (section 4.3.5.1, paragraph 1).

4.4 The right to special preventive measures

- The right to special preventive measures reiterates that special measures are necessary to prevent children from potential risks, victimization and re-victimization (section 4.4.3, paragraph 1).

PRESENTATION SLIDES FOR MODULE 4

The suggested slides for this module are provided below in the left-hand column. During the training session, be sure to cover at least the key concepts identified in the right-hand column.

<p>Slide 1 Module 4. Best interests of child victims and witnesses of crime</p>	
<p>Slide 2 Module goal</p> <p>To equip trainees with the necessary knowledge and skills to ensure that all child victims and witnesses are provided with effective assistance; and to develop understanding of the crucial importance of the protection of their right to privacy and safety.</p>	
<p>Slide 3 Learning objectives</p> <ol style="list-style-type: none"> 1. Summarize the effective assistance measures that will be needed by child victims and witnesses to address the wide range of harms caused by the crime. 2. Understand and describe why it is of crucial importance to protect the right to privacy of child victims and witnesses, especially victims of sexual exploitation. 	
<p>Slide 4</p> <ol style="list-style-type: none"> 3. Recognize the risks to child victims and witnesses and identify the measures to protect the safety of children. 4. Itemize the optimal approaches in implementing special preventive measures along with other relevant justice providers to child victims and witnesses. 	
<p>Slide 5 The right to effective assistance</p> <ul style="list-style-type: none"> • The right to effective assistance in the national legal framework • Different kinds of assistance to the child's special needs: <ul style="list-style-type: none"> ▶ Assistance as early as possible and for as long as needed ▶ Assistance tailored to the child's special needs ▶ Legal assistance ▶ Medical services 	<ul style="list-style-type: none"> • The right to effective assistance 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 (section 4.1, Guidelines table). • Assistance should be provided as early as possible after the crime has been committed and should continue after the conclusion of the proceedings and has to be tailored to the child's specific needs in order to be effective (section 4.1.2.1, paragraph 2 and section 4.1.2.2, paragraph 1).
<p>Slide 6</p> <ul style="list-style-type: none"> • Coordinated assistance <ul style="list-style-type: none"> ▶ Assistance from support persons • Measures to facilitate children's involvement in the justice process • Concrete tips on how to ensure effective assistance 	<ul style="list-style-type: none"> • Coordinated assistance at all stages of the justice process, including at the pretrial and post-trial stages, avoids excessive interventions and ensures that the assistance is in the child's best interests (section 4.1.3, paragraph 2).

<p>Slide 7 The right to privacy</p> <ul style="list-style-type: none"> • The right to privacy in the national legal framework • Detrimental effects of release of information 	<ul style="list-style-type: none"> • The right to privacy should be protected as a matter of primary importance. In the context of criminal justice proceedings, there is also recognition of the right to privacy as “a competing interest that shall be put in balance with the right of the accused to be tried in public” (section 4.2.2, paragraph 3). • Professionals are responsible at all levels of the criminal justice process for guaranteeing the confidentiality of information regarding the identity and whereabouts of child victims and witnesses (section 4.2.2, paragraph 5).
<p>Slide 8</p> <ul style="list-style-type: none"> • Measures to protect the privacy of child victims and child witnesses: <ul style="list-style-type: none"> ▸ Maintaining confidentiality ▸ Restricting disclosure of information • Concrete tips on how to protect children’s privacy • Responsibilities of prosecutors and judges in ensuring the right to privacy of child victims and witnesses 	<ul style="list-style-type: none"> • Prosecutors and judges have the responsibility to guarantee that information that can reveal the identity of a child victim/ witness is kept confidential and that the right to privacy of the child needs to be protected at all times (section 4.2.4.1, paragraphs 1 and 2).
<p>Slide 9 The right to safety</p> <ul style="list-style-type: none"> • The right to safety in the national legal framework • Appropriate measures to deal with safety risks <ul style="list-style-type: none"> ▸ Particular safety risks for children with disabilities 	<ul style="list-style-type: none"> • The right to safety is a precondition to the efficient participation of child victims and witnesses of crime in the justice process (section 4.3, paragraph 2). • The right to safety includes protection from any form of further harm, including physical, psychological, mental and emotional abuse and neglect, and any form of intimidation or retaliation (section 4.3.2, paragraph 1).
<p>Slide 10</p> <ul style="list-style-type: none"> • Reporting suspected crime against children • Measures to protect the safety of children • Concrete tips on how to protect children’s safety • Responsibilities of prosecutors and judges to protect the safety of child victims and witnesses 	<ul style="list-style-type: none"> • Measures to protect children’s physical and psychological safety are of paramount concern during the trial stage and throughout the justice process. Prosecutors and judges are responsible for protecting the safety of child victims and witnesses and, where required, the safety of their families, for as long as necessary (section 4.3.5.1, paragraph 1).
<p>Slide 11 The right to special preventive measures</p> <ul style="list-style-type: none"> • The right to special preventive measures in the national legal framework 	<ul style="list-style-type: none"> • The right to special preventive measures reiterates that special measures are necessary to prevent children from potential risks, victimization and re-victimization (section 4.4.3, paragraph 1).
<p>Slide 12</p> <ul style="list-style-type: none"> • Different kinds of preventive measures • The right to special preventive measures in different settings 	

module

5

THE RIGHT TO PARTICIPATION OF CHILD VICTIMS AND WITNESSES OF CRIME

“Justice in the life and conduct of the State is possible only as first it resides in the hearts and souls of the citizens.”

Plato

(philosopher and mathematician in classical Greece)

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GOAL



To equip trainees with the necessary knowledge and skills to recognize the fundamental significance of the child victim and, wherever relevant, the child witness's right to participation in the criminal justice process through being informed, being heard, and through the right to reparation.

LEARNING OBJECTIVES FOR MODULE 5

At the end of this module, trainees will have the necessary knowledge and skills to:

- ▶ Itemize the diverse types of general and special information that need to be provided to child victims and witnesses and their caregivers for effective participation in the justice system.
- ▶ List the challenges that often confront prosecutors and judges in meaningfully conveying information to child victims and witnesses and their caregivers.
- ▶ Recognize the vital importance of child victims' and witnesses' right to be heard and to express views and concerns for their meaningful participation in the justice system.
- ▶ Summarize the right to reparation and the measures that address the various harms that children suffer as consequence of the crime committed against them.

Suggested duration: 2 hours (120 minutes)

Prior to the module

Set up the training room. Ensure there are handouts, case studies, reference notes and copies of relevant legislation for the trainees.

Materials, equipment and logistics

Ensure that appropriate training aids such as computers, LCD projectors, white boards, flip charts and marker pens are available in the training room.

LESSON PLAN FOR MODULE 5

Lesson outline	Content	Activity	Time	Reference material
5.1	The right to be informed	Lecture/presentation/discussion	40 min.	Paragraphs 5.1.1 to 5.1.7 Presentation slides
5.2	The right to be heard and express views and concerns	Lecture/presentation/discussion	40 min.	Paragraphs 5.2.1 to 5.2.4 Presentation slides
5.3	The right to reparation	Lecture/presentation/discussion	20 min.	Paragraphs 5.3.1 to 5.3.5 Presentation slides
	Exercise 3. Let us build a house	Learning exercise through problem-solving	20 min.	Diagram/chart depicting a house with many rooms

5.1 The right to be informed

The right to be informed is one of the ten fundamental rights of child victims and witnesses of crime promoted by the Guidelines. However, it is relevant to remember that, in contrast with Guideline 19, Guideline 20 only applies to child victims and not to child witnesses. Applying the right to be informed to the day-to-day practice of working with child victims and witnesses is a great challenge.

