



Evidence-Based Standards, Norms, and Good Practices for Trauma-Informed Engagement with Children in Justice Processes: Standards Identified by Physicians for Human Rights and the Cardozo Law Institute in Holocaust and Human Rights¹

Child victims and survivors of sexual violence face unique challenges to participation in justice processes despite recognition in international human rights law (IHRL) of the rights of all survivors of gender-based violence, including children, to be heard and to have access to justice.² Ensuring child survivors of sexual violence can meaningfully access and participate in justice processes – particularly in a manner that promotes remedy and healing rather than revictimization and harm – requires knowledge and implementation of trauma-informed principles and practices that incorporate gender, age, and developmentally sensitive approaches. There are existing evidence-based standards, norms, and good practices for trauma-informed engagement with children that are implemented locally, regionally and internationally that should be used in policy and practice. Below we highlight critical standards and practices drawn from national, regional, and international contexts that are important to incorporate in order to center trauma-informed practices.

a. Promote utilization of evidence-based practices and international standards

In recent years, much work has been done to identify the challenges that hinder accountability for child survivors of conflict-related sexual violence and to conceptualize trauma-informed, child-centered principles and practices that can provide a pathway to justice. Importantly, several jurisdictions have adopted successful practices drawing on both the medical and legal sectors that offer models for how to navigate these challenges and implement evidence-informed principles for engaging with children that further the goals of survivor-centered care and accountability.³ A number of international standards and protocols have been recently developed or updated with specific attention to the needs of child survivors and centered on trauma-informed practices that can be applied throughout the justice process.⁴ These standards and protocols include the updated version of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and the Global Code of Conduct for Gathering and Using Information about Systematic and Conflict-Related Sexual Violence (the Murad Code).⁵ Additional sources for guidance and standards related to documentation/investigations, medical/forensic examinations, and legal/judicial processes regarding children include guidance published by the World Health Organization (WHO),⁶ the Preventing Sexual Violence in Conflict Initiative (PSVI),⁷ and the National Institute for Child Health and Development (NICHD) protocol.⁸

b. Emphasize the need for standardized documentation

Use of standardized documentation tools and procedures, including standardized medicolegal certificates for forensic examinations, is critical to ensure that evidence collected from child survivors of sexual violence crimes is collected in a manner that can be used for justice processes. Use of standardized documentation of sexual violence has been shown to lead to better adjudication outcomes for survivors.⁹ For crimes involving children, as reporting is already limited, it is even more critical that evidence is collected in a way that is usable and easily understood by legal and judicial professionals. Use of standardized protocols for interviewing and examining children (such as the Istanbul Protocol and NICHD Protocol) should be key tools to enhance the quality, comprehensiveness and accuracy of evidence collected on crimes against children.¹⁰ Use of standardized documentation tools and collection procedures are crucially important to ground practices in trauma-informed and developmentally appropriate principles for engagement with children and to ensure the quality of evidence collected.

c. Use of trauma-informed principles in documenting and interviewing to allow children to name the causes of trauma and harm

Retraumatization is a key concern when interviewing child survivors and documenting violence. This concern can have a chilling effect on documentation efforts for crimes against and affecting children. However, evidence shows that interviewing children once or multiple times is not inherently retraumatizing if it is done using trauma-informed principles and practices that are adapted for the context as well as the child's developmental stage.¹¹ Utilizing child-sensitive approaches that incorporate trauma-informed, intersectional frameworks will require explicitly interrogating and countering stereotypes about children's abilities to participate actively and meaningfully in investigations, prosecutions, and other aspects of accountability and justice processes.

