MEETING REPORT
CHILDREN RECRUITED AND EXPLOITED BY TERRORIST AND VIOLENT EXTREMIST GROUPS
Vienna Colloquium 2018
Vienna, Austria
28-30 November 2018
Preface

The Residual Special Court for Sierra Leone, in collaboration with the United Nations Office on Drugs and Crime (UNODC) and thanks to the generous contribution of the Federal Government of Austria, convened a three-day Colloquium on Child Recruitment and Exploitation by Terrorist and Violent Extremist Groups. The meeting was held at the United Nations Regional Headquarters in Vienna, Austria.

The event brought together over 63 participants from the academic, governmental, international, judicial and civil society sectors. This included Justices from the Residual Special Court for Sierra Leone, representatives from UNODC, UNDP, UNICEF, the UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict and the Council of Europe, and independent experts from the Ludwig Boltzmann Institute of Human Rights and Terre des Hommes.

The main objectives of the meeting were to discuss challenges, seek solutions and make recommendations related to the treatment of children recruited and exploited by terrorist and violent extremist groups by the justice system.

This report summarises the key presentations and group discussions of the colloquium and it is hoped that the colloquium and, this accompanying report, may support and strengthen the drive to protect children from being recruited and exploited by terrorist and violent extremist groups, across the world.
Background

In December 2016, the United Nations Office on Drugs and Crime (UNODC) organized an Expert Group Meeting in Vienna. The topics discussed included how to prevent children from getting involved with terrorist and violent extremist groups, how to deal with this issue from a judicial standpoint, and how to promote the effective rehabilitation and reintegration into society of affected children. The objective of the meeting was to gather information on the above-mentioned topics, select good practice examples and contribute to the development of a UNODC Handbook on *Children Recruited and Exploited by Terrorist and Violent Extremist Groups: The Role of the Justice System*, which was launched in January 2018 and is now available in Arabic, English and French.

Several speakers at the UNODC Conference stressed the importance of this issue for international, regional and national security agendas now and in the near future. In particular, States have been grappling with how to treat suspected ‘foreign fighters,’ including those who may have committed serious violations of international law while taking part in hostilities abroad, including children. Several participants emphasized that regardless of their conduct, all children associated with armed groups are first and foremost victims of child recruitment and use, and as such, should never be prosecuted solely for being a member of an armed group. In addition, they should be provided with appropriate recovery and reintegration assistance.

It was emphasized that in national justice systems, children formerly associated with armed groups should be treated in line with existing human rights standards applicable to children, regardless of the gravity of any criminal offences they may have allegedly committed and their qualification as ‘terrorism’ and/or ‘violent extremism.’ These key standards include an obligation to consider the best interests of the child in all public actions, using detention only as a measure of last resort and for the shortest appropriate period of time, and alternatives to formal judicial proceedings. In order to develop appropriate prevention, accountability and reintegration measures, States should ask themselves how they can best implement existing legal obligations and standards of good practice; ultimately, to protect not only children but societies in general from insecurity, upholding the rule of law and human rights.

Based upon what the speakers at the UNODC Expert Group Meeting noted, the colloquium provided the opportunity to discuss possible avenues of dealing with children who have been targeted by terrorist and violent extremist groups. It is important to note that stigmatization of these children is a factor that leads to re-recruitment. In this regard, different strategies are necessary to deal with those associated with terrorist groups when they were children and


who have now returned or were sent back as children; or those who left as children, returning back as adults, including girls, now wives or widows of terrorist affiliated persons; and finally persons, having left as children, returning as adults with small children of their own who are often already traumatized by events they have had to witness and who need assistance in contacting their family, with whom they have lost or had no contact with.

Africa has dealt with the consequences of terrorism and violent extremism, perpetuated by a string of conflicts occurring within the continent. The Residual Special Court for Sierra Leone (RSCSL) grappled with issues of terrorism and violent extremism, recruitment of child soldiers, violence against children and violence by children to a large extent, therefore its judges are integral to finding solutions to the scourge of terrorism, due to their vast experience in the matter. Indeed, the RSCSL has also dealt with cases involving the recruitment and use of children as child soldiers, including the problem of girls as, what is known as, ‘bush-wives.’ It is more than appropriate that the Justices of the RSCSL interact with subject matter experts from around the world, and participate in a combined effort to address prevention and rehabilitation measures, as well as judicial responses to terrorism and violent extremism together with representatives from different countries that are heavily involved in the matter.

