

Module C: Responsibilities and Rights
Unit C2: Young People and Crime
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Objectives of Unit C2

- To be familiar with basic concepts of youth offending and punishment
- To be prepared to promote lawful behaviour among youth
- To consider strategies for crime prevention at school

Facilitation skills to be developed through this Unit

Knowledge and understanding of:

- the range of underlying causes of challenging, aggressive and anti-social behaviour
- the range of provisions for pupils whose behaviour causes concern
- the requirements of legislation and formal procedures relevant to aggressive and violent behaviour

Personal qualities and attributes include:

- empathy for and engaging pupils whose behaviour and attendance causes concern
- the capacity to be a persuasive advocate for pupils - whether perpetrators, victims, assistants or witnesses
- the ability to model effective management of pupils whose behaviour causes concern.

Pre-unit reading

Armstrong, D., Hine, J., Hacking, S., Armaos, R., Jones, R., Klessinger, N., & France, A. (2005). *Children, risk and crime: The on track youth lifestyles surveys*. Home Office Research Study 278. London: HMSO.

Muncie, J. (2000). *Youth and crime: A critical introduction*. London: Sage.

Stephenson, M. (2005). *Young people and offending. Education, youth justice and social inclusion*. Cullompton: Willan Publishing.

Summary of current thinking and knowledge about young people and crime

Various statistical data show that children at school often become victims of crimes. Frequently these crimes are connected with violence. Apart from these are acts of violence in different forms, verbal or physical, which although not as serious as crimes, are absolutely incompatible with the school ethos and have an adverse effect on the general climate at school and on the process of study as a whole. The trouble is that in most cases perpetrators of violence and crimes at school are the students themselves. That is why training in non-violence and zero tolerance to crime is an important part of the whole school policy.

The high level of youth offending has been a matter of concern for many years. Finding ways of preventing children and young people from becoming involved in crime or antisocial behaviour has become a policy priority worldwide.

Governments largely launch crime reduction programs and various other initiatives with a clear focus on the prevention of offending and re-offending of young people. Work with children, their families and schools is at the centre of many of these programs.

The relationship between education and youth crime has long been recognised in terms of social policy and public opinion. However, the key role of school settings in the prevention of youth antisocial behaviour, deviation from further developments of youthful criminal careers and acceptable behaviour enforcement, despite being repeatedly underlined, has not always been fully used. It is clear that it is high time for the great potential of educational institutions in the combatting of youth offending to be enforced.

Delinquency is a term, until recently largely used to refer to any kind of youthful misbehaviour. Criminologists frequently use the concepts of 'crime' and 'delinquency' interchangeably, especially when their object of study is young people. However, there are crucial differences. Whilst a legal definition of crime refers to behaviour prohibited by criminal law, delinquency is applied to all manners of behaviour that are deemed to be undesirable, anti-social and pre-criminal. Much of this ambiguity derives from the establishment of juvenile justice designed to punish and treat offenders but also to protect the vulnerable and neglected (McLaughlin & Muncie, 2003).

Most historians agree that delinquency was first identified as a major social problem in the early 19th century. During different historical periods the social context and the factors that are held to influence such behaviour change. Those that are most commonly associated with this conduct in the last decades are drugs and alcohol, social exclusion (including unemployment and poverty) and the breakdown of communities and families. State institutions and society have traditionally confronted the symptoms and consequences, rather than the causes of this behaviour.

Attitude and policies on youth offending (lately widely replacing both juvenile delinquency and juvenile crime) have identified two major approaches - the 'welfare' and the 'justice' approaches: whether young offenders are seen as being primarily in need of care, or deserving punishment. Both these approaches have been widely criticized and both have had unintended and unwelcome consequences. This has moved to the discovery of the third way - restorative approaches to youth offending. These are an attempt to resolve offences by taking into account the perspectives of offenders and victims. They look to positive change in the future, and to reparation, rather than to punishment (Restoring Youth Justice, 2000; See also Unit E4).

