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Women and Children as Victims and Offenders: Background, Prevention, Reintegration

Suggestions for Succeeding Generations
(Volume 1)

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Foreword

This volume on “Women and Children as Victims and Offenders: Background, Prevention, Reintegration. Suggestions for Succeeding Generations” takes an interdisciplinary approach to the situation of women and children involved with the criminal justice system, placing a special emphasis on them as offenders and victims of crime.

Over past decades, the international community has adopted important standards to safeguard the rights of women and children who come into contact with the criminal justice system, including as victims and offenders. These include the right to access justice, to legal aid and assistance, to protection from unlawful or arbitrary detention, to social reintegration as well as to freedom from violence.

Unfortunately, the gap between these critical commitments and reality remains wide, compromising the rights of countless children and women around the world. Children and women involved with the criminal justice system remain surrounded by stigma, and their situation is seldom a priority on the national agenda. Awaiting trial for months or even years, denied access to legal aid, placed in overcrowded and unsuitable facilities and deprived of health services, education and vocational training, children and women are also often exposed to humiliating treatment by staff and at risk of harassment, torture, rape and abuse.

As a result of disturbing reports on serious violations of their rights, including human trafficking, sexual violence and homicide, the plight of women and children has gained increasing visibility on the domestic and international justice and security agenda. The urgency of safeguarding their fundamental rights and the need to identify and address the root causes leading to their exposure to violence have helped to generate increasing attention and action across regions. Yet, implementation on the ground remains a serious challenge.

This publication is designed to overcome this challenge and thus promote the effective realisation of the rights of children and women. Risk diagnoses, trust, fairness, justice and restorative justice approaches, the roles of the family, the education system and the media as well as the impact of urban planning in the life of girls are some of the important questions discussed in depth. Another

important dimension considered is the implementation of the right to education from preschool to university level, and the attacks against schools that seriously compromise the opportunity to promote children's education and personal development and have been condemned in significant resolutions by the United Nations Security Council.

Taking into consideration intergenerational, intercultural and socio-economic perspectives, this multidisciplinary volume also discusses a wide range of other topics such as bioethics, the promotion of interfaith dialogue, the reintegration and rehabilitation of young offenders, the abolition of the death penalty, the need to counter online abuse of children and women as well as tackling corruption, in which women and children may have an as-yet unexplored preventive role.

As the Special Representative of the UN Secretary General on Violence against Children, I have urged Member States to spare no efforts in mobilising governmental departments, national institutions, civil society partners, faith-based organisations, communities and families at large to build nations free from violence. Violence against children is never justified and all violence against children can be effectively prevented. Strong political will, strategic alliances, sound knowledge and unshakable action can bring violence to an end. This volume makes a significant contribution to this goal and is a useful reminder of the values of the United Nations and its unwavering resolve to build peaceful societies and strong institutions, guided by human rights, committed to justice and fairness, and respectful of the dignity and worth of every person.

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Secretary General on Violence
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Marta Santos Pais

Women and Children as Victims and Offenders: An Introduction

In criminological and public discussions, women and children are often seen as victims rather than as offenders—a view that has not much changed over time. In times of war and armed conflict, they still are the group that has to bear the most suffering: they are displaced, misused, raped and even killed.

It was the founding purpose of UNICEF in 1946, after the horrors of World War II, to protect children from the effects of war. This task is today as necessary as it was then.

The UNICEF Report 2015 (“Children between the Lines”) documents this vividly: “We are currently experiencing one of the worst phases of conflicts since the end of World War II. UNICEF estimates that in 2014 about 230 million children grew up worldwide in war and crisis zones. Their everyday life is marked by violence and hatred – often for years . . . Wars and armed conflicts have forced nearly 60 million people to leave their homes. More than half of these refugees and the internally displaced are women and children. They are particularly affected by the consequences of war, characterized by poor supply and lack of educational opportunities. Moreover, cases of serious violence have increased dramatically against boys and girls in the war” (p. 1). According to UNICEF one in ten children grows up in a country or region affected by crises and violent conflicts (UNICEF 2015).

Many children do not have adequate supplies of essentials, including food, water and medical assistance. Most are only able to attend school infrequently, if at all. “In the civil wars raging in Syria, Iraq, South Sudan and the Central African Republic children are also targets of the worst form of abuse” (ibid., p. 2). Groups such as ISIS in Syria and Iraq and Boko Haram in Nigeria blatantly disregard the principles of international humanitarian law. The UN Security Council lists for 2014 a total of 23 conflict situations in which children were exposed to serious human rights violations (UNICEF 2015). They were kidnapped, abused as sex slaves or child soldiers or sent to death as suicide bombers. In the first 7 months of 2015, UN officials reported 27 suicide bombings by Boko Haram. In at least three-quarters of the blast, the bombers were women or children (UNICEF 2015).

