



Child-Friendly Justice Terminology Guideline



Child Justice Network

បណ្តាញអង្គការ យុត្តិធម៌អនីតិជន

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DISCLAIMER

This guideline does not necessarily reflect the views or official positions of each of the network’s members. It is meant to serve as general guidance for entities working in the child justice sector, but does not purport to provide universally accepted terms and definitions.

ENDORSEMENTS

This guideline has been endorsed by the Child Rights Coalition Asia, the Global Initiative on Justice With Children, the Global Study on Children Deprived of Liberty Team of the Global Campus of Human Rights, and the NGO Panel on Children Deprived of Liberty.



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INTRODUCTION

The Child Justice Network developed this **Child-Friendly Justice Terminology Guideline** to promote the wider use and proper understanding of child-friendly terms in relation to child justice, based on international and Cambodian laws and standards. This guideline is meant to assist the work of the network's members and partners, including civil society organizations, UN agencies, lawyers, service providers, justice system actors, news agencies, and translators/interpreters, among other relevant stakeholders.

The use of appropriate and consistent terminology based on a common understanding is important given the extensive implications of framing, stereotyping, and labeling for children in contact with the law, as well as for their families and the communities. The rights of all children must be respected, and states must implement the principles of child justice as enshrined in the Convention on the Rights of the Child in a non-discriminatory manner that promotes the child's sense of dignity and worth and that is guided by their best interests. Terminology plays a strong role in this process.

For children in *conflict* with the law in particular, there are practical reasons for why this is necessary, including the lesser culpability and special conditions of children in relation to adults, the demonstrated evidence of reduced offending behavior with the adoption of systems in line with child-friendly justice principles, and the positive societal outcomes that result from promoting better long-term prospects for the children to become responsible adults. A deeper discussion is beyond the scope of this guideline, but sources cited throughout this document can be referenced on this topic.

This guideline is available in **both English and Khmer**, but the two versions are not identical, as the Khmer version has been adapted to the local context and language. The guideline is divided into two sections:

1. **Preferred Terminology:** The terms to use and to avoid when referring to children, structures, and procedures in relation to child justice.
2. **Terminology Definitions:** Brief explanations of key terms used in the child justice sector.

The **Child Justice Network (CJN)** is a partnership between civil society organizations and UN agencies in Cambodia actively working to build and enhance the child justice system, develop and operationalize child-friendly procedures, ensure access to justice for children, and promote the rights of children in the justice system. The main purposes of the CJN include coordination among organizations working on child justice, reinforcement of the evidence base in child justice, collective collaboration with the government, engagement with development partners and regional and international mechanisms, and information exchange and capacity-building.

The network is an outgrowth of the discussions held at the [Cambodian National Launch of the UN Global Study on Children Deprived of Liberty](#) and the [Cambodian Preparatory Meeting for the 2021 World Congress on Justice With Children](#), which had identified the need for enhanced and sustainable coordination.

As of September 2022, the network has 25 active members, including the following founding members: Child Rights Coalition Cambodia, Children's Rights International, Legal Aid of Cambodia, OHCHR Cambodia, This Life Cambodia, and UNICEF Cambodia.

PREFERRED TERMINOLOGY

The table provided below identifies terms that are preferred over others based on developments in the child justice sector over the years, to ensure that we can take a more child-friendly approach to justice. A key example is the shift in terminology used by the UN Committee on the Rights of the Child through its General Comment No. 24 (2019).¹ There is no universal agreement on these terms, as the terms to avoid are still often used around the world, but the Child Justice Network suggests that these preferred terms be used wherever possible. These terms will continue to evolve as understanding, knowledge, and experiences in this field evolve, so attention should be paid to ongoing developments in the sector.

¹ See an overview of the General Comment at www.childjusticecambodia.org/childjusticeseries.

USE	AVOID	COMMENTARY
<p>Child (or children) in conflict with the law</p>	<p>Juvenile, juvenile offender, delinquent, criminal, or superpredator</p>	<p>The words “juvenile” and “delinquent”, among others, tend to carry a negative and prejudicial connotation, and this labeling can exacerbate stigmatization and be seen as dehumanizing. They also detract from the fact that the individuals involved are first and foremost children. In addition, there has been confusion as to the exact definition of the terms due to the various legal meanings across legal systems. Although the word “juvenile” may seem neutral from a legal and etymological perspective and when used in languages such as French or Spanish, it often has a negative association when used in English from a layperson’s perspective due to the portrayal in the media and the common usage of the term.</p> <p>For these reasons, there has been an increasing movement internationally over the past two decades to avoid the use of these terms, including by the UN Committee on the Rights of the Child. Previous international standards and current domestic legislation of various countries still contain these terms, so the terms may still be used when referring to the titles of these instruments or to specific legal provisions.</p>

