

UNICEF input for the development of practical tools to assist law enforcement bodies in promoting and protecting human rights in the context of peaceful protests

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UNICEF welcomes the opportunity to inform the development of specific technical and practical tools to assist law enforcement bodies in promoting and protecting human rights while facilitating peaceful protests. UNICEF suggests that these tools reflect the particular challenges faced by children (i.e. persons under 18) who exercise their right to freedom of peaceful assembly and association (RFPA) and the particular risks they face when participating in assemblies.¹ The content of this submission is pulled from UNICEF's recently published paper [Free and Safe to Protest: Policing assemblies involving children](#).²

1) What laws, guidance, protocols, and mechanisms or strategies/practices related to the facilitation and policing of protests did you find to be effective in ensuring human rights are respected and protected by law enforcement *before, during and after* protests?

Before an assembly (planning phase)

States should build adults' capacity as primary and secondary duty-bearers – to empower children to exercise their RFPA. This includes child rights education for law enforcement officials (LEOs) and other state employees. Education about child rights and support for adults is needed to counter paternalistic views of the child, prevalent in many societies, which constitute a major barrier to children's RFPA.

LEOs and other adults involved in the organisation of assemblies should make information about the RFPA accessible in child-friendly, age-appropriate and gender-sensitive ways. Legal and procedural barriers should be removed, making it easy for children to understand and comply with regulations regarding the planning of peaceful assemblies. LEOs should maintain an overall attitude of positive engagement and child-friendly communication, taking into account:

- joint planning with child assembly organisers and participants (and contingency planning for spontaneous assemblies)
- promoting a positive and respectful image of children who exercise their RFPA
- trust-building through community-oriented policing (especially with children who are marginalised and who have had a traditionally negative experience of LEOs)
- a 'no surprises' policy where LEOs are clear and open with organisers and participants about the aims of the policing operation, tactical approaches and what to expect
- designated focal points to help children approach LEOs and assembly organisers

¹ Article 2.3 of the International Covenant on Civil and Political Rights (ICCPR), that applies to all human beings including children.

² UNICEF, 'Free and safe to protest Policing assemblies involving children', August 2023.

- advance communication by LEOs with the general public
- a ‘missing child’ plan explaining what to do if a child goes missing or is separated from their caregiver(s)
- attention to non-verbal communication by LEOs (including the impact on children of body language and the presence or use of certain equipment)
- communication and cooperation with other authorities
- a national and international exchange of experiences and good practices relating to policing assemblies involving children.

States must act with an awareness that children may be present at an assembly and protect them from any harm that might be caused by law enforcement actions or by other members of the public, counter demonstrators or private security providers. Specific measures need to be designed and applied for children. There is not only a need for ‘generic’ plans and training protocols for the policing of assemblies involving children, to ensure their protection, but also specific plans and risk assessments for each particular assembly.

States must proactively build the capacity of LEOs and other relevant officials to respect, protect and fulfil children’s rights in relation to assemblies. Those responsible for this capacity-building should:

- identify who needs to be trained
- identify and plan opportunities to deliver this training
- develop and implement the training using active learning methods such as role-playing, discussion of realistic scenarios and lessons learned from actual case studies.

Training content should include, for example:

- a basic understanding of child rights and the child rights approach
- the four policing principles for assemblies through a child rights lens – knowledge, facilitation, communication and differentiation
- how to facilitate an assembly through a child rights lens
- how to communicate with children respectfully and in ways they understand
- how to recognise and overcome unconscious bias in relation to certain groups of children
- understanding the impact of non-verbal communication and how children’s reactions and fears may be different to/or greater than those of adults
- understanding the potentially more serious impact of the ‘chilling effect’ and use of force on children
- how to care for children when they are in need of assistance.

Regarding planning, states must ensure the appropriate provision and use of equipment. They must ensure that all weapons, including less-lethal weapons, are subject to strict independent testing, and that LEOs deployed with them receive specific training. States must monitor and evaluate the impact of weapons on the rights of children and be alert to – and address – the potentially discriminatory impacts

of certain policing tactics against children, including in the context of new technologies. The capacity-building of LEOs and other officials should be informed by research on the impact of the use of crowd management tactics and equipment on children.