In 2018, UNODC published the aforementioned Handbook on *Children Recruited and Exploited by Terrorist and Violent Extremist Groups: The Role of the Justice System* and continues to support countries in their efforts to better serve and protect children involved with terrorist and violent extremist groups. UNODC is currently in the process of developing three training manuals, based on the three key themes of the Handbook, namely:

- Prevention of child recruitment by terrorist and violent extremist groups;
- Justice responses to children recruited and exploited; and,
- Rehabilitation and reintegration of those children.

Based on the results achieved through this work, UNODC provided integral support to the colloquium organized by the RSCSL and contributed to the discussions on the issues related to children and terrorism with a particular focus on the role of the justice system in preventing the phenomenon, providing appropriate treatment and promote the rehabilitation and reintegration of children recruited and exploited by terrorist and violent extremist groups.

**Objectives of the Colloquium**

The objectives of the three-day Colloquium were to:

- Discuss challenges related to the treatment of children recruited and exploited by terrorist and violent extremist groups by the justice system and the basis on which recruitment occurred;
- Discuss and create solutions for handling individuals or groups at risk of recruitment by terrorist or violent extremist groups;
- Address and recommend national, regional and international judicial responses to cases of terrorism and violent extremism involving alleged child offenders;
- Exchange good practices on effective rehabilitation and reintegration measures for different groups of children and young adults who were associated with terrorist and violent extremist groups; and,
- Find solutions for children living under the threat of terrorism, including all forms of violence against children committed by terrorist groups in all their violent manifestations.

**Colloquium Agenda and Session Discussions Summary**

The Colloquium was organized over three days. Day One was dedicated to ‘setting the scene’ of the context of terrorism, with a specific focus on the recruitment of children and was comprised of presentations by the Justices of the RSCSL, UNODC and UNICEF. Day Two commenced with first-hand accounts of children impacted by violence in the context of gang warfare in El Salvador which led to presentations and discussions on prevention of child involvement in violence, including violent extremism and terrorism and to the treatment of these children once they come into contact with the legal system. Presentations on the treatment of children when deprived of their liberty were also heard in the final sessions of Day Two. Day Two concluded with closing remarks and recommendations. Day Three was used as a closed meeting of the RSCSL.
Mr Yury Fedotov, Executive Director of the UNODC, opened the Colloquium by welcoming the Justices of the RSCSL and the other distinguished delegates and emphasised the readiness of UNODC to support work aimed at protecting children. Mr Fedotov described the circumstances in which the recruitment of children by terrorist and violent extremist groups takes place and the multiple levels of violence that the children are exposed to. He outlined the challenges being faced by State authorities and practitioners in seeking to deal with the complex challenges linked to child recruitment and the actions UNODC has been taking to support countries dealing with this phenomenon. He concluded by thanking the Governments of Austria and Thailand for their leadership and support in the development and adoption by the General Assembly of the UN Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice. He also highlighted the importance of the work of the of the Committee on the Rights of the Child under the leadership of Justice Renate Winter.

H.E. Karin Kneissl, the Austrian Minister of Foreign Affairs, also outlined in her statement, the fact that these children are subjected to multiple forms of violence and the fact that under international law, children recruited by these groups are considered to be victims of crimes committed by adults. Ms
Kneissl went on to note the importance of national, regional and international responses to this problem and to ensure that the best interests of the child are always borne in mind. She also emphasised the need to make sure that any responses are tailored to the individual needs and case of each child. In this regard, rehabilitation, reintegration and early intervention efforts were seen to be key to dealing with this phenomenon. Ms Kneissl concluded by stating that ‘in order to tackle this very complex and multifaceted phenomenon of children recruited and exploited by terrorist and violent extremist groups, coordinated efforts, sharing of best practice and cross border cooperation is vital.’