Why are young people attracted to terror organisations such as IS, even to the extent to give their lives? UNICEF gives the following answer: “The cynical use and display of children as victims makes them an object of political propaganda . . . Ideologies like those propagated by IS promise adventure, social inclusion and the feeling to be able to get past the limitations imposed on young people in their everyday life. They make the youngsters feel important, make them believe that they can influence world events and impose their ideas on the whole world” (UNICEF Report 2015, p. 4).

Phenomena such as IS make it clear “that general humanitarian principles are not automatically part of human traditions. They will never be because in times of war they are contrary to many primary instincts. The only way to entrench humanitarian values in the mind of each person – as a civilian, potential fighter, actual combatant or policy maker – is education” (ibid., p. 5).

According to UNICEF, in 2015 more than 62 million children in conflict areas will urgently need food, clean water, medical aid, the possibility to continue their education and protection from exploitation and violence. The realisation of the post-2015 UN sustainable development goals will depend to a large extent on whether we succeed in caring for and protecting children in such situations.

In its “Core Commitments for Children in Humanitarian Action”, UNICEF spelled out its main obligations to children in war situations: providing life-saving measures for pregnant women, newborns and children; facilitating school attendance even in emergency situations; help in searching for dispersed family members; and care for victims (UNICEF Report 2015, p. 6). As far as the creation of a durable peace is concerned, UNICEF gives children and adolescents a major role as “natural agents of change”, and mediators between the generations. There shall be no more “lost generations”, but instead all children shall have access to education and a better economic future. These are ambitious aims. Their realisation will need a greater commitment of wealthier nations and much work at persuasion. This work wants to make a small contribution.

As far as the situation of women is concerned, their equality in society has improved in many countries, but not to an extent that would allow us to speak of true gender equality (Kury and Obergfell-Fuchs 2005). It is not that long ago that the old legal tradition giving the husband dominion over his wife has been abolished in western countries, and it is still alive in many Muslim countries and other countries with a strong tribal tradition.

Recent research on women as victims presents the following picture (Lundgren et al. 2002; McGee et al. 2002; Medina and Barberet 2003; Müller and Schröttle 2004; Rodriguez Menés and Safranoff 2013): “The key findings include confirmation that violence against women is a universal phenomenon and occurs in every age and economic group although at different rates; there is indication that between 35 and 60 % of women in the surveyed countries have experienced violence by a man during their lifetime and that less than one third of women reported their experience of violence to the police (and where they do report, women are more likely to report stranger violence than intimate partner violence)” (Gelsthorpe and Larrauri 2014, p. 193). A study covering nine countries of the European Union

concluded that in roughly 25 % of all sexual aggressions, the offenders were either partners or ex-partners of the victim and that in these cases the level of violence was higher (Burman et al. 2009; see also Gelsthorpe and Larrauri 2014, p. 194; Müller and Schröttle 2004).

Hester (2013, p. 634) demonstrated in her study that women are not only more frequently victims of domestic and partner violence, but that the victimisation is more serious and that if they retaliate, the courts treat them worse than the male offenders: “While cases were very varied, there were significant differences between male and female perpetrators of domestic violence in many respects. Men were the perpetrators in a much greater number of incidents; the violence used by men against female partners was much more severe than that used by women against men; violence by men was most likely to involve fear by and control of female victims; women were more likely to use weapons, often in order to protect themselves; and female perpetrators were more likely to be alcoholic, or mentally ill, although alcohol misuse by men had a greater impact on severity on outcomes. Despite these patterns, however, women were three times as likely to be arrested per incident, indicating gendered injustice in the approach. There was little evidence that cases involving dual perpetration might generally be categorised as ‘mutual’ and men were in the main the primary aggressors”.

Not only women, but also children, become victims of domestic violence. As Levi and Maguire (2002, p. 818) point out, there are many reasons that may lead to child abuse, not the least the incessant crying of a baby. “Situational opportunity variables are also salient to baby battering; modern nuclear families are far more isolated than the extended families found in many Third World Countries, where parents are seldom alone in the house”. But more than situational opportunities, it is societal factors such as unemployment, poverty or isolation that lead to problems in a family and may expose children to violent reactions from frustrated parent. The fault in such cases is usually attributed only to the offender and society feels no blame. If anything, it is up to “the politicians” to do something about it. Moser (1972, p. 289) says it clearly: “It is astonishing to what extent society gives these children time to develop into full-fledged delinquents. It hardly cares about them, as long as they are the victims. Only when society itself is victimized or at least can present itself as victim, does it decide to act. And then [they act] like neglected and immature parents that hit blindly when the crying and the pranks of their neglected children exasperated them, when the angry need to have peace becomes the main motive of their intervention”.