The right to be informed is considered a precondition for the right to be heard and to express views and concerns. The Convention on the Rights of the Child and the two Optional Protocols (on the sale of children, child prostitution and child pornography (2000), and on the involvement of children in armed conflict (2000)) refer to “giving information” to children in various articles.

Guidelines – Chapter 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.

5.1.1 The right to be informed in the national legal framework



Trainer's notes

Provide details of the national legal provisions (with names of laws, section or article numbers) on the:

- General rights of child victims and witnesses to be informed.
- Specific rights of child victims and witnesses to be informed in cases of sexual abuse and exploitation.
- National policies, procedures and guidelines issued by the relevant ministry or government department on the child's right to be informed.
- Court judgements ensuring the right of child victims and witnesses to be informed (that form precedent in common law countries).
- Does the legislation make it mandatory to provide:
 - General information about the justice process?
 - Specific information about the particulars of the child's case?
 - Who shall inform the child victim/witness and/or caregivers?

5.1.2 Who needs the information?

Guideline 19 clearly states that child victims and witnesses are not the only ones who should receive information from professionals. Prosecutors and judges and all other justice providers have to give information about the justice process and justice system to:

- **Child victims and witnesses:** Children need information about all components of the justice system and justice process and about other general aspects that turn out to be important to them in order to decide if and how they want to participate in the justice process.
- **Parents or guardians:** The parents or guardians of the child victim/witness also need information about all components of the justice system and justice process in order to be able to support the child in the best possible way. If the caregivers are present when professionals inform the child—which is usually the case—they are already aware of the main aspects of the justice process and justice system. However, professionals may decide to give parents or guardians additional information—in principle, in the presence of their child—about their possible role in the various stages of the justice process and in which manners they may support their child. Caregivers may also need more detailed information, for example, about the kinds of available services and the means to access them, existing support mechanisms when making a complaint, and available protection services.
- **Legal representatives:** It is commonly assumed that the child's legal representative and other legal aid providers are legally trained professionals and as such do not need information about the justice system and justice process. However, in case the child's legal representative is not aware of all details, for example, all available services, existing support mechanisms, specific places and times of hearings and other relevant events, and all available protective measures, he or she needs to be informed about those aspects as well. Information for the legal representative and other legal aid providers should be provided in the presence of the child and his or her parents or guardian.



Professionals need to be careful at all times that they do not switch automatically to a “legal conversation among colleagues”, but ensure that the child victim/witness can follow their communication.

5.1.3 Who provides general and specific information?

In general, each professional working in the justice system has the responsibility to provide child victims and witnesses, parents or guardians and legal representatives with general and specific information that is related to his or her responsibilities and particular field of action. All law enforcement officials, prosecutors, judges, lawyers and other legal aid providers, health staff, social workers and informal justice providers (such as child relief services and NGOs with legal expertise) have an ongoing responsibility to convey information whenever they come into contact with a child victim/witness, and/or their parents or guardians and legal representatives.

However, clarity about who is conveying information might be a necessary step towards ensuring that the right to be informed is respected throughout the justice process. There is the risk that professionals do not inform children and their caregivers because they are of the opinion that one of their colleagues has the responsibility to do so. If all professionals expect other colleagues to convey information, the child and his or her parents or guardians end up being uninformed, which implies that they will have unrealistic expectations and will not be able to make an informed decision about their participation in the justice process. The same risk may exist where responsibilities are shared among professionals. Therefore, it may be advisable that law prescribes which professional is responsible for providing which kind of information. Moreover, if there is a shared responsibility among professionals, there is also the risk of “over-information”. For example, explaining to the child what a forensic interview implies may be done by a law enforcement official, but also by a health professional involved in the case.

In general, the assistance of a support person most often constitutes the best practice in ensuring that full information is communicated to child victims and witnesses in a timely and child-sensitive manner.



Trainer's note

Inform trainees about the specific provisions in the national laws, policies and guidelines on assigning the duties and responsibilities of prosecutors and judges to provide information to the child victim/witness and/or caregiver.

5.1.4 What information needs to be provided?

5.1.4.1 General information

Guideline 19 includes various examples of general information that has to be communicated to child victims and witnesses. The list is not comprehensive, but includes only the most essential aspects of the justice system and justice process that children, their parents and legal representatives need to be aware of.

The information that needs to be conveyed is listed below:

- Availability of all relevant services and support
- Means of accessing relevant services and support
- Procedures of the criminal justice process
- Role of child victims and witnesses during the investigation and trial
- Importance, timing and manner of testimony
- Ways in which questioning will be conducted during the investigation and trial
- Existing support mechanisms when making a complaint
- Existing support mechanisms when participating in the investigation and court proceedings
- Specific places and times of hearings and other relevant events
- Availability of protective measures
- Existing mechanisms for review of decisions

When do professionals give general information?

Child victims and witnesses, their parents or guardians and legal representatives should be informed from their first contact with the justice process and throughout that process. This means that professionals have an ongoing responsibility to provide general information at every stage of the justice process, i.e. during the making of the complaint, the investigation, the prosecution and trial and post-trial procedures.

It is important to realize that this information has to be provided regardless of the child's participation in the justice process and thus immediately after the offence is reported. However, it is not only the responsibility of law enforcement officials—who are usually the first professionals who come into contact with child victims and witnesses—to provide information. Prosecutors, judges, lawyers, health staff, social workers and informal justice providers also have the responsibility to communicate information to child victims and witnesses whenever appropriate or when the child, his or her parents, guardian or legal representative have questions.

5.1.4.2 Specific information

Once the child and his or her parents or guardian and legal representative have decided to continue with the case and to get involved in the justice process, professionals have to provide them with specific information about their case. The particular components they are supposed to communicate to the children and their parents or guardians and legal representatives, without being comprehensive, are:

- The progress and disposition of their case
- The apprehension, arrest and custodial status of the accused
- Any pending changes to the status of the accused
- The prosecutorial decision
- Relevant post-trial developments
- The outcome of the case
- Existing opportunities to obtain reparation

5.1.5 Why is providing information crucial?

Giving information to child victims and witnesses, parents, guardians and their legal representatives about the justice system, the way the justice process is organized, the role children and their caregivers

can play and the particulars of the case is crucial for various reasons. The main reasons are:

- Information facilitates an informed decision about the involvement of the child in the justice process. Information implies that the child and his or her caregivers can make an informed request that the necessary steps be taken for their protection, based on information about:
 - The risks related to their potential involvement in the justice process; and
 - The protective measures that are in place.
- Information means that the child and his or her caregivers have realistic expectations of the justice process, based on information about:
 - The potential outcome of the case;
 - The consequences of their involvement; and
 - The right to restitution and/or compensation.
- Being informed increases the child's confidence in the professionals and the justice system.
- Being informed reduces the risk of additional stress and secondary victimization of the child.
- Information contributes to the child's willingness to assist professionals in the detection of the crime he or she was involved in, the making of the complaint, the investigation, prosecution, and trial and post-trial procedures.
- Conveying information contributes to a child-sensitive justice system.