Youth offending is not only a national problem. It is a permanent item on the agenda of different bodies and fora at supra-national level as well. The United Nations (UN), the Council of Europe and other international and regional organisations have repeatedly discussed the problem and have adopted many international instruments dedicated to this specific issue or paying due attention to it. Explicitly has to be mentioned the International Covenant on Civil and Political Rights (1966) where the position of young people in conflict with the law

became the subject of international standards; the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules, 1985) establishing a regime that combines requirements for due process of law with the centrality of the interests and future development of the child; the Committee of Ministers of the Council of Europe Recommendation on Social Reactions to Juvenile Delinquency, recognizing that education and social integration should be the key component of penal systems for juveniles; the *UN Convention on the Rights of the Child* (1989) requiring the law to treat children differently, and to promote their reintegration into society; the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines, 1990) and the UN Rules for the Protection of Juveniles Deprived of their Liberty. The positive influence of the UN Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power towards treatment of juveniles should also be recognised. Explicitly, mention should be made of the newly adopted UN Guidelines on Justice for Child Victims and Witnesses of Crime (2005). The new restorative approach to crime, including youth offending, is a subject matter of the UN Resolution on Basic Principles on the Use of Restorative Justice Programs in Criminal Matters (2002) and of the Council of Europe Committee of Ministers Recommendation R (99) 19 on mediation in penal matters.

Youth offending is a global scale phenomenon. Its determinants have been studied and are well-known. They have their roots in the social structure of society, in the disproportionate distribution of goods, in the existence of numerous marginalized groups; they are frequently due to problems in the family, even to the inborn aggressiveness of individual young people. The lack of enough restraining internal and external mechanisms often leads to violence and crimes. The fact that young people predominantly spend their time in school logically leads to concentration of these acts especially in schools. Hence, the role of these institutions in counteracting violence and crime sharply increases.

First, schools provide training in tolerance and non-violence. Crime prevention and law-related education programs describe how the criminal justice system responds to crime, explore public policy options for dealing with crime, and teach young people how to become involved in making their communities safer.

Schools, however, have many other possibilities for exerting influence. Life skills training programs may not address violence directly, but they can help young people learn how to avoid violence. Life skills programs usually offer methods to resolve conflict and develop friendships with peers and adults. Young people learn how to resist negative peer pressure and deal with issues of intergroup conflict. Many schools launch special programs for disruptive students; others increase security equipment and personnel.

Gun violence education programs highlight the threats and consequences involved in the mishandling of guns and offer alternatives to solving problems with guns. Recreation programs cannot prevent youth violence by themselves, but they are attractive to young people and work well when linked up with other violence prevention programs. Sports are good outlets for stress and anger; teamwork teaches cooperation, and keeps young people off the street and away from possible violence. Violence prevention programs work best when they are

combined with other efforts. The whole community benefits the most when the whole community participates in dealing with the problem of youth violence. The idea that it should be a collective responsibility to prevent youth offending is now firmly established. Equally, it is recognized that there is a need to improve services for children. It is commonly accepted that the reduction of youth crime could happen without exacerbating social exclusion among young people. In these very aspects the role of schools continues to be essential (see Unit B1).

Responsibilities for the Unit facilitators

Your tasks within this Unit are to:

- send to all participants information about when and where the session will be held and details of preparatory reading to be done
- familiarise yourself with the Unit text
- plan the session to meet the needs of the participants
- ensure that all relevant resources/materials are copied and/or prepared
- lead the session and all the activities

Sequence of activities for Unit C2

This Unit represents a one-day training of five hours plus breaks. Note that all of the activities are suitable for pupils. Participants can experience them with colleagues and then adapt them for use in class.

Activity 1 Lecture about the context of youth crime and treatment of young offenders (30 minutes)

Purpose

- To provide background information about youth crime. The lecture is followed by a range of activities

Glossary

Crime - behaviour defined and sanctioned by criminal law. A crime (or offence) is a legal wrong that can be followed by criminal proceedings which may result in punishment (Barker & Padfield, 1998).

Crime prevention - any action taken or technique employed by private individuals or public agencies aimed at the reduction of damage caused by acts defined as criminal by the state (McLaughlin & Muncie, 2003).

Criminal justice - the process through which the state responds to behaviour that it deems unacceptable. Criminal justice is delivered through a series of stages: charge, prosecution, trial, sentence, appeal, punishment. These processes and the agencies which carry them out are referred to collectively as the criminal justice system (McLaughlin & Muncie, 2003).

Offender – one who has committed a crime.

Punishment - a penalty imposed on a defendant duly convicted of a crime by an authorised court. The punishment is declared in the sentence of the court (Martin, 1994, p. 274).

Victim of crime - a person who, individually or collectively, has suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal law (The UN Declaration on Basic Principles of Justice for Victim of Crime and Abuse of Power, 1985).