A stakeholder using trauma-informed practices would communicate effectively and emphatically with affected individuals and would consider eliminating or modifying court procedures that could be perceived as threatening and would adjust the physical environment to create a more welcoming setting that enhances a survivor's sense of safety.¹²

Trauma-informed practices should be implemented in all stages and phases of the justice process, including investigation, interviewing, physical examination, communication, courtroom procedures, witness testimonies, perpetrator questioning, safety assessment, and post-sentencing follow ups and referrals. Notably, children's participation in justice processes can be positive to promote healing, process trauma and build resilience if conducted in survivor-centered and trauma-informed ways.¹³

Good practices using trauma-informed principles would include:

- (a) using a comprehensive vulnerability assessment that would serve as the basis for an individualized management plan for each survivor or witness,¹⁴
- (b) ensuring referral pathways are available for survivors to access mental health services before, during, and after participating in an interview,¹⁵
- (c) utilizing a multidisciplinary team to support child survivors with disclosure, documentation, and support,¹⁶
- (d) embedding a child psychologist within an investigation team to ensure continual assessment and adjustment of the trauma informed approach,¹⁷
- (e) utilizing developmentally appropriate and evidence-based tools for engaging with child survivors,¹⁸
- (f) creating a glossary of cultural appropriate terms and idioms that can be used by investigators and judges to support victim and witness testimony,¹⁹ and
- (g) considering the vicarious trauma of staff and experts working on cases.

The features of a trauma-informed approach are critically important when it comes to judicial processes that involve children as victims, survivors, or witnesses. International human rights law also affirms many of these interventions as being part of a rights-based approach.

d. Promote standards and technical innovations for engaging children in the legal process in a survivor-centered manner

All standards and practices for engaging with children should be grounded in a rights-based approach which should include giving due weight to children's right to be heard and not excluded from justice processes that concern them.²⁰ Children can give credible testimony that can be used as evidence.²¹ Reframing how to interview and interact with children, in addition to incorporating flexible approaches that encourage children's participation by giving them choices regarding their engagement, is essential.

The quality of children's engagement and testimony is enhanced by using special measures geared to increasing their ability to meaningfully provide testimony and participate in justice processes and tailored to each survivor's particular needs and vulnerabilities.²² Special measures may include:

- (a) recording children's testimony in advance of a hearing and entering this recording in place of their live testimony,²³
- (b) allowing children to testify behind a screen to shield them from needing to face their accuser,
- (c) having a child psychologist conduct the questioning rather than a lawyer or judge,
- (d) ensuring questions are tailored to children's language and developmental abilities and ways of consolidating memories,²⁴
- (e) using play therapy as an alternative approach to gather children's histories in a way that is geared to their form of meaning making,²⁵
- (f) creating child-centered materials to explain justice processes,²⁶
- (g) conducting interviews in child-centered spaces with the ability for others to listen to the interview from another room,²⁷ and
- (h) having lawyers and judges sit at the same level as a child when questioning them or removing wigs or other judicial costumes.²⁸

Additionally, technology should be further leveraged to facilitate children's survivor-centered engagement with justice processes. Leveraging technology can include both solutions, such as closed-circuit interviews and recorded interviews that can be safely stored and transmitted via secure web platform and using voice modification technology to distort survivors' voices alongside testimony behind a screen or while wearing head to toe covering.²⁹ Each of these adjustments are meaningful measures which represent an opportunity for the justice process to adapt to children rather than asking children to adapt to justice processes.

e. Support the implementation of recommended practices including allocating resources for training and prioritizing competence specifically on sexual violence and children across all ages, developmental stages, and genders.

For the principles laid out above to be successfully implemented in any context, adequate financial, staffing and technical support must be provided to those who work with child survivors of violence to document their experience and pursue justice. Successful application of the principles outlined above is incumbent on robust investment in staffing and skill development to ensure those working with children have the necessary skills and competencies to use them in day-to-day practice and promote their implementation on an institutional level. Resources should not only be allocated to extensive, in-depth training, but also to ongoing mentorship and oversight to ensure that those engaging with children as part of the justice process have the adequate skills and support to appropriately use these approaches. Whenever possible, opportunities should be identified to

align and integrate these efforts with local organizations to ensure sustainable systems to support survivors after the legal process has ended. Moreover, priority should be given to hiring staff in key positions with expertise in child development, trauma-informed approaches, and implementation of child protective measures as outlined above.

Citations

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