Justice Renate Winter, as chairperson of the colloquium, welcomed the delegates and the forthcoming discussions and recommendations which would form an integral part of the colloquium.

Delegation of the Residual Special Court for Sierra Leone

Justice Bankole Thompson commenced the session with his keynote intervention entitled, ‘Conceptualizing, Defining and Adjudicating Terrorism as a War Crime: National, Regional and International Perspectives.’ Justice Bankole described the underlying conceptual issues caused by the term terrorism and the difficulties encountered in seeking to define it at the international, regional and national levels. The key differences between the jurisprudence of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the Special Court for Sierra Leone (SCSL) and the RSCSL, in dealing with terrorism as a war crime were also explained.

Justice Elizabeth Ibanda Nahamya similarly explored in her paper, ‘Grappling with Definitions: Terrorism as a Crime Against Humanity,’ the problems found in defining terrorism, but wanted to highlight the positive steps made by the different special tribunals, including the Special Tribunal for Lebanon in seeking to define terrorism and hold those to account for terrorist acts. She also postulated an interesting argument for the inclusion of terrorism as a crime against humanity, given the political aspects/agenda and harms caused by the terrorist and violent extremist groups.

Justice Isaac Lenaola and Justice Oagile Dingake, jointly presented, ‘ICC and Africa and the Issue of Terrorism,’ which sought to make the case against African Member States quitting the International Criminal Court (ICC) on the grounds of the over saturation of cases from the continent and arguments of racial bias. They also explored whether terrorism should be included as a standalone crime under the jurisdiction of the ICC and the difficulties in fitting terrorism within the defined categories of war crimes, crimes against humanity and genocide.

Building on these presentations about the conceptual and legal remits of terrorism, Justice Shireen Avis Fisher’s presentation looked at, ‘the Problem of the Child as Victim, Target and Instrument of Terrorism: Lessons from the Special Court for Sierra Leone,’ and drew on the Statute of the SCSL and the approaches taken by the Court to criminalise those recruiting for the purpose of terrorism, decriminalise child perpetrators of terrorist acts (at a certain age), ensure criminal responsibility of children over a certain age for terrorist acts committed with a view to rehabilitation and reintegration, define terrorism flexibly to ensure consideration of
vulnerability of children as victims and to ensure that courts also consider the rehabilitation and reintegration of those who committed terrorist acts as children.

Justice Theresa Doherty provided an emotive presentation on, ‘Gender Violence including Violence against Girls “as a tactic of terrorism”,’ and outlined how gender-based, particularly sexual violence targeted at women and girls, is not a new phenomenon, but often thought of as a right by soldiers/terrorist combatants. She described how the case of the Prosecutor v Brima identified that the use of sexual violence, sexual slavery and forced marriage were utilised as a means of generating terror within the civilian population. She outlined how the use of rape and other sexual violence was a means of demonstrating dominance and control by one population over the other and how women’s bodies have been historically seen as possessions of men which are legitimate to be violated.

Session 2

The second session focused on the ways children who are recruited by terrorist and violent extremist groups are impacted by terrorism and the approaches taken and challenges faced by the international community and the justice system in dealing with these children.

Justice Renate Winter, President of the Committee on the Rights of the Child and outgoing President of the Residual Special Court for Sierra Leone, spoke emotively in her presentation, entitled ‘Children and terrorism- where do we want to end up?’ about the plight of various children recruited by these groups and the consequences of statelessness on them and the children that they have or will have. She noted the differences in approach and stance by various States; some of whom wanted to ensure the return of these children and others who were reluctant given the perceived threat to national security posed and the cost of rehabilitation. Justice Winter concluded with an interesting practice example from Georgia in which the Justice Minister personally went to Iraq to secure the return of children, whose mother was incarcerated on terrorism-related offences. The Minister was then instrumental in ensuring that the children were welcomed back to their community.

Mr. Ibrahim Yillah, Principal Defender, in his presentation on, ‘How to Defend Child Perpetrators of Terrorist Acts: The Moral Dilemma for the Defense,’ described the challenges faced by defence counsel in defending children accused of terrorist offences. He outlined how proof of age, strict liability and stigma are key problems that defence counsel need to consider when formulating the defence.