5.1.6 Challenges in conveying information

In many countries, especially countries with limited resources, access to information about one's case can be hampered for various reasons or a combination of reasons. The commonly experienced difficulties are:

- **An under-resourced justice system:** Often there are not enough professionals available or, if they are available, they are often very much overloaded. A possible solution to this difficulty may be found by assigning a support person who is able to provide information about the legal proceedings and the particulars of the child's case. In case such persons do not exist or are not available, representatives of community-based organizations or NGOs may be requested to inform the children and their caregivers about the justice process, their possible role in the proceedings and particular aspects of their case.
- **Lack of transport facilities:** Due to a lack of transportation facilities, child victims and witnesses and their caregivers may not be able to travel to the police station, prosecutor's office or court in order to receive information. A possible solution to this difficulty may be that the assigned support person or representative of a community-based organization or NGO conveys the information in any facility within the community or visits the child and his or her caregivers at their residence.
- **Lack of means of communication for child victims and witnesses:** Ideally, professionals use child-sensitive and age-appropriate communication aids to inform child victims and witnesses about the justice process and how they may participate in the proceedings. If such means are lacking, professionals, support persons and representatives of community-based organizations and NGOs can still verbally communicate the necessary information. However, it is good to keep in mind that it is always better to convey information to children both verbally and visually at the same time. Children, like their parents and other adults, remember more details if they can hear and see the information simultaneously. For example, the various steps of the justice process or what the courtroom looks like can be explained verbally while simultaneously drawing the information on a piece of paper or a whiteboard with arrows, illustrations, symbols, etc.

- An additional challenge is regarding the provision of information to certain categories of vulnerable children (such as children with mental or physical disabilities, children with learning disabilities or children who do not speak the language that is used by the law enforcement officials or court, especially when the child is a foreign national) in order to guarantee that they can participate in the justice process and testify without discrimination.
- **Illiteracy of child victims and witnesses:** In case brochures, leaflets and other written information do exist, professionals may face the problem that child victims and witnesses—and often also their parents—are illiterate. This problem is easy to solve. Professionals may sit beside the child and read the written information out loud.



Discussion

Involve the trainees in a discussion on the many challenges confronted by prosecutors and judges in conveying information to child victims and witnesses in an effective manner. Some of the challenges are discussed in section 5.1.6.

Pose some of the following suggested questions to initiate discussions: What are the obstacles confronted by prosecutors and judges in their interactions with child victims and witnesses, especially with respect to conveying information? Is it possible to find innovative methods to convey information to child victims and witnesses even within the limited resources and means available?

5.1.7 Concrete tips on providing information

In principle, child victims and witnesses are already informed about the justice system, their possible role in the justice process and the particulars of their case by the law enforcement professional or by another professional involved in their case before the prosecutor or the judge comes into contact with them. Nonetheless, prosecutors and judges do have the responsibility to ensure that all necessary information is conveyed and to monitor that it is provided in a child-sensitive manner and adapted to the child's age, maturity and evolving capacities. In general, prosecutors and judges have the responsibility to ensure that child victims and witnesses are sufficiently informed about, inter alia, the following issues:

- The availability of and means of accessing health, psychological, social and other relevant services and, where applicable, emergency financial support
- The availability of legal or other advice or representation and the means of accessing such services
- The existing support mechanisms for the child when making a complaint and when participating in the investigation
- The availability of compensation mechanisms and the means of accessing them
- The ways in which the investigation and the interview(s) are conducted
- The need for the informed consent of the child (and his or her parents if required by domestic legislation) for the interview
- The child's right to withdraw his or her consent at any time
- The consequences of refusing to give a statement

- The procedures for the adult and juvenile criminal justice processes, including the possible role of the child and his or her parents or guardian
- The rights of child victims and child witnesses involved in the justice process
- The availability of an interpreter when the child does not speak the language of the prosecutor and/or court

However, it is also the responsibility of prosecutors not to give too much information at once. They must use their discretion regarding how much, when, and in whose presence the information should be conveyed to the child. Too much information all at once about the various stages of the justice process is not advisable. Additional information that has to be communicated by the prosecutor and the judges is:

- The importance, timing and manner of testimony
- The ways in which questioning will be conducted during the trial
- The existing support mechanisms for the child when participating in court proceedings
- The kinds of protective measures available to the child
- The existing mechanisms for review of decisions affecting child victims and witnesses
- The progress and disposition of the case, including the apprehension, arrest and custodial status of the accused and any pending changes to that status
- The prosecutorial decision, relevant post-trial developments and the outcome of the case
- 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
- Alternative measures that are under consideration and the reasons why these are possible alternatives to prosecution of the alleged perpetrator

Visualizing information

Prosecutors and judges should not only verbally inform child victims and witnesses about the justice system, the justice process, the child's possible role and the details of his or her case. It may be worthwhile to consider inviting the child and his or her parents on a broader "prosecution office tour". Children understand much better if they are simultaneously shown what is being explained to them. The prosecutor, the judge or another deputed professional may show the child:

- The room where the interview(s) will take place (in the prosecution office or elsewhere).
- The equipment used for the interview(s) and hearing(s), such as television, video-recorder, microphone, etc.
- The courtroom where the hearings (may) take place.
- The closed-circuit television room where the child may give his or her testimony.
- The colleague prosecutors—and other professionals, if any—who will take part in the investigation and/or observe the interview(s).
- The court staff the child may come into contact with before, during or after the hearing.
- Any child-sensitive brochure, leaflet, booklet or poster that explains:
 - The role of prosecutors and/or the role of support persons and experts;
 - Court proceedings, the role of judges and/or the role of support persons and other experts; and
 - The justice system, justice process and/or rights of the child.



Trainer's notes

Encourage the trainees to share their personal experiences on:

- Discharging their responsibilities in providing information to a child victim/witness in a specific case handled by them.
- Any other innovative and creative approach used by them to provide information to child victims and witnesses.
- The child's responses in a specific case where information was provided by the concerned prosecutor and judge and its impact on the overall justice process.

5.2 The right to be heard and to express views and concerns

The right to be heard and to express views and concerns is one of the ten fundamental rights of child victims and witnesses of crime and one of the four cross-cutting principles promoted by the Guidelines. Prosecutors and judges already provide child victims and witnesses with opportunities to express their opinions about their involvement in the justice process and to communicate their needs, concerns, feelings and wishes.

Guidelines – Chapter 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.

Participation as cross-cutting principle

Participation is one of the four cross-cutting principles set forth in chapter III, "Principles", of the Guidelines. Participation implies that each child—and thus also each child victim and witness—should get the opportunity to express his or her views, beliefs, wishes, feelings and concerns freely in all decisions affecting his or her life. It also means that professionals working with child victims and witnesses give due weight to children's views and concerns related to their participation in the justice process.

