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Training Workshop on Justice for Children in the Context of Counter-Terrorism in Indonesia

30th November to 2nd December 2021

Concept Note

1. Background

Children are often among the casualties of acts of terrorism. They are victims of abduction, trafficking, and sexual and gender-based violence and are deliberately recruited and exploited by terrorist groups. This is not a new phenomenon,¹ but technological advances, and the specific strategic objectives of terrorist groups, have made instances of recruitment increasingly more difficult to detect, recruitment campaigns broader in their reach, and have also made children associated with such groups more vulnerable to stigma and discrimination.

The cross-border nature of terrorist activities, highlighted by the wave of individuals who have travelled abroad to join designated terrorist groups, adds another dimension that impacts on children who are especially vulnerable in this context and in need of specialized support. The defeat of ISIL in Syria has placed the issue of children linked with the foreign terrorist fighter (FTF)² phenomenon at the centre of the international agenda.

Children can be assigned various roles by these groups, ranging from being used in terrorist acts, such as undertaking suicide missions and executions, to more subordinate roles, as porters, cooks and informants.³ Research indicates that, regardless of their role, these children are subjected to extreme levels of violence⁴ and

¹ Note by the Secretary-General transmitting the report on the impact of armed conflict on children (A/51/306 and Add.1).

² United Nations Security Council Resolution 2178, Adopted by the Security Council at its 7272nd meeting, on 24 September 2014 (S/RES/2178), para. 6. According to UNSC Resolution 2178 (2014), foreign terrorist fighters are “*individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflicts.*”

³ Siobhan O’Neil and Kato van Broeckhoven, *Cradled by Conflict: Child Involvement with Armed Groups in Contemporary Conflict*, (United Nations University, 2018). Available at: https://collections.unu.edu/eserv/UNU:6409/Cradled_by_Conflict.pdf

⁴ UNODC, *Handbook on Children Recruited and Exploited by Terrorist and Violent Extremist Groups: The Role of the Justice System*, 2017, at p.2.



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that, for girls in particular, sexual and gender-based violence is a constant threat and reality.⁵ As victims of crimes of violence, these children need to be provided with protection, support and social reintegration to support their recovery.

Children associated with terrorist and violent extremist groups are being arrested, detained and prosecuted under counter-terrorism legislation in increasing numbers globally. This creates a number of challenges for justice systems.

Children above the minimum age of criminal responsibility may be held accountable for offences committed while associated with these groups, if national law so requires, as long as the rights and safeguards provided by the international standards on justice for children are fully respected and applied in all settings.⁶ At the same time, their treatment must take into account the child's age and the desirability of promoting the child's reintegration and assuming a constructive role in society.⁷ Children's rights as victims should be ensured, including but not limited to, their rights to safety, protection, rehabilitation and reparation.⁸ Prosecution should be treated as a measure of last resort. This is because a criminal justice response may not be appropriate in view of a child's rehabilitation needs arising from their victimization and because the alleged offences may have been committed as a direct consequence of their association with terrorist and violent extremist groups.

A related challenge is that, in many settings, children who are charged with terrorism-related offences are not dealt with by the specialised justice system for children. Instead, the adult justice system or military or security courts are granted jurisdiction over these cases. As a result, they are not provided with the key protections they are entitled to in a justice system for children which emphasises alternatives to formal prosecution and prioritises the rehabilitation and social reintegration of the child.

Furthermore, terrorist offences are perceived to be extremely serious and, as a result, children facing prosecution can be exposed to a heightened risk of violence and stigmatisation while in contact with the justice system. The nature of the abuse and exploitation these children have experienced during their association with terrorist and violent extremist groups means they have particularly challenging rehabilitation and

⁵ *Ibid* at p.15.

⁶ Articles 37 and 40 of the Convention on the Rights of the Child (CRC); Committee on the Rights of the Child, *General Comment No. 24 (2019) on children's rights in the justice system*, 18 September 2019 (CRC/C/GC/24), para 101.

⁷ Article 40(1) of the CRC.

⁸ Article 6(3) of the Optional Protocol to the CRC on the involvement of children in armed conflict; Article 39 of the CRC.



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reintegration requirements. A final challenge is that justice and protection systems responding to these offences often lack a gender-sensitive approach.

The challenges set out above are being faced in many States around the world, including in Indonesia. Although a relatively small number of children in Indonesia have been convicted in recent years for terrorism-related offences, the 2018 attacks in Surabaya, East Java province, have brought to light the extent to which children can be exploited, including by family members, and the consequences of violence on their lives. It is worth noting that, in the past ten years, there has been a 100% conviction rate for children accused of terrorism-related offences in Indonesia, and that all these convictions led to custodial sentences.⁹ Indonesia has also led Asian countries in terms of the numbers of people who travelled to Syria and Iraq to support ISIL, the Al-Nusrah Front and other derivatives of Al-Qaida. Many children from Indonesia travelled alone or with their parents and families to this region and some were born abroad.¹⁰

2. The Role of UNODC

Developing and implementing effective measures to tackle issues related to child association with terrorist groups, including those linked with the FTF phenomenon, is highly complex. The UNODC Global Programme to End Violence against Children supports Member States, upon request, in their efforts to provide effective responses. It now has over six years of experience providing specialized technical assistance in this area to over 50 countries in different regions of the world, supporting governments through tailored activities at the national level.