		<p>However, efforts should be made to avoid these terms wherever possible, both from a normative framing standpoint and considering the practical implications.</p> <p>The use of the term “child offender” is also acceptable, but should be used with caution, as it can be confused with an adult who commits an offense against a child. For the word “minor”, refer to the definition of “child” provided in the next section, including the footnote.</p>
Child justice (system)	Juvenile justice (system)	<p>The term “youth justice” is also often used to refer to criminal legal processes and systems for children that are separate from the adult criminal justice system and that expand protections for young adults. However, this can be misleading based on the definitions of “youth” and “minimum age of criminal responsibility” in each jurisdiction, as children falling under the youth age range are subjected to the criminal justice system in many jurisdictions. In addition, there is discussion around whether “justice systems” should be referred to as “legal systems” instead, due to the lack of justice in the way children are generally treated in the system.</p> <p>The term “juvenile justice” may be used in specific situations like when referring to the 2016 Juvenile Justice Law, but it is preferable to use “child justice” when speaking about this topic more broadly.</p>
Children’s court or child justice court	Juvenile court	<p>The use of this term would depend on the legal framework and judicial structure of the country. However, when broadly referring to courts that have exclusive jurisdiction over cases involving children, it is preferable to avoid referring to them as juvenile courts. Many countries use the term “children’s court” (or nests jurisdiction over children under family courts), and the UN Committee on the Rights of the Child uses the term “child justice court”.</p> <p>This is also applicable to justice system actors and services (e.g., juvenile judges, juvenile police units, juvenile defenders, juvenile departments, juvenile services, or juvenile facilities), which can be referred to as specialized entities instead.</p>
Non-custodial measures	Alternatives to detention/ imprisonment	<p>The word “alternative” gives the impression that it is a lesser or secondary option, although it should in fact be considered as a primary option for children. Both “alternatives to detention” and “non-custodial measures” have been used often in the past, but the latter is the preferred term.</p>

TERMINOLOGY DEFINITIONS

The definitions provided below are primarily based on widely accepted definitions at the international level, combined with definitions provided in Cambodian domestic legislation or guidance. Some definitions draw on the exact language used in international instruments, whereas others are summarized or reworded to facilitate an easier and more comprehensive understanding of the term. Explanatory texts and examples have been included in the footnotes where appropriate, and the definitions are complemented by helpful resources that can be referenced for more details. The Child Justice Network does not necessarily endorse the full content of all sources specified.

What is “child justice”? It may refer narrowly to laws, principles, and practices related to the child justice system and the administration of justice, but it may also encompass the broader concept of access to justice for all children in all its forms, including criminal, civil, economic, social, and cultural justice, often referred to as “justice for children” or “justice with children”.

1. TERMS RELATED TO PEOPLE

Appropriate adult

A person appointed or approved by the competent authority to assist a child throughout the legal process, particularly when (1) the parent or legal guardian is not available or (2) the competent authority has decided to limit, restrict, or exclude the presence of the parent or legal guardian at the child’s or legal representative’s request or because their presence is not in the child’s best interests.

In **Cambodia**, a designated representative is a person who has parental authority or legal guardianship over the child. A support person is a person or legal entity chosen by the child, or by the competent authority with the child’s agreement, to provide support during the proceedings.

Mostly adapted from UN Committee on the Rights of the Child’s General Comment No. 24 (2019) on children’s rights in the child justice system [hereinafter “CRC GC 24”].

See 2016 Juvenile Justice Law, art. 4.

Child

Any person below the age of 18 years.

In the legal context, the term “minor” is often used instead of “child”, which is generally defined as a person below the legal age of majority or emancipation.²

In **Cambodia**, a minor in the context of criminal justice is defined as any person whose age is less than 18 years old at the time of the commission of an offense.

Mostly adapted from Convention on the Rights of the Child [hereinafter “CRC”], art. 1.

See 2016 Juvenile Justice Law, art. 4.

Child in conflict with the law

A child at or above the minimum age of criminal responsibility who is suspected of, accused of, charged with, convicted with, or otherwise recognized as having infringed the criminal law.³

Partially adapted from CRC, art. 40.

See also UNODC (2013), *Justice in Matters Involving Children in Conflict with the Law: Model Law on Juvenile Justice and Related Commentary* [hereinafter “Model Law”].

Child in contact with the law

A child who has come into contact with the justice system in some form, either as a child in conflict with the law, child victim, or child witness, and also including children for which judicial, administrative, or non-state adjudicatory intervention is needed, such as for their care, custody, or protection.⁴

Mostly adapted from UN (2008), *Guidance Note of the Secretary-General: UN Approach to Justice for Children*.

2 This term should be used with caution, as there are often discrepancies over the legal definition of a “minor” even among different laws of the same country. In addition, there may be negative connotations associated with the term that may imply that children have no capacity or are inferior to adults. Thus, the term should only be used in specific legal contexts when necessary.

3 The CRC does not mention this term, but Article 40 specifies children “alleged as, accused of, or recognized as having infringed the penal law”, and the UN Committee on the Rights of the Child uses the term in its Concluding Observations to states parties. Children under the minimum age of criminal responsibility should not be considered as children in conflict with the law regardless of their actions, as their cases cannot legally be addressed through the criminal justice system.