See section 3 of the aforementioned UNICEF report on policing assemblies involving children for more detailed recommendations.³

During an assembly

The analysis of this phase must be seen in the context of the overall legal framework and enabling environment already described. Particular importance must be given to the collaborative planning process to ensure that the use of force, arrest and detention are avoided to the greatest possible extent. Children's experience of assemblies is deeply influenced by their perception of LEOs. Due to children's developing emotional and psychological maturity, child-friendly policing is essential.

Surveillance measures must not impair or violate children's RFPA or other rights, including their right to privacy (CRC Article 16). Surveillance and privacy can no longer be considered in isolation from the digital environment. Children may use digital platforms to organise, plan or simply receive information and generally communicate about assemblies, whether the actual assembly takes place in the digital environment or in person. Surveillance and data capture, processing, storage and dissemination are likely to rely on digital technologies and platforms. While some surveillance technologies can be used to protect the public, including children, from threats of violence, they can also violate children's right to privacy, both as participants and bystanders, have a chilling effect, and dissuade children from using civic and online spaces to exercise their rights. States are reminded of their obligation to protect the RFPA against abuses by non-state actors in this context. The negative consequences of inappropriate surveillance may include exclusion from school, restriction or deprivation of future opportunities or creation of a police profile. These consequences may be disproportionately high for children compared to adults. Children's privacy needs differ from, and can conflict with, those of adults.

The use by LEOs of containment, dispersal, and use of force and firearms indicates that policing techniques have passed from facilitating a peaceful assembly to crowd control. It indicates that all necessary efforts throughout the planning stages, and during the assembly itself, to prevent violence, de-escalate tensions and employ non-violent conflict resolution have been tried but have failed. The use of force must be guided by international standards as set out in the United Nations Code of Conduct for Law Enforcement Officials, and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The principles underpinning the use of force by LEOs (legality, necessity, proportionality, non-discrimination, precaution and accountability) have specific implications for children. For example, children, by nature, are less likely to present a serious threat and are more likely to suffer more serious consequences from the use of force: less force is needed to deal with a child and the more serious effects of force on a child might more quickly outweigh the legitimate objective, leading to use of force having to be considered disproportionate. Children can greatly benefit from being involved in peaceful assemblies as this contributes positively to their education and increases their

³ Ibid. pp. 16-26.

sense of agency. However, they may be particularly vulnerable to harm and at greater risk of long-term physical and psychological consequences than most adults, if exposed to negative experiences.

Even when assemblies turn violent, nobody, including children, should be subjected to group sanctions, arbitrary and unlawful arrests or detentions, which may violate CRC Article 37(b). If specific children are reasonably suspected, as individuals, of having perpetrated violence, their cases should be handled by specialised child justice systems in processes that conform to CRC Articles 37 and 40. Diverting children from judicial processes – and in particular from detention – should be a primary consideration. Children should not be held in transportation vehicles or in police cells, except as a last resort and for the shortest time, and should not be held with adults, except where that is in their best interests. Mechanisms for their swift release to parents or appropriate adults should be prioritised. Even very short periods of detention can undermine the child’s psychological and physical well-being and compromise cognitive development. If diversion is not possible, then very strict time limits must be applied to the detention of children. Child-sensitive safeguards are required when children are being interviewed by LEOs. In addition to basic training on child rights for all LEOs, LEOs and other justice officials who frequently or exclusively work with children require specialised training.

See section 4 of the UNICEF report on policing assemblies involving children for more detailed recommendations.⁴

After an assembly (follow-up)

Child-friendly post-event debriefings by LEOs should become standard practice, inviting – but not coercing – child assembly organisers and participants and civil society organisations to participate.

States must do everything they can to protect all children who exercise their RFPA from threats, reprisals, stigmatisation and harassment by state and non-state actors. Moreover, states must ensure children’s access to justice. LEOs should be accountable to an independent body for any failure to fulfil their positive obligations to protect and facilitate children’s RFPA and for undue restrictions on children’s exercise of their RFPA. LEOs should be subject to criminal and disciplinary sanctions for the unlawful use of force and firearms.

See question 10 for recommendations in relation to specific aspects of accountability. See section 5 of the UNICEF report on policing assemblies involving children for other recommendations.⁵

⁴ Ibid. pp. 27-43.

⁵ Ibid. pp. 44-48.

2) What are the gaps and which of the protocols and guidance to law enforcement, and mechanisms related to facilitation and policing of protests did you find to be restrictive, undermining human rights protection, or encouraging or facilitating human rights abusive practices by law enforcement authorities in the context of protests? How should these be improved?