The social cost of domestic violence is very high. In Finland, for instance, it has been estimated that the annual financial cost amounts to approximately 91 million euro (Heiskanen and Piispa 2002, p. 36; see also Walby 2004; Haller and Dawid 2006; Brzank 2009). Such cost are however difficult to estimate and we should not forget that the financial aspect is only one part of “social costs”. Numerous studies have shown that “Children who are physically abused or neglected tend to become offenders later in life” (Farrington 2002, p. 674; see also the chapter by Farrington in volume 1; Widom 1989; Widom and Ames 1994). Already in 1951, Bowlby

developed the theory that there is a strong connection between broken homes and delinquency (see also Farrington 2002, p. 675; McCord 1983).

Much of domestic violence remains hidden, as many women are reluctant to denounce their partners. In order to get some more precise figures of actual victimisations, victim studies include now specific questions on domestic violence (see, for instance, the British Crime Survey). Many countries have also introduced special legislation to protect women and children from domestic violence. According to Gelsthorpe and Larrauri (2014, p. 194): “European responses to IPV (Intimate Partner Violence) and domestic violence have revolved around civil or criminal protection orders in each country (http://ec.europa.eu/justice/fundamental-rights/document/index_en.htm as well as the Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order); additionally all European countries have created new specific public offences or increased penalties, and domestic violence courts; and all have some form of victim support and protection mechanisms”.

There is no doubt that there has been considerable progress, especially in the West, concerning equal rights for women and the protection of children, but much still needs to be done. As Gelsthorpe and Larrauri (2014, p. 198) put it: “There is still a need for wider recognition of violence against women (including attention to sub-cultural gender violence such as ‘forced marriages’, and to women in different structural positions, immigrant women, women with multiple social needs or disability, drugs or alcohol problems, for example). Additionally we need consistent monitoring and evaluation of changing policies in relation to domestic violence and sexual assault across countries, and attention to the high rates of attrition in regard to the prosecution of violence against women, for instance”.

The growing increase of refugees fleeing from wars and persecutions creates new problems concerning their integration. Most come from different cultural backgrounds and bring with them traditions and attitudes that may be at odds with those of their host countries, especially their attitudes towards women and children as well as their perception of what constitutes legitimate violence. Stamatel, in her study of female homicide victimisation rates across Europe from 1985 to 2010, calculated time series over four time periods for 33 countries and came to the following conclusion (2014, p. 596): “Better economic conditions reduce female homicide victimization, as they do for violence more generally. Gender dynamics play a contradictory role: less traditional gender roles increase the risk of victimization, whereas improving the collective status of women in society reduces that risk. Most importantly, controlling for these known predictors of female homicide victimization, the historical legacies and socio-historical contexts of nations matter greatly for explaining variation across Europe”.

When women turn to offending, they do so considerably less often than men. In his international comparison of crime rates, Heidensohn (2002, p. 496) underlines that “such differences [in crime rates] seem to be common across a variety of nations and cultures. In surveying material on Europe, I found that crime is still an activity overwhelmingly dominated by men in all European countries” (see also Heidensohn and Farrell 1991). The same is true for countries such as Brasil or India

(Lemgruber 2001; Patkar 2001). The author continues (Heidensohn 2002, p. 496): “This apparently consistent pattern has led some commentators to suggest that women offenders are ‘only 10 % of the trouble’. Considering different types of offences and changes over time, a more complex and qualified picture emerges. Women contribute to all types of offending, but their share varies considerably”. Austin gives a similar assessment of the situation in the United States (2003, p. 560): “I have calculated that if the males behaved like females, violent crime rates would drop by 2/3 and the 2 million people in the prison and jail population would not exceed 200,000. The associated costs of a 112 billion dollar criminal justice system would shrink to less than 20 billion dollars”.