4 Examples include children in need of care and protection (such as proceedings to decide alternative care arrangements or permanency planning for children removed from their homes), children implicated in other civil matters (such as custody disputes in divorce proceedings), child plaintiffs, and children living with or separated from incarcerated caregivers, among others.

An alternative term is “child in contact with the justice system”, which denotes children who are in any situation requiring legal proceedings.⁵

See, e.g., UN General Assembly Resolution 69/194 (2014), *UN Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice*.

Child victim and witness

A child who is a victim of or witness to crime, regardless of their role in the offense or in the prosecution of the alleged offender.

Mostly adapted from UN Economic and Social Council Resolution 2005/20 (2005), *Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime* [hereinafter “Guidelines on Child Victims and Witnesses”].

A victim is someone who, either individually or collectively as a group, has suffered harm, including physical or mental injury, emotional suffering, economic loss, or impairment of their fundamental rights, through acts or omissions such as those that are in violation of the criminal law, regardless of whether the perpetrator is identified, apprehended, prosecuted, or convicted. The term “survivor” is also increasingly used, either interchangeably or in combination with the term “victim”, often to underline resilience and empowerment.

Mostly adapted from UN General Assembly Resolution 40/34 (1985), *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*.

See also Interagency Working Group on Sexual Exploitation of Children (2016), *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (Luxembourg Guidelines)*.

(Child) Justice system actors

Individuals in the justice system that directly influence and interact with children in the decision-making process of their cases and in the provision of relevant services. This includes judicial officers (e.g., judges, magistrates, and administrative boards), prosecutors, law enforcement officers (e.g., police officers), legal practitioners and child advocates (e.g., legal aid providers and guardians ad litem), and other personnel (e.g., corrections officers, prison guards, probation officers, social service workers or agents, child protection practitioners, and court clerks). It may also encompass a broader definition, including legislators and government officials related to justice matters (e.g., ministry officials).⁶

See, e.g., International Bureau for Children’s Rights (2020), *Core Child-Rights Competencies* (for security forces, social workers, and judges and prosecutors interacting with children); International Bureau for Children’s Rights (2020), *Core Competencies for Personnel Working with Children Deprived of Liberty*; and Global Initiative on Justice With Children (2020), *Operational Guidelines for Professionals Interacting with Children in Conflict with the Law During COVID-19*.

5 This term should be used with caution, as “justice system” may be interpreted narrowly. To be more comprehensive in the coverage of situations, the use of “child in contact with the law” is preferred.

6 A variety of terms are used to refer to different types of actors in the system. For example, “competent authorities” may refer to public bodies like judicial officers, prosecutors, or law enforcement officers, while “professionals” cover both the public and private sectors, such as lawyers from legal aid organizations and law firms. “Stakeholders” broadly refer to actors with an interest in certain matters.

Youth or young person

Generally any person between the ages of 15 and 24 years.

There are numerous variations of this age range across jurisdictions and entities. For example, the Association of Southeast Asian Nations and the African Union generally use the age range of 15 to 35 years, while the European Union and the Commonwealth use the age range of 15 to 29 years for statistical purposes. The two terms are not always used interchangeably, as a “young person” is also commonly defined as the age range of 10 to 24 years.

A “young adult” is any person in the youth category at or above the age of 18 years.⁷

In **Cambodia**, an individual who reaches the age of 18 years while serving their sentence in the Youth Rehabilitation Center may continue to stay in the center up to the age of 24 years. The Royal Government of Cambodia defines youth as any person between the ages of 15 and 30 years.

Adapted from Report of the Secretary-General to the UN General Assembly (1981; A/36/215), *International Youth Year: Participation, Development, Peace*, which was endorsed by UN General Assembly Resolution 36/28 (1981).

See, e.g., ASEAN (2017), *First ASEAN Youth Development Index*; African Union (2006), *African Youth Charter*; European Commission’s Eurostat; and Commonwealth’s Global Youth Development Index.

See also UN Department of Economic and Social Affairs (2013), *Fact Sheet on Definition of Youth*.

See 2016 Juvenile Justice Law, art. 82; and 2011 National Policy on Cambodia Youth Development.

2. TERMS RELATED TO CONCEPTS

Access to justice

The ability to obtain a just and timely remedy for violations of rights as put forth in national and international norms and standards, in matters including but not limited to civil, administrative, and criminal affairs. This can be through formal judicial processes; customary, traditional, religious, or informal community-based mechanisms; alternative dispute resolution or adjudicatory mechanisms; and other relevant systems and procedures.

Partially adapted from UN (2008), *Common Approach to Justice for Children*; and UN High Commissioner for Human Rights (2013), *Report to the Human Rights Council on Access to Justice for Children*.

See also Task Force on Justice (2019), *Justice for Children Call to Action*; Task Force on Justice (2019), *Justice for All – Final Report*; UNICEF (2020), *Access to Justice for Children in the Era of COVID-19: Learnings and Notes from the Field*; and Aoife Nolan et al. (2022), *Advancing Child Rights-Consistent Strategic Litigation Practice*.