In many contexts, children are still not considered to be subjects of human rights, but rather as objects of adults' good or bad intentions. Children are identified as one of the groups most at risk when exercising or seeking to exercise their RFPA.⁶ They face **particular obstacles due to their age and status as minors**⁷ including: legal bans on organizing assemblies; their need for adult authorisation and/or support to organise or attend peaceful assemblies; burdensome notification and/or undue authorisation procedures which are difficult or impossible to navigate without adult support; reliance on adult gatekeepers for access to information, including in relation to their rights; overly restrictive sanctions for violating assembly regulations; lack of appropriate communication strategies by LEOs with children; and lack of effective remedies for alleged violations of their RFPA.

In some circumstances, exercising their RFPA exposes children to **important risks to their dignity, safety and even to their lives**⁸ including: disproportionate use of force, lack of police protection from violence by others, arrests, retaliation and threats. Such actions may be targeted at them specifically because of their status as children, linked to adult disapproval or misguided notions of 'discipline' or control. Such actions may also be targeted at both children and adults exercising their RFPA, but the impact of such actions may be felt disproportionately strongly by children due to their small stature, more limited life experiences, and the way their brains are developing at different stages of childhood (including adolescence).⁹ Children may be more intimidated by LEOs than most adults, less aware of the regulations and procedures to be followed, and less aware of their rights during interactions with LEOs. The power imbalance is greater, leaving room for potential abuse of authority and power.

These obstacles and rights violations are compounded when children experience **other potential multiple and intersecting forms of discrimination** such as discrimination based on sex, gender identity and expression, sexual orientation, race, ethnicity, minority status, indigenous status, migration status, disability, and relationship to the street and public spaces. For example, the Committee on the Rights of the Child has expressed concern over the decreasing tolerance of children in public spaces, particularly children in street situations, who are widely denied the right to meet in public spaces without threat, harassment or removal.¹⁰ It has also highlighted that "children in street situations may be paid to

⁶ A/HRC/26/29, para. 10.

⁷ See e.g., Lundy, Laura and Michelle Templeton, Children Human Rights Defenders: The Views, Perspectives and Recommendations of Children Across the World, Queen's University Belfast Centre for Children's Rights and Child Rights Connect, submission for the United Nations Committee on the Rights of the Child, Day of General Discussion, 2018, pp. 9-15.

⁸ See e.g., Lundy, Laura and Michelle Templeton, Children Human Rights Defenders: The Views, Perspectives and Recommendations of Children Across the World, Queen's University Belfast Centre for Children's Rights and Child Rights Connect, submission for the United Nations Committee on the Rights of the Child, Day of General Discussion, 2018, pp. 12-13 and feedback from children during focus group discussions for this current paper, as highlighted in Sections 2, 3 and 4.

⁹ See e.g., General Comment No. 24 (2019) on Children's Rights in the Child Justice System, CRC/C/GC/24, United Nations Committee on the Rights of the Child, Geneva, 18 September 2019, para. 22 (brain development in relation to minimum age of criminal responsibility) and CRC/C/GC/20, para. 9 (brain development in relation to adolescence).

¹⁰ General Comment No. 21 (2017) on Children in Street Situations, CRC/C/GC/21, United Nations Committee on the Rights of the Child, Geneva, 21 June 2017, para. 38: "In addition to association and peaceful assembly in the context of civil and political rights, the Committee emphasises the importance of respecting the choice

boost numbers in protests or other gatherings. They may be vulnerable to exploitation and unaware of the implications of joining such events.”¹¹ The Committee has confirmed that CRC Article 15 requires states to empower children in street situations to exercise their participation rights and to counter co-option and manipulation by adults.¹² Such manipulation by adults can also be used to discredit children’s involvement in peaceful assemblies.

Authorities may prevent children from exercising their RFPA out of **concern for their security or education**. While these protective concerns may be legitimate, they may also sometimes be used as an excuse to limit children’s enjoyment of their rights, often based on a narrow interpretation of CRC Article 3 (best interests of the child).

An awareness and understanding of these child-specific challenges are directly relevant to the theory and practice of policing assemblies involving children.

4) In the context of protests in crisis situations, which specific strategies and practices undertaken by law enforcement authorities prior, during and after protests did you find to be successful in order to ensure respect for and protection of human rights during protests in such contexts (such as during public health or security-related crisis, and/or during states of emergency)?