The right to be heard and to express views and concerns is further developed in other chapters of the Guidelines. Participation is explicitly mentioned in various other guidelines, i.e. "special considerations"; "the right to be protected from discrimination"; "the right to be informed"; "the right to effective assistance"; and "the right to be protected during the justice process".

The Convention on the Rights of the Child explicitly deals with the guiding principle of respect for the views of the child and makes reference to participation in “Separation from parents”. Also the Optional Protocol (to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000)) explicitly refers to participation of children and child victims in information, education and training about preventive measures and harmful effects of offences.

5.2.1 The right to be heard in the national legal framework



Trainer’s notes

Provide details of the national legal provisions (with names of laws, section or article numbers) on the:

- General rights of the child victim/witness to be heard and to express views and concerns.
- Specific rights of the child victim/witness to be heard and to express views and concerns in cases of sexual abuse and exploitation.
- National policies, procedures and guidelines issued by the relevant ministry or government department on the child’s right to be heard and to express views and concerns.
- Court judgements protecting the right of the child victim/witness to be heard and to express views and concerns (that form precedent in common law countries).
- Is it legally mandated that professionals should give due weight to the child’s views and concerns?

5.2.2 The importance of children’s direct participation

Research shows that child victims and witnesses often want to be directly involved in the justice process and in decisions that affect them and that they are sometimes dissatisfied with more indirect processes that are available to them, such as having their views conveyed to the judge by a counsellor, another professional or their parent(s). Professionals should never neglect their duty to give children the opportunity to participate. Direct participation may contribute to the well-being of child victims and witnesses in various ways. For example, it may help them:

- To cope with the consequences of the crimes they were involved in.
- To regain a sense of control over their lives.
- To understand the process by which the decisions affecting them are made.
- To better accept the court’s decisions that affect them.
- To contribute to the children’s perception that proceedings are fair and, in general, that the justice system is fair.
- To reduce unnecessary stress and harm.
- To decrease the risk to secondary victimization.
- To develop and enhance their capacities to express their thoughts, feelings, concerns and wishes and to influence decisions.

Direct participation of child victims and witnesses in the justice process and decision-making processes may also benefit prosecutors and judges. If child victims and witnesses are enabled and empowered to

participate directly, they may be more willing to assist professionals in the detection of the crime they were involved in, the making of the complaint, the investigation, the prosecution and trial and post-trial procedures. Eventually such dynamics result in a more successful justice process. The precondition to achieve this is that professionals guide the participation process in a child-sensitive and skilful manner, as follows:

- The environment and the procedures are child-sensitive.
- The child is adequately informed.
- The child receives effective assistance.
- The child's protection is assured.
- The child's privacy is ensured.
- The child's safety is guaranteed.



Direct participation in decision-making processes, if guided skilfully, reduces the child's stress, which further helps to keep the child's participation in the justice process at the best level of quality possible. Opportunities to participate will of themselves enhance the child's capacities to participate.

5.2.2.1 Various ways of giving evidence

In actual practice there are various manners in which child victims and witnesses can participate in the different stages of the justice process. A few examples are:

Giving evidence directly to the judge or another professional: This can be done, inter alia, as follows:

- In open hearings
- In closed hearings
- In the judge's chambers
- In the presence of the other parties
- In the absence of the other parties
- In the presence of a chosen support person
- By use of a video link
- By use of other devices, such as a protective screen

Giving evidence through a recorded pretrial statement is allowed as evidence in many countries. Such statements are referred to as "pre-recorded statements" or "pretrial statements" of child victims and witnesses of crime. In general, it is recommended to videotape interviews with child victims and child witnesses. However, precautions must always be taken and procedures for handling and using videotaped evidence should be in place.

Submitting a "victim impact statement": This is a written statement that describes the impact of the crime, i.e. any short- or long-term physical injury, psychological, emotional or social harm that the child has suffered. The "statement" informs the court of how the crime has affected the child's life, while enabling child victims to convey their views to the court in a more appropriate, comfortable and flexible manner than live testimony. The preparation and submission of a victim impact statement is

voluntary. The judge is obliged to consider the child's victim impact statement in the sentencing stage of the justice process.

5.2.3 Four components of involvement in the decision-making process

The right to be heard and to express views and concerns of child victims and witnesses can be divided into four components of involvement in the decision-making process. These four components are:

Component 1 – Being informed: In order to be able to express one's views and concerns, child victims and witnesses need—first and foremost—information about the various aspects of the justice system and justice process as well as about their possible role in the proceedings.

Component 2 – Expressing an informed view: Professionals should ensure that child victims and witnesses get the opportunity to express their views and concerns; for instance, if they want to participate (or not); if they want to testify (or to refuse to testify); if they want to pose (a) question(s) to the accused, witnesses or experts; concerns with regard to their safety in relation to the accused; the manner in which they prefer to provide testimony; their feelings about the conclusions of the process; and such others. For some child victims and witnesses, expressing an informed view is only possible if they receive special assistance, which may be the case for:

- Children with mental or physical disabilities.
- Children with learning disabilities.
- Children who do not speak the language that is used by the law enforcement officials or the court, especially when the child is a foreign national.
- Children from poor families.
- Children belonging to an ethnic minority group.
- Children with a high risk of re-victimization.

Special assistance, such as the appointment of an intermediary, support person, interpreter, translator or expert, should be put in place to respond to the special individual needs of these vulnerable children in order to guarantee that they can participate in the justice process and testify without discrimination.

Component 3 – Having one's view taken into account: Professionals should give due regard to the views and concerns of child victims and witnesses. Giving due regard implies that professionals take the child's abilities, age, intellectual maturity and evolving capacities into consideration and, as a consequence, that they assess the views of child victims and witnesses on a case-by-case basis. In cases where the views of a child victim/witness cannot be accommodated, professionals may give a clear explanation of the reasons. For example, if the child wants the parents to be present during the pretrial interview and the parents are the suspects, it might be in the best interests of the child not to follow his or her wish. This is likely in cases of sexual abuse, where the child cannot express his or her views and concerns freely. In such cases, professionals have to explain matters to the child in a child-sensitive manner.

Component 4 – Being the main or joint decision maker: Child victims and witnesses are entitled to involvement in all matters affecting them. However, professionals retain responsibility for the final decision. They determine the outcome of the decision-making process, but based on information received from the child and influenced by the views and concerns of the child. The main reasons that prosecutors, judges and other professionals have the responsibility for the final decision, and not the child, are:

- The child is not aware of all interests, including potential conflicting interests, that have to be taken into account. For example, the child has expressed his or her concerns about releasing the accused on bail, but does not fully understand the legal right of the accused to bail during the pretrial stage under the legal provisions.
- Leaving the final decision to the child implies too much burden and potential guilt on his or her shoulders. For example, the decision to impose a prison sentence on the parent of the child may make him or her feel burdened if he or she has expressed the wish to remove the parent from the home and may give reason for other family members to blame the child for the difficult economic situation if the convicted parent was the wage earner.