⁷ There is an increasing call and movement to extend protections to young adults in conflict with the law, taking into account their unique needs and opportunities for reintegration, trends in offending behavior, and research on brain development and neuroscience demonstrating that the brain continues to mature into adulthood until roughly the age of 24 or 25, with certain brain functions developing later than others.

It involves the legal empowerment of children in a manner that enables them to claim their rights, including the pursuit of effective remedies and accountability at the national, regional, or international levels.⁸

Equal access to justice for all is a right that is recognized by the Member States of the UN.

See, e.g., UN General Assembly Resolution 67/1 (2012), *Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels*.

Best interests of the child

A substantive right, interpretative legal principle, and rule of procedure that ensure the full and effective enjoyment of all rights recognized in the Convention on the Rights of the Child, in a manner that secures the child's physical, psychological, emotional, moral, and spiritual development, integrity, and dignity. Different systems have their own evolving criteria and consideration of factors for making individual assessments, determinations, and decisions on what would serve the best interests of a child or group of children in all judicial, administrative, legislative, public, or private decisions and actions concerning them, including for their safety and wellbeing.

Partially adapted from UN Committee on the Rights of the Child's General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration [hereinafter "CRC GC 14"].

Child-friendly justice

Justice systems and approaches that respect and effectively implement children's rights to the highest extent possible, for children of all groups and backgrounds, encompassing justice that is accessible, age-appropriate, speedy, diligent, adapted to, focused on, and respectful of the needs and rights of the child, including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life, and to integrity and dignity, among others.

Mostly adapted from Council of Europe (2010), *Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice* [hereinafter "Council of Europe Guidelines"].

See also UN Economic and Social Council Resolution 1997/30 (1997), *Guidelines for Action on Children in the Criminal Justice System (Vienna Guidelines)*; Global Initiative on Justice With Children (2021), *Global Declaration on Justice With Children*; and World Congress on Justice With Children (2021), *Compendium Report*.

8 Legal empowerment involves the provision of information, support, and capacity-building for individuals to understand and use the law and legal processes to exercise and protect their rights and interests, seek justice and solutions to their problems, access resources and services, and pursue transformative improvements to laws and systems.

Alternative terms include “child-focused”⁹ justice and “child-sensitive”¹⁰ justice.

In **Cambodia**, a number of basic principles are stipulated to achieve child-friendly justice.

See, e.g., International Association of Youth and Family Judges and Magistrates (2017), *Guidelines on Children in Contact with the Justice System*.

See, e.g., 2016 Juvenile Justice Law, art. 5.

Child justice system

The legislation, norms and standards, procedures, mechanisms, and provisions that are specifically applicable to children in relation to justice matters, along with the institutions and bodies established to this end.

Partially adapted from CRC GC 24.

Child rights approach

Conceptual framework that is normatively based on international child rights standards and principles and is operationally directed to promoting, realizing, and protecting the rights of children as active rights-holders, in a manner that guides behaviors, actions, plans, policies, programs, and processes. This approach is anchored in a system of rights and corresponding obligations established by the Convention on the Rights of the Child and other international human rights instruments, including all civil, political, cultural, economic, and social rights of children. It is an approach that builds the capacity of children as rights-holders to claim their rights and those of duty-bearers to fulfill their obligations to children. It recognizes that the process of realizing children’s rights is as important as the end result.

Mostly adapted from UN Committee on the Rights of the Child’s General Comment No. 21 (2017) on children in street situations; UN Sustainable Development Group (2019), *UN Sustainable Development Cooperation Framework*; and UNICEF (2014), *Guiding Questions to Help Implement a Child Rights Approach*.

See also CRC GC 14.

Deprivation of liberty

Any form of detention, imprisonment, or placement of a person in a public or private custodial setting,

Adapted from UN General Assembly Resolution 45/113 (1990), *UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules)*, as also adopted by the CRC GC 24.

9 This term was used by the International Association of Youth and Family Judges and Magistrates considering the concern that the term “child-friendly” justice may strengthen the unfair and unfounded stereotype that judges who hear cases of children in conflict with the law are too friendly and soft on crime.

10 This term was defined in the *Guidelines on Child Victims and Witnesses* as an approach that balances the child’s right to protection and that takes into account the child’s individual needs and views.

from which this person is not permitted to leave at will, by order of any judicial, administrative, or other public authority.

Deprivation of liberty is not limited to criminal processes, but also takes place for reasons of care and protection, guardianship, treatment, or humanitarian assistance, among others.¹¹

In **Cambodia**, specific legal provisions are stipulated for measures dealing with the detention of children, for the rights of children deprived of liberty, and for measures at the Youth Rehabilitation Center that houses children in conflict with the law.

See, e.g., Manfred Nowak (2019), *UN Global Study on Children Deprived of Liberty*; UNICEF (2021), *Estimating the Number of Children Deprived of Liberty in the Administration of Justice*; and UN Human Rights Committee's General Comment No. 35 (2014) on the liberty and security of person.