Ms Alexandra Martins, UNODC Coordinator of the Global Programme on Violence against Children (VAC), explained in her presentation why it was necessary to develop the, ‘UNODC Position on the treatment of children recruited and exploited by terrorist and violent extremist groups.’ The approach was borne of the challenges faced by Member States in addressing the legal challenges posed by these children, in terms of prevention, treatment by national authorities and reintegration and rehabilitation. In 2015, driven by the technical assistance re-
quests received from Member States on this issue and after conducting technical needs assessments to understand the phenomenon, the need to develop a document to guide Member States on this issue was seen as paramount and the UNODC Handbook on Children Recruited and Exploited by Terrorist and Violent Extremist Groups: the Role of the Justice System was published in 2016. The UNODC approach is derived from four key international legal regimes, international human rights law, the international legal framework on counter-terrorism, international humanitarian law and international criminal law. Ms Martins outlined that the position of the UNODC is that, recruitment is a serious form of violence against children; children should be viewed primarily as victims; recruitment is a development issue not only a crime problem; recruitment is a complex phenomenon in which a multi-disciplinary approach is key, and that there is no dichotomy between security interests and child rights.

Mr. Kameldy Neldjingaye complimented Ms Martins’ presentation by speaking about the, ‘UNODC Global Programme on Violence against Children in Niger,’ in which he outlined the technical assistance that has been provided by the Justice Section and the Terrorism Prevention Branch to Niger, particularly to the Ministry of Justice dealing with the situation of children associated with Boko Haram. This has included providing legal advisory services, carrying out in-depth needs assessments and training of professionals on diversionary and alternative measures to deprivation of liberty.

Ms Brigid Kennedy Pfister, Chief of Child Protection and Adolescent Development, UNICEF Iraq, outlined in her presentation, ‘Building the Promise of Children Who Have Lived Under ISIL: Reflections from Post-Conflict Iraq,’ explained how complex the situation is for children living under the control of these groups and in the wider context of armed conflict. She noted the importance of understanding the reasons these children are coerced or caught up into these groups and the intergenerational effects of involvement with these groups. She concluded by restating the importance of child rights and of treating these children as survivors of human rights violations.

Day 2

Session 3

Day 2 commenced with moving accounts from two children, Mr. Ronald Aquilar and Ms Azucena Cushco, affected by, and growing up amidst, a culture of gang violence in El Salvador. Their accounts were followed by a presentation by Ms Silvia Reyes, a Psychologist from the United Nations Development Programme (UNDP) El Salvador, who spoke about, ‘What is being done to protect and prevent children from violence,’ and the contextual background of the violence children in El Salvador are exposed to and the factors that inflate or lead them into being recruited by organized criminal gangs. She noted the importance of working with communities and providing work opportunities as alternatives to children living under these conditions.

Mr. Kiran Kothari, from Raedda Barnen, Save the Children Sweden, introduced the ‘Orostelefon project -a socially cohesive prevention approach’ in which people who are
concerned that their relatives/friends, or even themselves, may be being recruited by these groups, can confidentially call the support line and gain advice from Raedda Barnen and can then be referred on to other appropriate support services. The support line not only refers the caller on, but also follows up on their progress after the referral, to ensure they are being effectively supported. Mr. Kothari noted amongst other problems, that confidentiality and trust-building were the biggest challenges in this area.

Ms Rowena Legaspi’s paper was unfortunately not available. She highlighted the situation of children in a situation of “drug-warfare” by the state that could be directed against children, including children misused by gangs as well as children having to live under war-like circumstances without being involved directly in dealing with drugs.

Session 4

Professor Manfred Nowak opened Session 4 with his presentation on, ‘Free Kids’ Unleashing the Potential of the UN Global Study on Children Deprived of Liberty.’ Prof Nowak explained that the main objectives of the Study are to assess the magnitude of the issue, to find good practice examples, to gain the perspectives of children, raise awareness and reduce stigma and provide recommendations for law, policy and practice. He outlined the challenges faced in a counter-terrorism context and case studies where children held on terrorist charges are being held in detention and provided an example from Denmark of a promising practice in this regard (The Aarhus Model).