States should ensure that any restrictions on children’s RFPA in emergency situations are exceptional, temporary, consistent with the government’s other obligations under international law, and limited to restrictions that are strictly required by the exigencies of the situation. These restrictions must be subject to ongoing legislative and judicial oversight and review, as well as review by civil society. When responding to assemblies during a state of emergency, ensure that emergency measures are not used to circumvent the protection of non-derogable rights, including the right to life, freedom from torture or cruel, inhuman or degrading punishment, the right not to be convicted or sentenced to a heavier penalty by virtue of retroactive criminal legislation, the right to recognition of everyone as a person before the law, and the right to be free from arbitrary deprivation of liberty. Respect the fundamental principles of a fair trial. Provide effective remedy for violations of children’s rights when exercising their RFPA in emergency situations.¹³

of children in street situations to associate together in public spaces, without threat to public order, to satisfy their survival and development rights (art. 6), for rest, play and leisure (art. 31), to create networks and organise their social life, and as a key feature of their lives in general.”

¹¹ Ibid., para. 37.

¹² Ibid.

¹³ See e.g., General Comment No. 29: States of Emergency (Article 4), CCPR/C/21/Rev.1/Add.11, United Nations Human Rights Committee, 31 August 2001 and A/HRC/50/42, paras. 8, 9, 16, 22, 56, 79 and ‘Joint Declaration on Protecting the Right to Freedom of Peaceful Assembly in Times of Emergencies’ by the United Nations Special Rapporteur on the Rights of Freedom of Assembly and of Association (Clément Voule), the Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights (Pedro Vaca), the Special Rapporteur on Human Rights Defenders and focal point for reprisals in Africa and Chairman of the African Commission on Human and Peoples’ Rights (Rémy Ngoy Lumbu), and the OSCE Office for Democratic Institutions and Human Rights, 15 September 2022.

6) What measures should be adopted by law enforcement authorities to prevent unlawful arrests and detention in the context of protests; as well as to ensure the human rights of those lawfully detained in the context of protests are respected according to the international standards, including being protected from torture and ill-treatment or sexual and gender-based violence?

As with adults, children should never be sanctioned for participating in peaceful assemblies, i.e. for exercising their RFPA. Even when assemblies turn violent, nobody, including children, should be subjected to group sanction, arbitrary and unlawful arrests or detentions, which may constitute unlawful or arbitrary deprivation of liberty of the child in violation of CRC Article 37(b).

Differentiation

“[I]solated acts of violence by some participants should not be attributed to others, to the organisers or to the assembly as such.”¹⁴ “While organisers should make reasonable efforts to comply with the law and to encourage peaceful conduct of an assembly, organisers should not be held responsible for the unlawful behaviour of others.”¹⁵

If specific children are reasonably suspected, as individuals, of having perpetrated violence themselves, their cases should be handled by specialised child justice systems in processes that conform to CRC Articles 37 and 40.¹⁶ CRC Article 37(c) establishes the obligation to take into account the age-specific needs of children. Arrest and detention of children should always be a measure of last resort, for the shortest possible period of time and adhere to legal safeguards (CRC Article 37(b)). Preventive and administrative detention should not be imposed on children.¹⁷ “Restraint or force can be used only when the child poses an imminent threat of injury to himself or herself or others, and only when all other means of control have been exhausted.”¹⁸ Such methods should not cause humiliation or degradation and should be used restrictively and only for the shortest possible time.¹⁹ States should “prohibit the use of firearms, electric shock weapons and violent methods to apprehend and arrest children, and [...] adopt measures and procedures that carefully limit and guide the use of force and instruments of restraint by the police while apprehending or arresting children.”²⁰ The United Nations Special Rapporteur on the Right to Privacy has recommended that states “[r]emedy all legislative gaps and procedural exceptions to ensure all children in contact with justice systems have their privacy maintained throughout all proceedings, with lifelong non-publication orders for any criminal justice record.”²¹

¹⁴ CCPR/C/GC/37, para. 17.

¹⁵ A/HRC/31/66, para. 26.

¹⁶ See e.g., CRC/C/GC/24.

¹⁷ Nowak, Manfred, *The United Nations Global Study on Children Deprived of Liberty*, November 2019, p. 652 (recommendation 7.5).