5.2.4 Responsibilities of prosecutors and judges in ensuring the right to be heard and to express views and concerns

Informed consent to participate in the justice process and/or testify: Prosecutors and judges, like all other professionals involved in children’s cases, have to respect the right of the child to express views and concerns, irrespective of whether the child will provide testimony or not. Judges are encouraged to hear children’s views on, among other things, the following aspects of their participation in the justice process, and especially at the trial stage:

- Whether the child wants to participate or not
- Whether the child wants to testify or refuses to testify
- Whether the child wants to pose questions to the accused, to witnesses and/or experts
- Scheduling of court proceedings
- Concerns regarding possible pretrial release or early release of the accused or convicted person
- Possible protective measures that can be taken while testifying
- Possible safety measures that can be taken before, during and/or after testifying
- Impact of the crime on the life of the child
- The manner in which to provide testimony, i.e. through a pretrial statement, from behind a protective screen, through use of a video-link, etc.
- Possible assistance by an intermediary
- Possibility to request for reparations

Structured interview protocols: Prosecutors may be involved in the investigation of a case of a child victim/witness and may prefer to interview the child themselves. It can be the initial interview or an additional interview after the child has already been interviewed by law enforcement officials. Interviews should be planned and structured to allow the child victim/witness the fullest opportunity to participate.



Trainer’s note

Refer to section 2.3 of Module 2 for more details on child-sensitive communication and child interviewing.

Contributing to competency examinations of child witnesses: The court may either appoint an expert for the purpose of examining the child’s competency or the court itself may conduct the examination on the basis of questions submitted by the public prosecutor and the defence lawyer. It is the responsibility of the judge to ensure that the questions are asked in child-sensitive language, that they

are appropriate to the age and developmental level of the child and not related to the issues involved in the trial. The judge should record the reasons for the decision in the child's file. However, irrespective of whether the testimony of a child witness is found to be inadmissible, the child should be given the opportunity to express his or her views and concerns about his or her participation in the justice process.

Prosecutors can contribute if the court orders an examination and no expert for the purpose is appointed. As a starting point, prosecutors should consider each child who has experienced and/or witnessed crime as a capable witness. Age alone may never be a barrier to the child's right to fully participate in the justice process. However, children's participation is not unconditional, but linked to their maturity and capacity to form their own views.



Trainer's notes

Refer to section 3.5.1 of Module 3 for more details on competency examination of a child witness.

Invite the trainees to share their personal experiences on:

- Discharging their responsibilities concerning “how to hear” a child victim/witness in a specific case handled by them.
- Any other innovative and creative approach used by them to “hear” the child victim/witness.
- The child's responses in a specific case where effective “hearing” was done by the concerned prosecutor and judge.

5.3 The right to reparation

The Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime deal with this right and the way professionals may ensure reparation in Guidelines 35 to 37. It is important to realize that this right only applies to child victims and not to child witnesses. The Convention on the Rights of the Child does not make direct reference to reparation for child victims, but article 39, “Rehabilitation of child victims”, mentions it indirectly. It states that children who have been neglected, abused or exploited should receive all appropriate assistance to physically and psychologically recover and reintegrate into society. Particular attention should be paid to restoring the health, self-respect and dignity of the child.

The Optional Protocol on the sale of children, child prostitution and child pornography (2000) makes direct reference to reparation in two articles: avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims; and child victims to have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.

Guidelines – Chapter 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.

36. Provided the proceedings are child-sensitive and respect these Guidelines, combined criminal and reparations proceedings should be encouraged, together with informal and community justice procedures such as restorative justice.

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.

5.3.1 The right to reparation in the national legal framework



Trainer's notes

Provide details of the national legal provisions (with names of laws, section or article numbers) on the:

- General rights of the child victim to reparation.
- Specific rights of the child victim to reparation in cases of sexual abuse and exploitation.
- National policies, procedures and guidelines issued by the relevant ministry or government department on the child's right to reparation.
- Which kinds of reparation are included under the law?

5.3.2 Reparation for all child victims



Reparation is an official recognition of the harm that the child victims have suffered.

The right to reparation should be granted to all child victims, without age limit. It refers to measures that address the various harms children have suffered as consequence of the crime committed against them. Reparation refers to the obligation of the perpetrator to redress the damage caused to the victim. It must as far as possible wipe out all the consequences of the crime and re-establish the situation which would in all probability have existed if the crime had not been committed.

The Guidelines do not define reparation, but it is stated that “reparation should be received in order to achieve full redress, reintegration and recovery”. Under principles of international norms, effective reparation includes, inter alia, the following forms:

- Restitution should, whenever possible, restore the victim to the original situation before the gross violations of rights occurred.
- 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, such as:

- Physical or mental harm.
 - Lost opportunities, including employment, education and social benefits.
 - Material damages and loss of earnings, including loss of earning potential.
 - Moral damage.
 - Costs required for legal or expert assistance, medicine and medical services, and psychological and social services.
- Rehabilitation, such as medical and psychological care and required legal and social services, is relevant in cases of child victims.

Full redress, reintegration and recovery

All child victims, irrespective of their age, maturity, evolving capacities or the kind of crime committed against them, should receive reparation. It may achieve:

- Full redress
- Full reintegration
- Full recovery

In order to guarantee that child victims can apply for, obtain and enforce reparation from the perpetrator, or from third parties responsible for his or her offending behaviour, the procedures should fulfil two conditions. They must be:

- Readily accessible
- Child-sensitive

The child's support person and other professionals working in the justice system have the duty to explain all procedures pertaining to how children may obtain reparation and to assist the child victim and his or her family and possible others to apply for and actually receive full redress, reintegration and recovery. Whenever possible, the decision to provide reparation should be taken at the time of the trial, i.e. as long as the child victim is still protected and his or her special needs, interests and views are considered.

Procedures to receive reparation

The court may, upon conviction of the accused and in addition to any other measure imposed, order that the offender make restitution or compensation to a child victim. This is done at the trial and/or post-trial stage, i.e. upon conviction of the accused and usually at the request of the prosecutor, child victim or his or her parents, guardian or lawyer or the court's own motion. In countries where criminal courts have no jurisdiction in civil claims, the court has to inform the child victim, his or her parents or guardian and his or her lawyer—after delivering the verdict—of the right to restitution and compensation in accordance with national law. In countries where criminal courts have jurisdiction in civil claims, the court has to order full restitution or compensation to the child victim, where appropriate, and has to inform the child of the possibility of seeking assistance for enforcement of the restitution or compensation order.

5.3.3 Different kinds of reparation

A non-exhaustive list of what reparation may include and who may be responsible for it is mentioned below. The different approaches are:

- Restitution from the offender ordered in the criminal court

- Aid from victim compensation programmes administered by the State
- Payment of damages ordered in civil proceedings
- Reimbursement of costs of social and educational reintegration, medical treatment, mental health care and legal services

It is important that professionals working in the justice system realize that the consequences of a crime cannot be measured just monetarily. Where possible, child victims have to be compensated for all costs, damages and harms caused by the crime that has been committed against them, including:

- Material losses (for example, in cases of theft and burglary)
- Medical treatment (for example, in cases of assault and attempted murder)
- Educational reintegration (for example, in cases of abduction)
- Social reintegration (for example, in cases of rape)
- Psychosocial support or mental health care (for example, in cases of trafficking)
- Legal services (in all cases)

5.3.4 Gender sensitivity

Reparation programmes, like all initiatives for children involved in the justice process, have to be gender-sensitive. Girl victims and boy victims should have equal access to reparation programmes, which should address the needs and experiences of both girls and boys. Gender-specific opinions might be crucial if decisions are to be taken about criteria of access, the kind of crimes that may be referred to the programmes and other modalities. In actual practice, it might be necessary to pay particular attention to the opinions, needs and experiences of girls and women in order to guarantee equal participation in reparation programmes of both girl victims and boy victims.