Some authors claim however that the situation is changing: female crime rates are rising faster than those of males, and the gap is narrowing. Adler (1975) commented already in the 1970s on this rise and explained it with a change in female behaviour: women, according to him, have become more aggressive and violent, and therefore their offending resembles increasingly that of their male counterparts. Responsible for this change, in Adler’s view, is primarily the strengthening of the women’s movement and the greater freedom women enjoy today. But the topic remains controversial. Heidensohn puts it as follows: “Arguments about whether female crime was rising at a faster rate than male, and that thus the female share was going up, have been a highly contended criminological issue since the 1970s. Indeed, this is one of the few topics to do with women and crime to excite widespread attention” (Heidensohn 2002, p. 496).

Gelsthorpe and Larrauri (2014, p. 188) refer to another important aspect: “At the beginning of the twenty-first century new crimes and concerns have emerged: terrorism, cyber-crime, human trafficking and other human rights violations for instance, all of which have produced new ways of women being involved in crime as offenders, or as victims”. The authors underline further (p. 188): “Women certainly have a much higher profile than they once did, but it can still be argued that there is a general neglect of women in relation to crime and criminal justice”. Even if we have more information about crime than ever before, there are still very few empirical studies on gender-related differences and their causes. Crime is still seen as a “male domain”.

The situation of women in prison was also for many years a neglected theme in criminology—their number was too small to be noteworthy. Whereas the number of rehabilitation programmes for male offenders was increasing, it didn’t seem “worthwhile” to elaborate such programmes for the small number of female prisoners. Only recently more attention has been paid to the collateral damage of female imprisonment, for instance, on children, and the special victimisation risks women are exposed to in prison.

The percentage of female inmates is relatively low: only 4–5 % of the total number of inmates, with little variations between countries. Most of them fit exactly into the category described by Moser (1972, p. 291) already 40 years ago: “Most misfits, in particular those who are locked up, belong to those minorities, who cannot speak for themselves, who have no public voice, can’t organise themselves, and can’t defend their interests. They depend on an enlightened public that pit their

fate, and not just their actual fate but their whole life against the ideal – so dear to society – of the right of each person to personal development; the public will then have to ponder if the kind of punishment meted out today is a just reward for their deeds or if it is not rather help that should be given greater importance”.¹ The role of proper public information in this context cannot be underestimated and is a focal concern of this work.

In the quest to improve the plight of women and children, the United Nations has played a most important role. After the horrors of two world wars in the twentieth century, it has made an invaluable contribution to pave the way for a durable peace. The goal, admittedly difficult to reach, is already clearly set out in the Preamble of its foundational Treaty of 1945²: “We the Peoples of the United Nations are determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind”. . .and “to unite our strength to maintain international peace and security” (1 UNTS 16). Women and children (girls and boys)—now roughly half of the present world’s population—determine any “succeeding generation”.

The concept of “generations” was formulated in the beginning of the twentieth century (Nora 1997, p. 2992). Combined with the UN Charter’s Preamble term “succeeding”, it means parents, children and grandchildren succeed each other at more or less regular intervals (Suleiman 2002, p. 278).³ It is for the “succeeding generations” that the Charter calls for the promotion of “social progress and better standards of life in larger freedom”, including full employment, and conditions of economic and social progress and development (art. 55).

This two-volume book responds to this call by focusing on the intergenerational, international and intercultural transmission of values through learning. Yet the main focus of the book is on justice issues with global commonalities. The work blends academic with UN considerations, findings and recommendations on justice. A common thread is the prevention of crime/delinquency and victimisation of women and children. The most glaring form of crime and delinquency is violence. As repeatedly emphasised by the UN leadership, violence against women and children must be countered effectively. Ban Ki-moon, the present Secretary-General has appealed to “break the silence” concerning violence against women,⁴ and also the UN Special Representative of the Secretary-General on Violence against Children has underscored that “violence against children is never justified

¹ Free translation by Evelyn Shea.

² The Charter of the United Nations was signed in San Francisco, California, on 26 June 1945, by 50 of the 51 original member countries.

³ It is in this broader context in which the concept of “1.5 generation” originally emerged: of child survivors of the Holocaust “too young to have had an adult understanding of what was happening to them but old enough to have been there during the Nazi persecution of Jews” (Suleiman 2002, p. 277).

⁴ <http://www.un.org/en/women/endviolence/about.shtml>.

and all violence against children can be effectively prevented. With strong political will, wide mobilization and steady action, it can be brought to an end”.⁵

While the emphasis on physical component of violence is understandable, violence against children can also be “mental” (art. 19 of the Convention on the Rights of the Child, 1577 UNTS 3). However improper and detrimental, this or that form of violence may be for the future conduct of a child, let us not forget that child’s conduct can also be mishandled in many other forms. From a criminological perspective, subtly manipulating child’s sense of trust, disorienting a child about his/her entitlements, mishandling mental anguish or facilitating emotional deprivations is likewise important for crime prevention. This work caters also to this broader crime prevention function and vision.