¹⁸ CRC/C/GC/24, para. 95(f).

¹⁹ United Nations Rules for the Protection of Juveniles Deprived of their Liberty, United Nations General Assembly, A/RES/45/113, 14 December 1990, para. 64.

²⁰ United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, United Nations General Assembly, A/C.3/69/L.5, 25 September 2014, para. 34(c).

²¹ A/HRC/46/37, para 127(j).

Pretrial detention

“Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response.”²² Diverting children from judicial processes – and in particular from detention – should be a primary consideration. Children should not be held in transportation vehicles or in police cells, except as a last resort and for the shortest time, and should not be held with adults, except where that is in their best interests. Mechanisms for swift release to parents or appropriate adults should be prioritised. “Even very short periods of detention can undermine the child’s psychological and physical well-being and compromise cognitive development. [...] The threshold at which treatment or punishment may be classified as torture or ill-treatment is therefore lower in the case of children, and in particular in the case of children deprived of their liberty.”²³ If diversion is not possible, then “[e]very child arrested and deprived of his or her liberty should be brought before a competent authority within 24 hours to examine the legality of the deprivation of liberty or its continuation” and “[i]n cases where conditional release of the child at or before the first appearance (within 24 hours) is not possible, the child should be formally charged with the alleged offences and be brought before a court or other competent, independent and impartial authority or judicial body for the case to be dealt with as soon as possible but not later than 30 days after pretrial detention takes effect.”²⁴ States should also “ensure that the court or other competent body makes a final decision on the charges not later than six months from the initial date of detention, failing which the child should be released.”²⁵

Interviewing by LEOs

Children are much more easily intimidated when being interviewed by police. Child-sensitive safeguards are therefore required. The Committee on the Rights of the Child has set out guidance for the questioning of children by police, recommending that children “must have access to legal or other appropriate assistance, and should be supported by a parent, legal guardian or other appropriate adult during questioning. [...] Police officers and other investigating authorities should be well trained to avoid questioning techniques and practices that result in coerced or unreliable confessions or testimonies, and audio-visual techniques should be used where possible.”²⁶ The use of video to record interviews can ensure that the appropriate people are present and avoid the need to re-interview a child (in line with good practice recommendations that children should not be subjected to excessive interventions).²⁷ With regards to the prohibition on compelled testimony and confessions, the Committee on the Rights of the Child has recommended that “[t]he term ‘compelled’ should be interpreted broadly and not be

²² United Nations Standard Minimum Rules for the Administration of Juvenile Justice (‘The Beijing Rules’), A/RES/40/33, United Nations General Assembly, 29 November 1985, Rule 17.1(c).

²³ A/HRC/26/68, para. 33: “Children held in detention are at risk of post-traumatic stress disorder, and may exhibit such symptoms as insomnia, nightmares and bed-wetting. Feelings of hopelessness and frustration can be manifested in acts of violence against themselves or others. Reports on the effect of detention on children have found higher rates of suicide, suicide attempts and self-harm, mental disorder and developmental problems, including severe attachment disorder.”

²⁴ CRC/C/GC/24, para. 90.

²⁵ Ibid.

²⁶ CRC/C/GC/24, para. 60.

²⁷ Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, ECOSOC Resolution 2005/20, 22 July 2005, para. 23.

limited to physical force. The risk of false confession is increased by the child's age and development, lack of understanding, and fear of unknown consequences, including a suggested possibility of imprisonment, as well as by the length and circumstances of the questioning."²⁸

Training of LEOs and other justice officials

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice call for the specialised training of LEOs who frequently or exclusively work with children, including through the development of special police units in larger cities.²⁹ According to the United Nations Global Study on Children Deprived of Liberty, "States should enhance the capacity, by means of investing in human resources, awareness-raising and systematic education and training, of all professionals who work with and for children in decisions leading to their deprivation of liberty, and those who are responsible for their well-being while in detention."³⁰ The Riyadh Guidelines on the prevention of juvenile delinquency call for law enforcement personnel to be trained to respond to the special needs of children and be familiar with and use, to the maximum extent possible, programmes and referral possibilities for the diversion of children from the justice system.³¹

10) What strategies, policies or protocols, and measures should be put in place to ensure accountability for law enforcement officials alleged of committing human rights violations in the context of protests?