For example, it is important to ensure that crimes of which girls and women are predominantly victims, such as sexual abuse, are not left out of reparation programmes. Also, the development and implementation of more multifaceted reparation programmes, such as those that include educational support, health services, truth-telling and other symbolic measures—in addition to material compensation—may be required to guarantee that the needs of both girls and boys are addressed.

5.3.5 Responsibility of prosecutors and judges in ensuring the right to reparation of child victims

Prosecutors and judges have the responsibility to promote the right to reparation of child victims of crime. In general, prosecutors and judges may contribute to ensuring that right through:

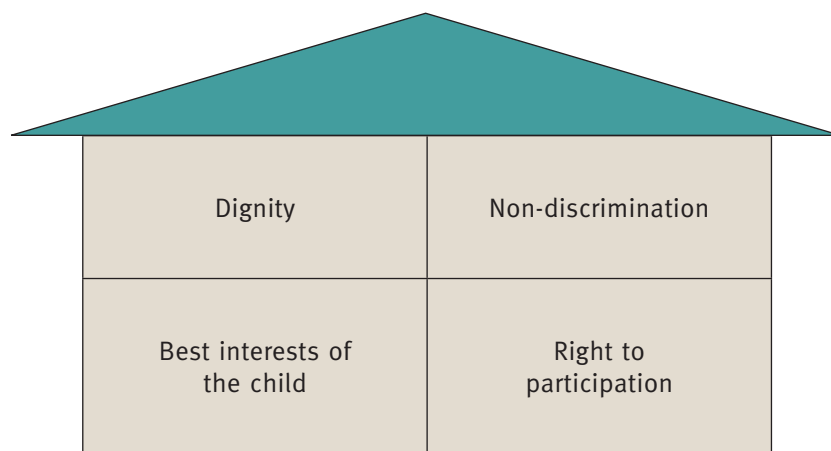
- Ensuring that procedures for obtaining and enforcing reparation are readily accessible, child-sensitive and instituted.
- The prosecutor requesting the court to order that the offender make restitution or compensation to the child victim.
- Requiring that child victims and their family members be informed about the possibilities and procedures for obtaining reparation.
- If domestic legislation allows, the court ordering the offender to make restitution or compensation to the child victim.
- Ensuring that the rights of child victims who participate in reparations procedures are respected and that they are not secondarily victimized.



Trainer's note

Invite the trainees to share their experiences from a specific case on the right to reparation and its positive impact on a child victim. Did they have any opportunity as prosecutors and judges to see the difference that reparation would make to the recovery and reintegration of a child victim?

EXERCISE 3. LET US BUILD A HOUSE



Estimated time: 20 minutes

Materials needed: Diagram depicting a house with four rooms

Objective of the exercise: To find solutions to challenges in the treatment of child victims and child witnesses; and to collate the understanding of the trainees on the Four Guiding Principles for prosecutors and judges, namely dignity, non-discrimination, the best interests of the child and the right to participation.

Activity

- Introduce this exercise as a brainstorming session towards the end of the training programme.
- Have the diagram of the house ready on a large sheet of flip chart paper before the commencement of the exercise. Many rooms should be drawn in the house, where each room is characterized as “Dignity”, “Non-discrimination”, “Best interests of the child” and “Right to participation”.
- Request trainees to start providing solutions one by one, which should be written in the relevant “room” of the house diagram.
- Guide the trainees by intermittently asking questions such as:
 - What are the best methods by which the right to dignity of the child victim and witness can be protected?
 - What steps can be taken to ensure non-discrimination of a child victim and witness in the criminal justice process?

- What should be the approach in ensuring that the best interests of the child gets primary consideration at all stages of their interaction with the prosecutors and judges?
- What measures can be taken to ensure that the child’s right to participation in the justice process is secured?
- What is our major goal as prosecutors and judges in the treatment of child victims and witnesses? What are we aiming for? Can we be agents of change by ensuring:
 - ▷ One change in my attitude/position towards child victims and witnesses?
 - ▷ One change in my approach to dealing with cases involving child victims and witnesses?
 - ▷ Reformed understanding of sensitive prosecution and adjudication in cases involving child victims and witnesses?

Expected outcome of the exercise: Having discussed the treatment of child victims and witnesses throughout the training programme, this exercise allows an opportunity for trainees to do solution-oriented thinking towards protection of all rights of child victims and witnesses in general and victims of child sexual exploitation in particular.

SUMMARY OF KEY CONCEPTS FOR MODULE 5

5.1 The right to be informed

- 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 all relevant information (section 5.1, Guidelines table).
- Information has to be provided regardless of the child's participation in the justice process and thus, immediately after the offence is reported (section 5.1.4.1, paragraph 4).
- Conveying information facilitates an informed decision about the involvement of the child in the justice process, creates realistic expectations of the justice process, increases the child's confidence in the professionals and the justice system, reduces the risk of additional stress and secondary victimization of the child, and contributes to a child-sensitive justice system (section 5.1.5).
- Prosecutors and judges have the responsibility to ensure that all necessary information is conveyed to child victims and witnesses and to monitor that it is provided in a child-sensitive manner and adapted to the child's age, maturity and evolving capacities (section 5.1.7, paragraphs 1-3).

5.2 The right to be heard and to express views and concerns

- The right to participation implies that each child—and thus also each child victim and witness—should get the opportunity to express his or her views, beliefs, wishes, feelings and concerns freely in all decisions affecting his or her life (section 5.2, paragraph 2).
- Direct participation in decision-making processes, if guided skilfully, reduces the child's stress, which further helps to keep the child's participation in the justice process at the best level of quality possible. Opportunities to participate will of themselves enhance the child's capacities to participate (section 5.2.2).
- Prosecutors and judges, like all other professionals involved in children's cases, have to respect the right of the child to express views and concerns, irrespective of whether the child will provide testimony or not. They have several responsibilities in ensuring the right of the child to be heard and to express views and concerns (section 5.2.4, paragraphs 1-3).

5.3 The right to reparation

- The right to reparation is an official recognition of the harm that the child victims have suffered; it refers to the obligation of the perpetrator to redress the damage caused to the victim and to measures that address the various harms that children suffer as consequence of the crime committed against them.
- All child victims, irrespective of their age, maturity, evolving capacities or the kind of crime committed against them, should receive reparation.
- Prosecutors and judges have the responsibility to promote the right to reparation of child victims of crime, and they can take several steps to ensure protection of this right of the child (section 5.3.4, paragraph 1).

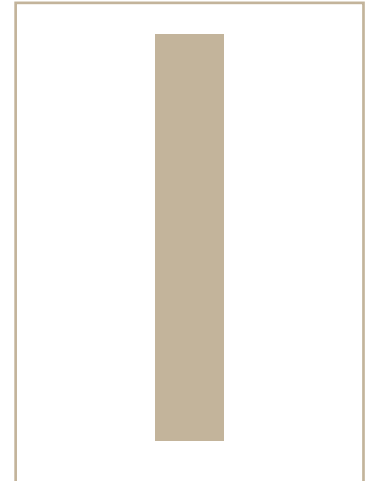
PRESENTATION SLIDES FOR MODULE 5

The suggested slides for this module are provided below in the left-hand column. During the training session, be sure to cover at least the key concepts identified in the right-hand column.