The UN has joined that vision 45 years after the Second World War (1939–1945), when the concept of “succeeding generations” (up to that point faintly related to war prevention) did receive some more attention. In 1990 “The United Nations Guidelines for the Prevention of Juvenile Delinquency” (“The Riyadh Guidelines”, A/RES/45/112) emphasised in paragraph 15 the socialisation function of family in the prevention of delinquency: “Special attention should be given to children of families affected by problems brought about by rapid and uneven economic, social and cultural change, in particular the children of indigent, migrant and refugee families. As such changes may disrupt the social capacity of the family to secure the traditional rearing and nurturing of children, often as a result of role and culture conflict, innovative and socially constructive modalities, for the socialization of children have to be designed”.

Ten years later, in the “Guidelines for the prevention of urban crime”, the UN Economic and Social Council (ECOSOC) explicitly recommended Member States to “Consider the relevance to the crime prevention action plan of such factors as . . . relationships in the family, between generations or between social groups etc.” (ECOSOC resolution 1995/9). Finally, in 2002, the Council adopted the “Guidelines for the Prevention of Crime” (ECOSOC resolution 2002/13). They emphasise how crime prevention action should be developed, with a focus on local communities, where crime is experienced, as well as those with high needs, and that it be conducted through partnerships across government sectors and with civil society and the participation of communities, that it be sustained and accountable, rather than short term, and be based on sound evidence-based practice.

A set of eight basic principles is involved for pursuing these approaches (articles 7–14 in the Guidelines):

1. *Government leadership*: All levels of government should play a leadership role in developing effective and humane crime prevention strategies and in creating and maintaining institutional frameworks for their implementation and review.
2. *Socio-economic development and inclusion*: Crime prevention considerations should be integrated into all relevant social and economic policies and

⁵ Political will, ‘steady action’ can end violence against children, UN envoy tells Indonesia, www.un.org/apps/news/story.asp?NewsID=50207.

- programmes, including those addressing employment, education, health, housing and urban planning, poverty, social marginalisation and exclusion. Particular emphasis should be placed on communities, families, children and youth at risk.
3. *Cooperation/partnerships*: Cooperation/partnerships should be an integral part of effective crime prevention, given the wide-ranging nature of the causes of crime and the skills and responsibilities required to address them. This includes partnerships working across ministries and between authorities, community organisations, non-governmental organisations, the business sector and private citizens.
 4. *Sustainability/accountability*: Crime prevention requires adequate resources, including funding for structures and activities, in order to be sustained. There should be clear accountability for funding, implementation and evaluation and for the achievement of planned results.
 5. *Knowledge base*: Crime prevention strategies, policies, programmes and actions should be based on a broad, multidisciplinary foundation of knowledge about crime problems, their multiple causes and promising and proven practices.
 6. *Human rights/rule of law/culture of lawfulness*: The rule of law and those human rights which are recognised in international instruments to which Member States are parties must be respected in all aspects of crime prevention. A culture of lawfulness should be actively promoted in crime prevention.
 7. *Interdependency*: National crime prevention diagnoses and strategies should, where appropriate, take account of links between local criminal problems and international organised crime.
 8. *Differentiation*: Crime prevention strategies should, when appropriate, pay due regard to the different needs of men and women and consider the special needs of vulnerable members of society.

All these UN guidelines adopted for women and children as one of the vulnerable groups with special crime prevention needs are summarised in the subsequent UN handbook, as follows: “In essence, the principles laid out in the 2002 and the 1995 guidelines, establish the normative basis with the importance of the rule of law and respect for human rights, of the social and economic inclusion of populations, whatever their status and background, and the importance of ensuring that the particular needs of vulnerable minorities, as well as gender differences, are taken into account” (UN Handbook 2010, p. 23).

On balance, in the 70 years since the founding of the United Nations, it has paid more attention to “succeeding generations” in its ideology than in its legal instruments. The specific crime prevention needs of women and children, as the succeeding generation, are only nominally addressed. Generally, so far, the balance of the UN’s mandate and functions involving “prevention” and “control” has remained negative, not only regarding the needs of “succeeding generations” pointed out above but also demographically and politically—despite the proclamation of the UN Secretary-General that “prevention is the first imperative of justice” (S/2004/616, para. 4). Notwithstanding this imbalance, academic and UN criminology studies have accumulated and reviewed evidence for diagnosing and