Ms Roberta Desch, Staff Member of the Youth prison in Gerasdorf, Austria, in her presentation titled ‘Terrorism – Challenges and Measures taken in the Austrian penal system – Prevention and Counter Radicalization particularly with Juveniles,’ explained the measures the Austrian penitentiary system has been taking to deal with young adults who have been convicted of terrorism-related offences. Ms Desch also outlined the close relationship between the probation services (Neustart) and the penal system, to ensure that children and young adults are effectively rehabilitated and reintegrated into society.

Ms Sharon Riggle, Chief of Analysis and Outreach Unit, Office of the Special Representative of the Secretary-General for Children and Armed Conflict, looked at ‘Ensuring equal protection of all children affected by violent extremism’ in her presentation. She reiterated the importance of ensuring that the rights enshrined under the Convention on the Rights of the Child are for all children nor just some and introduced the research undertaken by the UN University in its publication, Cradled by Conflict: Child Involvement with Armed Groups in Contemporary Conflict, (United Nations University, 2018), which highlighted the fact that there is no such thing as ‘voluntary’ recruitment, but rather a continuum of coercion exists.

Session 5

Ms Renee Sabbagh, from the UNODC Region Office in Lebanon, described in her presentation, ‘The treatment of children in detention for terrorism-related offences,’ the steps being taken by the Ministry of Justice in Lebanon with the support of the UNODC to reintegrate and rehabilitate children in detention for terrorist offences, of which 14% of the detainees in the Juvenile Wing of Roumieh prison are being held. She outlined the approach used by the prison
to rehabilitate these children by using simple activities, including refusing some of the demands made by the children (to be held separately from other child detainees, to not watch television or engage with peers/speak with female personnel) and encouraging their engagement in rehabilitative activities, such as sports and education and developing their social skills.

Ms Madeline Guyot, Advisor to the Ombudsperson for Children in Belgium, spoke on behalf of Mr. Bernard De Vos, Ombudsperson for the French-speaking Community of Belgium, on, ‘What to do with returning children allegedly involved in terrorism. Returning children at the border?’ Ms Guyot highlighted the work of the Ombudsperson and his Office in seeking the return of children who have travelled to Syria and Iraq to join terrorist and violent extremist groups or whose families sought to join these groups and who were, as a consequence, born in the terrorist held areas. The approach of the Ombudsperson has been to seek the return of these children without discrimination of any kind in relation to their age and alleged involvement in terrorist acts. Ms Guyot emphasized the need to consider the best interests of the child first and foremost and the importance of rehabilitation and reintegration to prevent re-recruitment.

Ms Adriani Kostopoulou, Chair of the Ad Hoc Committee for the Rights of the Child, Council of Europe, gave a presentation on, ‘Terrorism and children: Council of Europe standards and tools to address current challenges in member states.’ Ms Kostopoulou introduced inter alia the Council of Europe Counter-Terrorism Strategy 2018-2022 and emphasised the importance of child rights and that given the vulnerability of children there is an increased responsibility of States to protect them. She also highlighted how integral the caselaw of the European Court of Human Rights has been in underscoring the necessity of higher levels of procedural and substantive guarantees for children involved with these groups.

**Recommendations**

Delegates were asked to write their recommendations on how national, regional and international justice response efforts can be supported and improved in relation to the phenomenon of child recruitment by terrorist and violent extremist groups. The following are the anonymised recommendations made by the delegates in relation to this issue:

- Include civil citizens into the work on the basis - protection starts at the very root of society - family - love care - education!

- Más acciones de diplomacia para promover en los estados el cumplimiento y Création de protocolos.

- Desarrollar más programas de prevención contra la violencia que incluya la atención psicológica, recreación y acceso a oportunidades de desarrollo (educación, salud, trabajo).

- Use influential civil society groups to work on and lobby around law reform.

- Retired justices should formulate a voice like The Elders to speak out on matters or points
of international law that protect children in conflict.

- On the issue of foreign children- bring together relevant governments, field child rights practitioners and legal experts (obviously child rights experts) to try to address the obstacles and arguments used to hinder fulfilment of obligations to- and rights of these children. The field practitioners will particularly important to help increase the understanding of local contexts, circumstances and reality of these children. Particularly to counter misconceptions and perceptions about what they represent – particularly linked to perceived security-related issues.