<p>Slide 1 Module 5. The right to participation of child victims and witnesses of crime</p>	
<p>Slide 2 Module goal To equip trainees with the necessary knowledge and skills to recognize the fundamental significance of the child victim and, wherever relevant, the child witness's right to participation in the criminal justice process through being informed, being heard, and through the right to reparation.</p>	
<p>Slide 3 Learning objectives</p> <ol style="list-style-type: none"> 1. Itemize the diverse types of general and special information that needs to be provided to child victims and witnesses and their caregivers for effective participation in the justice system. 2. List the challenges that often confront prosecutors and judges in meaningfully conveying information to child victims and witnesses and their caregivers. 	
<p>Slide 4</p> <ol style="list-style-type: none"> 3. Recognize the vital importance of child victims' and witnesses' right to be heard and to express views and concerns for their meaningful participation in the justice system. 4. Summarize the right to reparation and the measures that address the various harms that children suffer as consequence of the crime committed against them. 	
<p>Slide 5 The right to be informed</p> <ul style="list-style-type: none"> • The right to be informed in the national legal framework • Who needs the information? • Who provides general and specific information? 	<ul style="list-style-type: none"> • 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 all relevant information (section 5.1, Guidelines table).

<p>Slide 6</p> <ul style="list-style-type: none"> • What information needs to be provided? <ul style="list-style-type: none"> ▸ General information ▸ Specific information • Why is providing information crucial? • Challenges in conveying information • Responsibilities of prosecutors and judges in conveying information 	<ul style="list-style-type: none"> • Information has to be provided regardless of the child’s participation in the justice process and thus, immediately after the offence is reported (section 5.1.4.1, paragraph 4). • Conveying information facilitates an informed decision about the involvement of the child in the justice process, creates realistic expectations of the justice process, increases the child’s confidence in the professionals and the justice system, reduces the risk of additional stress and secondary victimization of the child, and contributes to a child-sensitive justice system (section 5.1.5). • Prosecutors and judges have the responsibility to ensure that all necessary information is conveyed to child victims and witnesses and to monitor that it is provided in a child-sensitive manner and adapted to the child’s age, maturity and evolving capacities (section 5.1.7, paragraphs 1-3).
<p>Slide 7</p> <p>The right to be heard and to express views and concerns</p> <ul style="list-style-type: none"> • The right to be heard in the national legal framework 	<ul style="list-style-type: none"> • The right to participation implies that each child, and thus also each child victim and witness, should get the opportunity to express his or her views, beliefs, wishes, feelings and concerns freely in all decisions affecting his or her life (section 5.2, paragraph 2).
<p>Slide 8</p> <ul style="list-style-type: none"> • The importance of children’s direct participation • Various ways of giving evidence • Four components of involvement in decision-making processes • Responsibilities of prosecutors and judges in ensuring the right to be heard and to express views and concerns 	<ul style="list-style-type: none"> • Direct participation in decision-making processes, if guided skilfully, reduces the child’s stress, which further helps to keep the child’s participation in the justice process at the best level of quality possible. Opportunities to participate will of themselves enhance the child’s capacities to participate (section 5.2.2). • Prosecutors and judges, like all other professionals involved in children’s cases, have to respect the right of the child to express views and concerns, irrespective of whether the child will provide testimony or not. They have several responsibilities in ensuring the right of the child to be heard and to express views and concerns (section 5.2.4, paragraphs 1-3).
<p>Slide 9</p> <p>The right to reparation</p> <ul style="list-style-type: none"> • The right to reparation in the national legal framework • Reparation for all child victims 	<ul style="list-style-type: none"> • The right to reparation is an official recognition of the harm that the child victims have suffered; it refers to the obligation of the perpetrator to redress the damage caused to the victim; and to measures that address the various harms that children suffer as consequence of the crime committed against them (section 5.3.2, paragraph 1). • All child victims, irrespective of their age, maturity, evolving capacities or the kind of crime committed against them, should receive reparation (section 5.3.2, paragraph 3).
<p>Slide 10</p> <ul style="list-style-type: none"> • Different kinds of reparation • Gender sensitivity • Responsibilities of prosecutors and judges in ensuring the right to reparation of child victims 	<ul style="list-style-type: none"> • Prosecutors and judges have the responsibility to promote the right to reparation of child victims of crime and they can take several steps to ensure protection of this right of the child (section 5.3.4, paragraph 1).

annex



PRE- AND POST-TRAINING
EVALUATION QUESTIONNAIRES

Note to the national training team

1. The questions listed herein are suggestive and not exhaustive. The trainer may decide to include as many questions as are considered appropriate in the pre- and post-training evaluation questionnaire. The existing questions may be substituted or more questions may also be added depending upon the national and local context. The training agency may, at its discretion, include multiple choice, “fill-in-the-blanks”, or “true or false” types of questions as deemed appropriate. However, if extra questions are added to the questionnaire, then the total time required to complete the responses and the total score value will also have to be increased.
2. The pre-training evaluation questionnaire should be provided to the trainees on the first day of the training programme. After the trainees have entered their responses to the questions within the stipulated time, the questionnaire should be collected by the trainer for analysis.
3. The post-training evaluation questionnaire should be provided to the trainees on the last day of the training programme after the training sessions have ended. After the trainees have entered their responses to the questions within the stipulated time, the questionnaire should be collected by the trainer for analysis.
4. The same set of questions with the same scoring values should be used for both the pre- and post-training evaluation.
5. The trainer can clarify any doubts or answer any questions raised by trainees on the questionnaire during the question and answer session on the last day of the training programme.

Pre-training evaluation questionnaire

Objectives

- To assess the extant awareness and knowledge of trainees on the practical and legal aspects of treatment of child victims and witnesses prior to the commencement of the training through answering a pre-training evaluation questionnaire.
- To compare pre-training versus post-training knowledge on the subject simply as a participatory introspection rather than as a judgemental evaluation.

Post-training evaluation questionnaire

Objectives

- To assess the enhancement of knowledge, awareness and shift in attitudinal orientation at the completion of the training programme by comparing responses to the pre-training evaluation questionnaire.

Training evaluation questionnaire

Training on treatment of child victims and child witnesses for prosecutors and judges

Total score: 20 points **Total time:** 15 minutes

Question 1: Tick “✓” the correct answer in the Yes or No box. Each item is worth 1 point.

No.	Questions	Yes	No
1.	Prosecutors and judges should override the rights of the offender to prevent secondary victimization of a child victim/witness.		
2.	The testimony of the child witness can be taken in the presence of the suspect in the courtroom.		
3.	Prosecutors and judges are not responsible for ensuring that the child victim gets reparation from the justice process.		
4.	The age of the child victim/witness is an adequate ground to disregard him or her as a capable witness and thereby to presume his or her testimony is invalid or untrustworthy.		