UNODC has developed a number of important resources to support this work. In June 2019, it launched the *Roadmap on the Treatment of Children Associated with Terrorist and Violent Extremist Groups*¹¹ which contains condensed guidance regarding three interconnected areas of work: prevention, rehabilitation and reintegration, and justice for children in the context of counter-terrorism. The Roadmap sets out a coherent system-wide approach based on combining effective

⁹ Information provided to UNODC by authorities, August 2020.

¹⁰ This article recounts how a 17 year old girl, influenced by social media, convinced over 20 members of her family to travel to Syria: <https://www.telegraph.co.uk/news/2017/08/03/naive-daughter-indonesian-family-lured-raffa-islamic-state-tells/>. This BBC news report looks at the impact on a child of her father's decision to leave Indonesia and join ISIS: <https://www.bbc.co.uk/news/av/51361483/stuck-in-syria-can-you-forgive-your-is-father>

¹¹ UNODC, *Roadmap on the Treatment of Children Associated with Terrorist and Violent Extremist Groups* (Vienna, 2019). Available at: <https://indd.adobe.com/view/61793921-8dc6-4fc2-9e46-b27c6390ff2>



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prevention of, and responses to, violence perpetrated against children, while at the same time protecting society from the threats associated with terrorism and violent extremism, such as the current wave of returning foreign terrorist fighters.

UNODC has been supporting the efforts of the Government of Indonesia in this area since 2018, including through capacity-building activities to a wide-range of professionals from different sectors, who work on the situation of these children. In March 2020, high-level representatives from Indonesia, Malaysia, Maldives and the Philippines gathered in Bali to discuss child recruitment and its consequences on children's lives. As a result of this event, Indonesia took an important step and officially launched the *Bali Call for Action*.¹² This is a political declaration which endorses the *UNODC Roadmap on the Treatment of Children Associated with Terrorist and Violent Extremist Group* and commits States to translate it into action at the national level.

Subsequent to the request of the Government of Indonesia, UNODC conducted a two-phased Situation Analysis on Children Associated with Terrorist and Violent Extremist Groups, including Children linked with the Foreign Terrorist Fighter Phenomenon during 2020/2021. The findings and recommendations for action from this process were validated by national counterparts.

In 2021, UNODC and the Government of Indonesia enhanced their cooperation in this area still further with the launch of **STRIVE Juvenile**, an important new project supported by the European Union. As an overall objective, STRIVE Juvenile aims to prevent and counter violent extremism affecting children, in full respect of human rights, gender equality and international law. It is a three-year project implemented in three countries – Indonesia, Iraq and Nigeria – which were selected on the basis of demonstrated political will to increase the protection of children from terrorism, and due to their decisive role in setting the agenda on dealing with this phenomenon at national, regional and global levels.

STRIVE Juvenile pursues two interconnected objectives:

- 1) Strengthening government strategies, policies and mechanisms related to child association with terrorist groups;
- 2) Increasing the resilience of children and their environment against violent extremist and terrorist agendas.

Strengthening the capacity of professionals who deal with this phenomenon through training is a strong priority under the first objective of STRIVE Juvenile, and is also

¹² The Bali Call for Action is available at: <https://indd.adobe.com/view/ab0d7168-f88e-4d89-9fbb-6b46a90c1ea5>



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recognized as an important objective by the Government of Indonesia, and is included in the new National Action Plan on PCVE.

3. Training Workshop on Justice for Children in the context of Counter-Terrorism in November / December 2021

The Training Workshop on Justice for Children in the Context of Counter-Terrorism is a continuation of this ongoing support and is framed by the outcomes of the Situation Analysis. It aims to increase the awareness and understanding of participants on the justice responses that are needed to ensure the rehabilitation and reintegration of children recruited and exploited by terrorist and violent extremist groups. The following were identified as priority areas of focus for training during the Situation Analysis:

- The interaction between law and policy on child justice and on terrorism-related cases.
- Appropriate conditions for the use of diversionary measures in terrorism-related cases involving children.
- Preparation and use of social enquiry reports.
- Child-sensitive communication and treatment.

The Training Workshop will provide a forum for discussion of measures to strengthen the justice system for children in Indonesia in the context of counter-terrorism, including:

- How children who have been recruited and exploited are affected by violence.
- Why a specialised justice system for children is needed in a counter-terrorism context.
- Key elements of a specialised justice system for children during the different stages of arrest, investigation, prosecution, trial and sentencing; and the gaps and bottlenecks in Indonesia.
- The use of alternatives to judicial proceedings such as diversionary measures and alternatives to detention such as community-based sentencing.
- The process for, and importance of, preparing and using a social inquiry report for a child who has been recruited and exploited.
- Planning and implementing rehabilitation and social reintegration programmes.
- Responding to children who have been recruited and exploited and who are returning to Indonesia from abroad.
- The necessity and challenges of multi-disciplinary and coordinated responses.
- Child-sensitive communication.



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UNODC proposes a three day instructor-led participative training, where national and international experts will introduce the relevant content to the participants, trigger discussion and exchanges, and guide the conduct of exercises and activities. This training format aims to promote interactive learning and foster coordination across different sectors with responsibility for children. To support the training, UNODC has prepared background materials (available in Bahasa and English) which will be distributed to participants in advance of the event.

In view of the travel restrictions arising because of COVID measures, the Training Workshop will be hybrid meaning that most participants will be together in person with a facilitator(s) from UNODC, whilst some of the instructors will conduct sessions virtually.

4. Participants

Given the multi-disciplinary nature of this work, this Training Workshop will include approximately 30 participants from different sectors in order to encourage professionals who are not used to working together, to understand each other's roles and approaches and to build partnerships.