- Develop specific reintegration and rehabilitation programmes tailored to national and local contexts and liaise with local communities from the start to design the programmes.

- Adapt the existing tool, like the article 11 of the UNCRC and the Convention of de la Haye (responding to international child abductions) to a better international protection in context of terrorism.

- Use integrated approach with children in detention.

- Member states should be called upon to take responsibility for children who are their citizens and to take measures to prevent children from becoming stateless. This should include children born to their country nationals.

- Recommend that the UN Security Council adopt a resolution in order to pressure Member States into deploying all efforts to bring back/repatriate children from conflict zones.

- Create a UNCRC Sub-Committee on Juvenile Justice that will specifically focus on investigation of children detained as the work of the UNCRC is too broad in general.

- States should take all measures to ensure that children involved in terrorism are not discriminated on any ground.

- I recommend that the UN passes a resolution which can later be a convention on the need for children and terrorism only. The CRC had not specifically addressed that. Also that nations be encouraged to establish juvenile terrorist court.

- Strengthening enforcement of child right laws should be the key to ensuring their effectiveness. Enforcement should be focused on from many different perspectives; judicial decisions, legislative implementation/curb society action etc.

- That information on measures and mechanisms that could be available to NGO’s organisations to assist in pursuing legal issues to force country to respect their international obligations.

- There should be more awareness at the state levels. There should be awareness also for
the children. This is because for lawyers at the state level or even Judges to be proactive, they need to have a lot of information and awareness of the subject. Most domestic jurisdictions may not have much knowledge on this and how to make progress.

- Call on UN to pass a more specific resolution on the duties of Member countries towards child victims.

- Call for the establishment of a pool or group of lawyers, experts or advisors who will voluntarily assist and/or represent children held in custody or in ‘legal limbo’ to enforce their rights against the national State or the State in which they are being detained or otherwise leaving against their will or their family.

- Stronger collaboration mechanisms with civil society organisations to provide effective support services to children while in contact with the Justice system.

- That the United Nations Committee on the Rights of the Child consider the possibility of reviewing from a reform perspective, its existing mechanisms for monitoring Member States’ compliance with their existing treaty obligations and responsibilities under the Convention.

- That the governments should be encouraged by the UN to establish juvenile or specialised courts for children for the treatment of children, either those who are in conflict with the national law or terrorism.

- We need to resort to effective strategic litigation in partnership with local bar or a particular jurisdiction.

- The United Nations General Assembly must devise ways of punishing any of its members who fail to comply with international conventions on children involved in armed conflicts.

- That the legal profession for instance Sierra Leone Bar Association adopts a project called ‘the legal profession of defenders of children rights’ wherein lawyers would do pro bono work to address issues relating to punishment of those who recruit children as terrorist and relating to rehabilitation of children in such circumstances and other child rights issues.

- Create a Think Tank out of this Conference to carry out research on issues relating to enforcement of children’s rights- to give feedback, solutions and guidance.

- Reintegration must be comprehensive with monitoring in every instance that a child has been detained and later released upon being involved in terrorist activity.

- Promote pro bono legal representation of children whose rights under the CRC are being violated to bring cases to enforce their rights. Plan
- Raise the status of children’s rights law in jurisdictions to encourage lawyers to take these cases to elevate their professional profile.

- Educate lawyers on child’s rights so that they know how to bring these cases.

- Whenever a child is charged together with an adult their should both be tried in a Juvenile Court and when it comes to sentencing the adult may be taken to an adult court. This would ensure that at all times during trial a child benefits from protection and experience of a juvenile court/judge.

- Raise awareness of jurisprudence of international tribunals such as the Special Court and the ICTY to strengthen the protection of children.

- Strengthen juvenile justice systems to address the needs of all children in contract with the law in a multi-disciplinary approach in line with international norms and standards.

- Make clear to Member States that security and child protection are not mutually exclusive but that (child?) protection supports the security interest.

**Day 3**

Closed meeting of the Residual Special Court for Sierra Leone.