See, e.g., 2016 Juvenile Justice Law, arts. 76-85; 2011 Law on Prisons; 2009 Criminal Code, art. 166; 2007 Criminal Procedure Code, arts. 502-511; and Standard Operating Procedures for the Youth Rehabilitation Center.

Due process (of law)

The basic safeguards that must be guaranteed at all stages of a proceeding to ensure a fair and just trial, including the principle of the presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to legal and other appropriate assistance, the right to the presence of a parent or guardian, the right to confront and examine witnesses, the right to be tried without delay, and the right to appeal.

In **Cambodia**, a number of basic procedural rights of children are stipulated to ensure due process, and lawyers must demand and endeavor to assure due process.

Mostly adapted from CRC, art. 40; and UN General Assembly Resolution 40/33 (1985), *UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)* [hereinafter "Beijing Rules"].

See also CRC GC 24; and UN Human Rights Committee's General Comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial.

See, e.g., 2016 Juvenile Justice Law, art. 6; and 2012 Code of Professional Conduct of the Bar Association of the Kingdom of Cambodia, art. 38.

Inclusion/inclusivity

Conditions like structures, procedures, and practices that enable individuals of all groups and backgrounds to fully and actively participate in decision-making, societal processes, and access to justice, especially for marginalized groups, in a manner that is accessible and adapted to individual needs.

See, e.g., UN Special Rapporteur on the Rights of Persons with Disabilities et al. (2020), *International Principles and Guidelines on Access to Justice for Persons with Disabilities*; and UN Committee on the Rights of the Child's General Comment No. 9 (2006) on the rights of children with disabilities.

11 Places of detention include prisons, correctional facilities, police lock-ups, pre-trial detention or remand centers, military prisons, migration detention centers, reform schools, social care institutions, institutions for persons with disabilities or for persons addicted to drugs or alcohol, and mental health centers, among others.

Minimum age of criminal responsibility (MACR)

The minimum age below which the law determines that children do not have the capacity to infringe the criminal law.

Children who are below the MACR at the time of the commission of an offense cannot be held responsible in criminal law proceedings. Children who reach the MACR cannot retroactively be held criminally liable for acts conducted when they were under the age. The MACR is distinct from the age at which a person can be tried as an adult in the criminal justice system.

In **Cambodia**, the MACR is the age of 14 years.^a Although the “age of criminal responsibility” is set at the age of 18 years,^b this is interpreted to be the age at which a person can be tried as an adult. Legal procedures are also stipulated for children under the MACR.^c

Adapted from CRC, art. 40(3)(a).

See, e.g., CRC GC 24.

- a. See 2016 Juvenile Justice Law, art. 7.
- b. See 2016 Juvenile Justice Law, art. 7; and 2009 Criminal Code, art. 38.
- c. See, e.g., 2016 Juvenile Justice Law, arts. 14, 27, and 39; and 2007 Criminal Procedure Code, arts. 212 and 224.

Reintegration

Reestablishing of roots and a place in society for children who have been in conflict with the law, so that they feel part of, and accepted by, the community, including through social, economic, and political reintegration.¹²

The term “rehabilitation” is often used to describe a core pillar or ideology of criminal justice and as part of the reintegration process, but its exact definition in practice is not always clear.¹³

In **Cambodia**, the purpose of detention for children is listed as rehabilitation, including training, treatment, care, protection, education, and vocational training, with a view to assisting the child to become a good citizen and a productive member of society.

Adapted from UNICEF (2009), *Toolkit on Diversion and Alternatives to Detention* [hereinafter “UNICEF Diversion Toolkit”].

See also Penal Reform International and Thailand Institute of Justice (2019), *Guide to the Rehabilitation and Social Reintegration of Women Prisoners: Implementation of the Bangkok Rules*; and Office of Juvenile Justice and Delinquency Prevention (2018), *Reentry Starts Here: A Guide for Youth in Long-Term Juvenile Corrections and Treatment Programs*.

See 2016 Juvenile Justice Law, art. 79.

12 Examples include restoring of family, peer, and community relationships and participation in educational and decision-making activities, among others.

13 The UN Committee on the Rights of the Child has opted to use the term “reintegration” rather than “rehabilitation” because rehabilitation suggests a medical model that focuses only on the child to make changes, whereas reintegration indicates a wider set of measures, involving the child, family, and community, that are required for children to successfully continue in or re-engage with society and avoid repeating further offenses after coming into contact with the criminal justice system.

3. TERMS RELATED TO PROCEDURES AND STRUCTURES

Child-friendly procedures

Legal processes and procedures that are sensitive, adapted, and responsive to the specific needs and circumstances of children, including the use of accessible and understandable child-friendly language at all stages of the process, establishment and effective utilization of safe and comfortable child-friendly interviewing spaces and courts, provision of support by appropriate adults and of multidisciplinary services, availability of trauma-informed interview and testimony processes, removal of intimidating attire and appearances, and adaptation of proceeding protocols.