Accountability

LEOs should be liable for any failure to fulfil their positive obligations to protect and facilitate children's RFPA.³² LEOs should also be responsible for undue restrictions on children's exercise of their RFPA, and they should be accountable to an independent body.³³ The law should provide for criminal and disciplinary sanctions against those who interfere with or violently disperse public assemblies through excessive use of force.³⁴ Accountability of the authorities is especially important given the power imbalance between LEOs on the one hand and the organisers and participants of the assemblies on the other, especially when it comes to children. To ensure accountability at all levels, LEOs should be clearly and individually identifiable at all times while policing assemblies. They must display either their name or identification number on their uniform and/or headgear and must not remove or cover it or prevent people from reading it during an assembly.³⁵ A clear and transparent police command structure with well-defined operational responsibilities must be established to minimise the risk of

²⁸ CRC/C/GC/24, para. 59.

²⁹ Beijing Rules, Rule 12.

³⁰ Nowak, UN Global Study, p. 670.

³¹ United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), A/RES/45/112, United Nations General Assembly, 14 December 1990, para. 58.

³² Guidelines on Freedom of Peaceful Assembly, para. 179.

³³ Ibid., para. 108.

³⁴ A/HRC/20/27, para. 78.

³⁵ Guidelines on Freedom of Peaceful Assembly, para. 153 and A/HRC/31/66, para. 65.

violence or the use of force and to ensure responsibility for unlawful acts or omissions by officers.³⁶ Proper record-keeping of decisions made by commanding officers at all levels is also required as well as a clear system of record-keeping or registration related to the equipment provided to individual officers in an operation, including vehicles, firearms and ammunition.³⁷

Complaints mechanisms

States should provide children who believe that their RFPA (or other rights) has been denied or violated, or adults on their behalf, with timely and child-friendly access to effective remedies adapted to children's particular needs, including through judicial remedies and independent human rights institutions, or children's ombudsman. According to the United Nations Special Rapporteur on Human Rights Defenders, all mechanisms established for human rights defenders should be known and accessible to children, which is currently not the case. Existing protection mechanisms should raise awareness and ensure that children who advocate for human rights can use these mechanisms on an equal basis as adults.³⁸ Complaints mechanisms should be well resourced and able to independently, promptly and thoroughly investigate allegations of child rights violations in order to hold those responsible accountable.³⁹ In response to violence against children during public demonstrations, as well as disciplinary measures and sanctions imposed on children taking part in protests, the Committee on the Rights of the Child has encouraged one state party to create "a complaint mechanism for children who have faced any form of violence, excessive use of force or arbitrary detention during public protests, and set out adequate sanctions for public officials that violate the right to freedom of association and peaceful assembly of children."⁴⁰

Effective assistance

"Child victims and witnesses and, where appropriate, family members should have access to assistance provided by professionals who have received relevant training [...]. This may include assistance and support services such as financial, legal, counselling, health, social and educational services, physical and psychological recovery services and other services necessary for the child's reintegration. All such assistance should address the child's needs and enable him or her to participate effectively at all stages of the justice process."⁴¹ Such assistance should be child-responsive and gender-transformative.

³⁶ Guidelines on Freedom of Peaceful Assembly, para. 151 and A/HRC/31/66, para. 65. See also BPUFF, Principles 24–26.

³⁷ A/HRC/31/66, para. 65.

³⁸ Mary Lawlor, Special Rapporteur on Human Rights Defenders, in 'Summary on the Briefing on Child Human Rights Defenders and the Universal Periodic Review', 5 September 2022, Child Rights Connect, p. 3.

³⁹ A/HRC/20/27, para. 77.

⁴⁰ Committee on the Rights of the Child, Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Ecuador, CRC/C/ECU/CO/5-6, 26 October 2017, para. 21(c).

⁴¹ ECOSOC Resolution 2005/20, para. 22.