Question 2: Explain in your own words the meaning of “dignity” and “compassion” in the context of the rights of child victims and witnesses. (3 points)

Question 3: Explain in your own words the meaning of “non-discrimination” in the context of the rights of child victims and witnesses. (3 points)

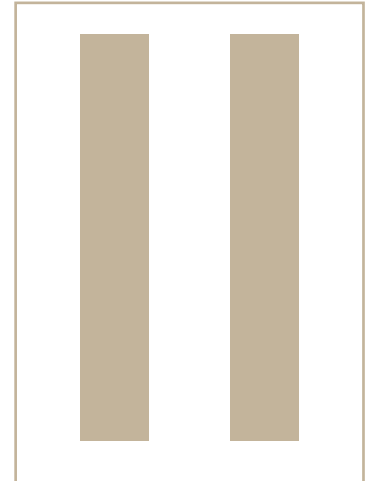
Question 4: Explain in your own words the meaning of “the best interests of the child” in the context of the rights of child victims and witnesses. (3 points)

Question 5: Explain in your own words the meaning of “participation” in the context of the rights of child victims and witnesses. (3 points)

Question 6: Mark “✓” by the correct answers and mark “✗” by the wrong answers from the options below related to interviewing a child victim. (4 points)

- All child victims need to be treated equally regardless of gender.
- Prosecutors and judges can deny a young child the right to participation in the justice process on grounds of age and maturity.
- Good speaking and listening skills are very relevant in victim interviews.
- The rights of child victims and witnesses can be disregarded if there are not enough professionals available or due to an under-resourced justice system.

annex



TRAINING PROGRAMME FEEDBACK

Post-training reflection is aimed at determining if objectives and expectations of trainees were met. Evaluation provides good indicators as to what information gained during the training sessions will actually be used during the course of duties in cases related to crimes against children and treatment of child victims and witnesses.

Learning objectives

- To learn how successful the training was in achieving its objectives.
- To identify what needs to be modified for the next training programme.

Training programme feedback

Training on treatment of child victims and child witnesses for prosecutors and judges

Training agency: _____

Dates: From .././.... to .././....

Venue: _____

Name of trainee (optional): _____

Note to trainees: This feedback form is intended to gather your opinions on different aspects of the training programme. Your opinions, suggestions and recommendations will be of valuable assistance in planning and conducting training programmes in the future. Please fill in this form by marking the appropriate answers and providing brief responses.

	Yes	No	Comments/suggestions
Training structure			
The objectives of the training were clearly defined and explained.			
The design and structure of the training programme was appropriate.			
There was a balance between the theoretical and practical aspects of the training programme.			
Should the duration of the training programme be increased?			
Training content			
The contents were relevant to the basic purpose of the training programme.			
The contents will be applicable in the performance of duties of prosecutors and judges.			
The information provided was legally and factually accurate, complete and contemporary.			
Should any content be added or deleted or modified? If yes, please specify.			
Trainers			
The presentation of the contents by the trainers was well structured and efficient.			
The trainers used multiple training methods to impart information, with a right mix of theory and practice.			
The trainer promoted and encouraged participation by the trainees in a group.			
The trainer's ability to transfer knowledge to the trainees was satisfactory.			
Training environment			
The training venue was satisfactory.			
The training atmosphere was pleasant and conducive to learning.			
Were there any distracting factors in the training environment?			

1. What knowledge and skills did you acquire during the training programme? Please explain.

.....
.....
.....

2. What was the most important thing you learned during the training programme? Please explain.

.....
.....
.....

3. What elements of the training programme were the most useful? Please explain.

.....
.....
.....

4. What elements of the training programme were the least useful? Please explain.

.....
.....
.....

5. How will you apply the learning from this training programme in your day-to-day duties? Give one example of practical application.

.....
.....
.....

Thank you for your cooperation.

Please return this form to the trainer.

GLOSSARY OF TERMS

Child's guardian

A person who has been formally recognized under national law as responsible for looking after a child's interests when the parents of the child do not have parental responsibility over him or her or have died (chapter I (f) of the Model Law).

Child victims and child witnesses

Denotes children and adolescents, under the age of 18, who are victims of crime or witnesses to crime, regardless of their role in the offence or in the prosecution of the alleged offender or groups of offenders.

Civil law country

A country that applies a legal system inspired by Roman law.

Common law country

A country that applies a legal system inspired by the English system of law derived from custom and judicial precedent rather than statutes.

Convention

An international agreement that is usually legally binding between the States who signed it.

Domestic violence

Physical, psychological, emotional or financial abuse against children in a family, a spouse or partner, against dependent older persons or against some other household member.

Guardian ad litem

A person appointed by the court to protect a child's interests in proceedings affecting his or her interests (chapter I (g) of the Model Law).

Informal justice

A resolution of disputes and the regulation of conduct by adjudication or the assistance of a neutral third party that is not a part of the judiciary as established by law and/or whose substantive, procedural or structural foundation is not primarily based on statutory law.

Interdisciplinary or multidisciplinary

Implies that two or more professionals having different disciplinary backgrounds work jointly and continuously to interlink their analyses.

Justice process

Encompasses detection of the crime, making of the complaint, investigation, prosecution and trial and post-trial procedures, regardless of whether the case is handled in a national, international or regional criminal justice system for adults or juveniles, or in a customary or informal system of justice (Guideline 9).

Optional protocol

Consists of the terms "protocol" and "optional". "Protocol" is used for an additional legal instrument that complements and adds to a treaty. A protocol may be on any topic relevant to the original treaty and is used either to further address something in the original treaty, to address a new or emerging concern or to add a procedure for the operation and enforcement of the treaty, such as adding an individual complaint procedure. A protocol is "optional" if it is not automatically binding on States that have already ratified the original treaty. States must independently ratify or accede to a protocol (UNICEF: www.unicef.org/crc/files/Definitions.pdf).

Professionals

Persons who, within the context of their work, are in contact with child victims and witnesses of crime or are responsible for addressing the needs of children in the justice system and for whom these Guidelines are applicable. This includes, but is not limited to, the following: child and victim advocates and support persons; child protection service practitioners; child welfare agency staff; prosecutors and, where appropriate, defence lawyers; diplomatic and consular staff; domestic violence programme staff; judges; court staff; law enforcement officials; medical and mental health professionals; and social workers (Guideline 9 (b)).

Restorative process

Any process in which the victim and the offender and, where appropriate, any other individuals or community members affected by a crime participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator (UNODC: www.unodc.org/pdf/criminal_justice/06-56290_Ebook.pdf).

Support person

A specially trained person designated to assist a child throughout the justice process in order to prevent the risk of duress, re-victimization or secondary victimization (chapter I (e) of the Model Law).

Trafficking of children

The recruitment, transportation, transfer, harbouring or receipt of person under eighteen years of age, by means of the threat or use 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 (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime).

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- United Nations Convention on the Rights of the Child (20 November 1989).
- UNICEF and UNODC, United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (child-friendly version, 2008).
- United Nations Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (25 May 2000).
- United Nations Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (25 May 2000).
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- United Nations Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice (2010).

Web-based documents

- Justice in Matters involving Child Victims – Online Training. Available at: <http://www.unodc.org/justice-child-victims/>
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- <http://www.courtintroduction.se/>
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