In **Cambodia**, child-friendly procedures refer to processes and procedures that encourage the full participation of children through the use of language and attitudes appropriate to the child's level of maturity, and in an environment that protects and responds to the child's safety, security, rights, and basic needs.^a Various child-friendly procedures are stipulated throughout the 2016 Juvenile Justice Law, regulations, and guidance documents.^b

Partially adapted from CRC GC 24.

See also *Model Law*; *Council of Europe Guidelines*; African Child Policy Forum (2018), *Spotlighting the Invisible: Justice for Children in Africa*; and UNHCR (2021), *Technical Guidance on Child-Friendly Procedures*.

- a. See 2016 Juvenile Justice Law, art. 4.
- b. See, e.g., Ministry of Justice Prakas No. 62/08 (2008) on the Use of Court Screen and Courtroom TV-Linked Testimony from Child/Vulnerable Victims or Witnesses. See also Ministry of Justice (2021), *Legal Guidelines Related to Children in Judicial Proceedings in Cambodia (Children in Conflict with the Law, Child Victims, and Child Witnesses)*; and Police Academy of Cambodia (2022), *Major Subject Book on Police Child Protection* (including the Child-Friendly Police Procedures). In addition, the draft Child Protection Law stipulates additional child-friendly procedures for the new Family Court.

Child participation

Implementation of the child's right to freely express their views in all matters affecting them and to have their views given due weight in accordance with their age and maturity, including the right to be heard in judicial and other legal proceedings that affect them.¹⁴ Meaningful and effective participation is enabled through processes that are transparent and informative, voluntary, respectful, relevant, child-friendly, inclusive, accessible, supported by training, safe and sensitive to risk, and accountable.

Mostly adapted from CRC, art. 12; and UN Committee on the Rights of the Child's General Comment No. 12 (2009) on the right of the child to be heard.

See also Defence for Children International (2016), *Handbook TWELVE: Children's Rights to Participation and the Juvenile Justice System, Theory & Practices for Implementation*; and Global Initiative on Justice With Children (2022), *Policy Paper on Systemic Child Participation in Justice*.

14 Child participation in the context of justice may take place in relation to individual cases or on systemic issues, but it generally involves ongoing processes that include information-sharing and dialogue between children and adults based on mutual respect, and in which children can learn how their views and those of adults are taken into account and actually shape the outcome of such processes.

Complaint mechanism

Means through which children who believe their rights have been violated, as individuals or collectively as a group, can report on the violation, seek accountability and redress, halt ongoing violations, and prevent future violations.¹⁵

In **Cambodia**, children deprived of liberty are entitled to the right to access a confidential and effective complaints mechanism concerning the conditions and treatment of children in detention.

Partially adapted from UNICEF (2018), *National Human Rights Institutions (NHRIs) Series: Child-Friendly Complaint Mechanisms*.

See, e.g., 2016 Juvenile Justice Law, art. 80.

Diversion

The channeling of children in conflict with the law away from judicial proceedings at any time prior to or during the relevant proceedings, through the development and implementation of procedures, structures, and programs that enable non-judicial bodies to determine the responsibility and treatment of the child based on their specific background and circumstances (e.g., level of maturity and education), thereby avoiding the negative effects of formal judicial proceedings and a criminal record.¹⁶

In **Cambodia**, diversion can be applied at various stages of the legal process (by the judicial police, prosecutor, investigating judge, or trial judge) under various conditions and criteria, and various diversion measures are available, which are to be specified in the diversion plan.^a For cases diverted by a prosecutor, the case may be filed without charge once the diversion plan is successfully completed.^b

Partially adapted from UNICEF *Diversion Toolkit*.

See also CRC GC 24; and UNICEF (2017), *Diversion Not Detention: A Study on Diversion and Other Alternative Measures for Children in Conflict with the Law in East Asia and the Pacific*.

- a. See, e.g., 2016 Juvenile Justice Law, arts. 13, 28, 38, 52, 58, and 60-71; 2009 Criminal Code, art. 40; and Ministry of Justice (2021), *Frameworks and Guidelines on Diversion of Children in Conflict with the Law*.
- b. See 2007 Criminal Procedure Code, art. 41.

15 Examples include national human rights institutions, children's commissioners, ombudspersons, prison monitoring groups, national preventive mechanisms, and human rights mechanisms at the regional and international levels, among others.

16 Examples include caution, regular school attendance, apologies, vocational or life-skills programs, recreational programs, counseling or therapy, mentorship, community service, financial or non-monetary symbolic compensation, curfew, restrictions on personal relationships, and check-ins, among others. It should be noted that a decision to not pursue a case due to a lack of evidence, among other reasons, is not considered diversion.

Gender-sensitive procedures

Legal processes and procedures that recognize and address the gender norms, inequalities, discrimination, vulnerabilities, and specific needs faced by individuals of different gender identities, especially for girls. These procedures are to be conducted in a manner that avoids secondary victimization and stigmatization, respects their dignity and integrity, ensures non-discrimination, and gives equal weight to testimony regardless of gender.

