



**FACULTY OF JURIDICAL SCIENCES**

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**SUBJECT: PENOLOGY AND VICTIMLOGY**

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## Lecture-32



#### 44. Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime\*

##### I. OBJECTIVES

1. The present Guidelines on Justice for Child Victims and Witnesses of Crime set forth good practice based on the consensus of contemporary knowledge and relevant international and regional norms, standards and principles.

2. The Guidelines should be implemented in accordance with relevant national legislation and judicial procedures as well as take into consideration legal, social, economic, cultural and geographical conditions. However, States should constantly endeavour to overcome practical difficulties in the application of the Guidelines.

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

(a) To assist in the review of national and domestic laws, procedures and practices so that these ensure full respect for the rights of child victims and witnesses of crime and contribute to the implementation of the Convention on the Rights of the Child,<sup>1</sup> by parties to that Convention;

**To assist Governments, international organizations, public** adult and juvenile justice process at the national, regional and international levels, consistent with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;<sup>2</sup>

(b) To assist and support those caring for children in dealing sensitively with child victims and witnesses of crime.

4. In implementing the Guidelines, each jurisdiction should ensure that adequate training, selection and procedures are put in place to protect and meet the special needs of child victims and witnesses of crime, where the nature of the victimization affects categories of children differently, such as sexual assault of children, especially girls.

5. The Guidelines cover a field in which knowledge and practice are growing and improving. They are neither intended to be exhaustive nor to preclude further development, provided it is in harmony with their underlying objectives and principles.

6. The Guidelines could also be applied to processes in informal and customary systems of justice such as restorative justice and in non-criminal fields of law including, but not limited to, custody, divorce, adoption, child protection, mental health, citizenship, immigration and refugee law.

##### II. SPECIAL CONSIDERATIONS

7. The Guidelines were developed:

(a) Cognizant that millions of children throughout the world suffer harm as a result of crime and abuse of power and that the rights of those children have not been adequately recognized and that they may suffer additional hardship when assisting in the justice process;

(b) Recognizing that children are vulnerable and require special protection appropriate to their age, level of maturity and individual special needs;

(c) Recognizing that girls are particularly vulnerable and may face discrimination at all stages of the justice system;

(d) Reaffirming that every effort must be made to prevent victimization of children, including through implementation of the Guidelines for the Prevention of Crime;<sup>3</sup>

(e) Cognizant that children who are victims and witnesses may suffer additional hardship if mistakenly viewed as offenders when they are in fact victims and witnesses;

(f) Recalling that the Convention on the Rights of the Child sets forth requirements and principles to secure effective recognition of the rights of children and that the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power sets forth principles to provide victims with the right to information, participation, protection, reparation and assistance;

(g) Recalling international and regional initiatives that implement the principles of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, including the *Handbook on Justice for Victims* and the *Guide for Policy Makers on the Declaration of Basic Principles*, both issued by the United Nations Office for Drug Control and Crime Prevention in 1999;

(h) Recognizing the efforts of the International Bureau for Children's Rights in laying the groundwork for the development of guidelines on justice for child victims and witnesses of crime;

(i) Considering that improved responses to child victims and witnesses of crime can make children and their families more willing to disclose instances of victimization and more supportive of the justice process;

(j) Recalling that justice for child victims and witnesses of crime must be assured while safeguarding the rights of accused and convicted offenders;

(k) Bearing in mind the variety of legal systems and traditions, and noting that crime is increasingly transnational in nature and that there is a need to ensure that child victims and witnesses of crime receive equivalent protection in all countries.

### 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.

### IV. DEFINITIONS

9. Throughout these Guidelines, the following definitions apply:

(a) "Child victims and 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;

(b) "Professionals" refers to 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;