Effective investigation

“Exhaustive and impartial investigations” should include the following factors: an official investigation initiated by the state; independence from those implicated; capability of determining whether force used was justified in the circumstances; a level of promptness and reasonable expedition; and a level of public scrutiny.⁴² Where a complaint is received regarding the conduct of LEOs, or where a child is seriously injured or is deprived of their life as a result of the actions of LEOs, an effective official investigation must be conducted.⁴³ Liability must extend to superior officers. They must be held responsible for issuing unlawful orders,⁴⁴ and for the conduct of LEOs under their command in cases where they knew, or should have known, that such LEOs resorted to the unlawful use of force or firearms, and they did not take all measures in their power to prevent, suppress or report such use.⁴⁵ No criminal or disciplinary sanction should be imposed on LEOs who refuse to carry out any order to use force and firearms which contravenes the Code of Conduct for LEOs or the Basic Principles on the Use of Force and Firearms, or who report such behaviour by other officials.⁴⁶ “Obedience to superior orders shall be no defence if [LEOs] knew that an order to use force and firearms resulting in the death or serious injury of a person was manifestly unlawful and had a reasonable opportunity to refuse to follow it.”⁴⁷

Oversight

“In addition to guaranteeing accountability through judicial processes, states should implement additional levels of non-judicial oversight, including an effective internal investigations process and an independent oversight body. These systems should operate in addition to, and not as an alternative to, criminal, public and private legal remedies for police misconduct. The role of a dedicated civilian oversight body may be complemented by the work of a national human rights institution or ombudsman.”⁴⁸ “It is a good practice for an independent oversight mechanism to review and report on any large-scale or contentious policing operation relating to public assemblies. [...] A police complaints mechanism should be established where none exists, with a range of potential resolutions at its disposal.”⁴⁹

Specialised personnel

“Police, lawyers, the judiciary and other court personnel should receive training in dealing with cases where children are victims.”⁵⁰ States should consider establishing, if they have not yet done so,

⁴² Report of the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Christof Heyns, A/HRC/26/36, United Nations Human Rights Council, 1 April 2014, para. 80.

⁴³ Guidelines on Freedom of Peaceful Assembly, para. 181.

⁴⁴ BPUFF, Principle 26.

⁴⁵ BPUFF, Principle 24.

⁴⁶ BPUFF, Principle 25.

⁴⁷ BPUFF, Principle 26.

⁴⁸ A/HRC/31/66, para. 94.

⁴⁹ Guidelines on Freedom of Peaceful Assembly, para. 180.

⁵⁰ Guidelines for Action on Children in the Criminal Justice System, Recommended by Economic and Social Council Resolution 1997/30 of 21 July 1997 (‘Vienna Guidelines’), para. 44.

specialised offices and units to deal with cases involving offences against children. States should establish, as appropriate, a code of practice for proper management of cases involving child victims.” See also the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, produced by the United Nations Economic and Social Council (ECOSOC Resolution 2005/20) and sections 3.7 and 4.4 of UNICEF report on policing assemblies involving children⁵¹ regarding capacity-building and training of LEOs and other justice officials.

Monitors and journalists

Monitors and journalists have an important role to play in providing independent, impartial and objective coverage of demonstrations and protests, including a factual record of the conduct of participants and LEOs alike.⁵² This information may be used to inform public debate and serve as the basis for dialogue between the state, local authorities, LEOs and civil society.⁵³ “All persons enjoy the right to observe, and by extension monitor, assemblies” and “states have an obligation to protect the rights of assembly monitors.”⁵⁴ Participants, journalists and monitors also have the right to record LEOs.⁵⁵ Video recording by children of human rights violations by LEOs can be an important contributor to achieving accountability.⁵⁶

⁵¹ See note 2 above, pp. 22-23, pp. 37-38.

⁵² Human Rights Defenders, Note by the Secretary-General, United Nations General Assembly, A/62/225, 13 August 2007, paras. 91 and 93, and A/HRC/20/27, para. 48.

⁵³ Guidelines on Freedom of Peaceful Assembly, para. 5.9.

⁵⁴ “A/HRC/31/66, paras. 68 and 70.

⁵⁵ CCPR/C/GC/37, para. 94 and A/HRC/31/66, para.71.

⁵⁶ See e.g., Paybarah, Azi, ‘How a Teenager’s Video Upended the Police Department’s Initial Tale’, The New York Times, 20 April 2021, updated 25 June 2021, <www.nytimes.com/2021/04/20/us/darnella-frazier-floyd-video.html>, accessed 14 March 2023, and Bogel-Burroughs, Nicholas and Marie Fazio, ‘Darnella Frazier Captured George Floyd’s Death on her Cellphone. The Teenager’s Video Shaped the Chauvin Trial’, The New York Times, 20 April 2021, updated 7 July 2021, <www.nytimes.com/2021/04/20/us/darnella-frazier-video.html>, accessed 14 March 2023.