Partially adapted from UN Committee on the Elimination of Discrimination against Women's General Recommendation No. 33 (2015) on women's access to justice.

See also UNODC (2020), *Criminal Justice Handbook Series: Toolkit on Gender-Responsive Non-Custodial Measures* [hereinafter "Gender-Responsive Non-Custodial Measures Toolkit"]; and Thailand Institute of Justice (2018), *Towards Gender-Responsive Criminal Justice: Good Practices from Southeast Asia in Responding to Violence Against Women*.

(Child-friendly) Legal aid

The provision of legal information, advice, assistance, and representation for persons arrested, detained, suspected or accused of, charged, convicted, or imprisoned with a criminal offense, and for victims and witnesses in the criminal justice process, which is provided at no cost for those without sufficient means or when the interests of justice so require.¹⁷

Mostly adapted from UN General Assembly Resolution 67/187 (2012), *UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*.

See also CRC GC 24; and UNODC (2019), *Criminal Justice Handbook Series: Handbook on Ensuring Quality of Legal Aid Services in Criminal Justice Processes: Practical Guidance and Promising Practices*.

Child-friendly legal aid or lawyering is informed by the principle of the best interests of the child,¹⁸ is specialized, accessible, age-appropriate, and responsive to the specific legal and social needs and circumstances of each individual child; and involves child-sensitive communication, effective participation of children in a safe manner, and respect for the opinions and decisions of the child. Legal aid for children should be provided free of charge regardless of the child's means.

See, e.g., id.; UNICEF (2018), *Guidelines on Child-Friendly Legal Aid*; CLEAR-Rights (2022), *A Step-by-Step Guide to Quality Standards for Legal Assistance for Children Suspected and/or Accused*; LA CHILD (2021), *Guidelines for Child-Friendly Legal Aid for Children in Conflict with the Law*; and Defence for Children International (2018), *International Practical Guide for Lawyers Defending Children in Conflict with the Law*.

In **Cambodia**, children in conflict with the law are required to have a lawyer throughout the legal process, and if they do not have one, the court shall appoint a lawyer to fulfill the child's right to legal aid.

See, e.g., 2016 Juvenile Justice Law, arts. 6, 18, 22, 26, 32, 35, and 50; and 2007 Criminal Procedure Code, arts. 143 and 301.

See also Bar Association of the Kingdom of Cambodia (2022), *Lawyer Training Manual on Child-Friendly Legal Services*.

¹⁷ Legal aid can also be provided in procedures beyond the criminal justice system, such as for civil, family, and administrative affairs.

¹⁸ Generally, the lawyer's role is to represent the child's stated/expressed interest and to respect their decisions, even if this may be contrary to what could be in the child's best interests (though this varies by jurisdiction and the type of case). However, the lawyer should also consider the child's best interests in the course of providing legal advice to the client, so that an informed decision can be made by the child. In certain legal systems, there are mechanisms like court-appointed child advocates who have the specific responsibility of representing the child's best interests in court.

Non-custodial measures

Any decision made by a competent authority to submit a person suspected of, accused of, charged with, or sentenced for an offense to certain conditions and obligations that do not include imprisonment, which can be made at any stage of the administration of criminal justice, including during the pre-trial stage, trial and sentencing stage, and post-trial stage.¹⁹

In **Cambodia**, non-custodial measures are to be promoted for children,^a which include measures such as:

- judicial supervision and bail^{b & 20}
- application for release during trial^c
- community service and community-based order^{d & 21}
- reduced sentence^e
- suspended sentence^f
- deferred sentence^g
- intermittent sentence^h
- probation^{i & 22}
- conditional releaseⁱ
- pardon and amnesty.^k

Partially adapted from UN General Assembly Resolution 45/110 (1990), *UN Standard Minimum Rules for Non-custodial Measures (Tokyo Rules)*.

See also OHCHR (2003), *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers*, chapter 9; Ludwig Boltzmann Institute of Fundamental and Human Rights (2022), *Global Study Toolkit on Ending Deprivation of Liberty of Children in the Administration of Justice: A Review of Promising Practices*; and *Gender-Responsive Non-Custodial Measures Toolkit*.

- a. See 2016 Juvenile Justice Law; and 2006 Policy on Alternative Care for Children.
- b. See 2016 Juvenile Justice Law, art. 40; 2009 Criminal Code, art. 41; and 2007 Criminal Procedure Code, arts. 126, 140, 215-218, 223-230, 249, and 278.
- c. See 2007 Criminal Procedure Code, arts. 306-308.
- d. See 2016 Juvenile Justice Law, art. 65; and 2009 Criminal Code, arts. 72, 98, 101-103, and 162.
- e. See 2009 Criminal Code, arts. 160 and 164.
- f. See 2009 Criminal Code, arts. 104-116; and 2007 Criminal Procedure Code, arts. 449, 454, and 500.
- g. See 2009 Criminal Code, arts. 124-125.
- h. See 2009 Criminal Code, arts. 132-135.
- i. See 2009 Criminal Code, arts. 117-123 and 165.
- j. See 2016 Juvenile Justice Law, arts. 72-73; 2007 Criminal Procedure Code, arts. 512-522; and Ministry of Justice Prakas No. 90/21 (2021) on Procedure of Monitoring, Following Up, Supervising, and Integrating into the Society of the Conditional Released Convicted Persons.
- k. See 2009 Criminal Code, arts. 147-151.

Pre-trial detention

Detention from the moment of the arrest to the stage of the disposition or sentence, including detention throughout the trial.

Adapted from CRC GC 24.

19 Examples include bail, house arrest, electronic monitoring, restrictions on movement, surrender of passport, probation or judicial supervision, community-based treatment, community service, suspended or deferred sentence, parole or conditional release, and pardon, among others.

20 Obligations may include restriction of movement, check-ins, and payment of a bail deposit, among others.

21 Community service orders may be imposed on children who are at least 16 years old and not exceeding 100 hours, in a manner that facilitates the reintegration of the child.

22 Obligations may include participation in vocational training, undergoing medical examination or treatment, restriction of movement, and restriction on personal relationships, among others.

It should be noted that despite the word “pre-trial”, this includes detention that continues to take place after the trial hearing begins.

In **Cambodia**, pre-trial detention must be used as a measure of last resort, and the investigating judge must consider the social inquiry report prior to issuing a pre-trial detention order.^a There are also limits on the duration of police custody for children and limits on pre-trial detention.^b

See, e.g., Juvenile Justice Advocates International (2018), *Children in Pretrial Detention: Promoting Stronger International Time Limits*.

- a. See 2016 Juvenile Justice Law, arts. 39-41.
- b. See, e.g., 2007 Criminal Procedure Code, arts. 96, 204-205, 213-214, 230, 249, 278, 306-308, and 503.

Reasonable accommodations

The modifications and adjustments made to an environment, procedure, communication, service, or other factors to ensure that persons with disabilities enjoy or exercise, on an equal basis with others, all human rights and fundamental freedoms. Reasonable accommodations refer to the necessary and appropriate adjustments that do not impose a disproportionate or undue burden, where needed in a particular case.

Reasonable accommodations for children with disabilities in contact with the law may include physical access to courts and other buildings, support for children with psychosocial disabilities, assistance with communications and the reading of documents, and procedural adjustments for testimony.

In **Cambodia**, a number of legal safeguards exist for persons with disabilities in contact with the law.

Mostly adapted from Convention on the Rights of Persons with Disabilities, art. 2.

See, e.g., CRC GC 24.

See also UNDP and Legal Aid of Cambodia (2020), *Practical Guideline on Legal Aid for Persons with Disabilities in Criminal Justice: Guidance for Persons with Disabilities, Disabled People's Organizations, and Lawyers in Cambodia*.

See, e.g., id.; and draft Law on the Protection of the Rights of Persons with Disabilities.

Restorative justice

An approach to justice that seeks to repair the harm caused by the wrongdoing, through the active, safe, and voluntary participation of all concerned parties (including the victim/survivor, families, and community members), in order to collectively resolve the matter and enable the child offender to take proper responsibility for their actions.²³

Partially adapted from UN Economic and Social Council Resolution 2002/12 (2002), *Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters*; and UNODC (2020), *Handbook on Restorative Justice Programmes Second Edition*.

See also Terre des hommes (2020), *Theoretical Framework to Guide Interventions with Children in Conflict with the Law*.

23 Examples include mediation, victim-offender dialogues, group conferencing, peacemaking or sentencing circles, and reparative boards, among others.

The process is often facilitated by a fair, impartial, and qualified restorative justice practitioner, and it promotes reconciliation and healing, appropriate restitution, and prevention of recurrence of the action or behavior.

Social inquiry report

An assessment report submitted to the competent authority to aid in the effective and appropriate adjudication of legal proceedings involving children, particularly in deciding the measures to be applied at the pre-trial, disposition, and sentencing stages. The report should include information about the child's social and family background, home environment, educational experiences, health and other living conditions, circumstances that led to the legal situation, risk assessment, and suggestions for the disposition options.²⁴

In **Cambodia**, the social inquiry reports specify the general conditions of the child, along with a comprehensive assessment and recommendations by the social agents, which the justice system actors are required to consider throughout different stages of the legal process.

Partially adapted from the *Beijing Rules*.

See, e.g., 2016 Juvenile Justice Law, arts. 4, 11, 39, 42, and 46.

Status offense

Conduct that is deemed unlawful only when committed by children, but not when committed by adults, such as truancy (school absence), running away from home, curfew violation, begging, underage drinking, or disobedience in the school or home.

Partially adapted from CRC GC 24.

See also Child Rights International Network (2016), *Discrimination and Disenfranchisement: A Global Report on Status Offences (Third Edition)*.

24 For example, a social inquiry report for a child in conflict with the law may suggest diversion, bail, or conditional release as an option to be considered by the court.