Witness - a person who makes a viva voce statement to a judicial tribunal on a question of fact. Witnesses require to be sworn before their evidence is given, unless they choose to make a solemn affirmation. The general rule is that all persons are competent to give evidence, provided they have sufficient mental understanding (Rutherford & Bone, 1993, p. 351).

Background information

The law is created by people in order to regulate their relations. It is hard to unite many individuals' freedoms and moral norms are not always enough to prevent people from doing wrong. That is why legal rules have been created, they have been proclaimed obligatory and disobeying them has led not only to reprimand but to punishment as well (Barker & Padfield, 1998, p. 286; see also Unit C1).

There are different violations of law - some less serious (e.g., crossing the street on a red traffic light), some more serious (e.g., burglary). The most serious infractions of the law, causing heavy harm to the public or to a single person, are usually named crimes (offences). They are explicitly forbidden by the criminal codes of different countries and by the international criminal law. Sometimes in various legal regulations differences in understanding of crime could be noticed but murder, rape, theft, fraud, drugs distribution and many others are considered crimes worldwide.

The offender is the person who has committed a crime. Who is in fact Homo Criminalis? According to the broadly accepted view, criminals are not born; they are a product of the social environment. Different traumas in childhood or at a later stage, poverty, unemployment, drug addiction and other social failures could provoke someone to break the limits of law. Others do it in order to dominate, to receive more money or power, or for the violence itself. That is why a high rate of criminality can be detected even in the most civilized and developed societies. Civilization and progress give opportunities for development of human skills and techniques that are sometimes used for doing wrong.

In order to be considered a crime, an act (or omission of an act) should be committed intentionally or with gross negligence (*actus reus*). This is decided normally by a criminal court which has the final say on whether there has been a crime, who is the offender and what punishment should be assigned to him. Criminal jurisprudence is the classical and still widely used method of dealing with crimes. As the accused is considered innocent during the criminal proceedings his guilt has to be proved with the help of witnesses, documents etc. He has the right to defence, including the right to legal assistance, right to information etc.

Punishment is proportionate to the crime committed and could be: imprisonment, probation, fine, etc. At present capital punishment is widely abolished though in some countries it still exists (Coleman & Norris, 2000).

Special provision for juveniles

All Western jurisdictions stipulate that under a certain age young people cannot be held fully responsible for their actions. It is widely assumed that juveniles are *doli incapax* (incapable of evil) but how certain age groups - child, juvenile, young person - are perceived and constituted in law is not universally agreed upon. Taking Europe as an example, in Scotland the age of criminal responsibility is 8, in England and Wales 10, in Germany 14, in Spain 16 and in Belgium 18. To juveniles whose acts cannot be considered crimes special correctional or educative measures are undertaken. The punishment for the young offenders shall be imposed with the priority objective of their reformation and preparation for living in a lawful way. As a rule only some kinds of punishments can be imposed on juveniles: imprisonment, probation, reprimand, etc. During criminal proceedings they are treated with due attention and some special rules are applied. A relatively new approach to juvenile delinquency is their involvement in restorative processes (see Unit E4).

It is widely recognized that the focus should be put on the prevention of offending and re-offending of young people. In this aspect identifying and assessment of risk factors as well as protective factors have a high priority. Thus work with families and children at school and tackling crime in local communities should have as one of the main objectives developing products and systems that are resistant to crime. Reducing the impact of, or exposure to risk, reducing chain reactions to negative experience, promoting self-esteem and achievements and providing positive relationships and new opportunities – all these can be the contribution of school education and environment to the prevention of youth offending (Omaji, 2003).

Activity 2 Discussions (30 minutes for each)

Purpose

- To check knowledge and understanding of participants about violence and crime
- To provoke an active counteraction to violence and criminal determinants

Materials

Flipchart and pens

Procedure

Free discussion The participants write 'pro' and 'con' arguments on a flipchart.

a) *In your opinion, is violence an integral part of human nature?*

b) *How one becomes a criminal?*

c) *Is copying of a CD album of a famous pop-singer a crime?*

d) *Is cheating at exams a crime or is it okay as long you are not caught?*

e) *Would you report to the school if you saw: your colleague systematically bullying another colleague of yours at school; someone vandalising property in or outside school?*

Debriefing

Analysis of all "pro" and "contra" lawful/criminal behaviour arguments.

Activity 3 Case (30 minutes) Would you take witness in court against a gangster who has assaulted a friend of yours? Would you be scared or would you give testimony?

Purpose

- To explore and stimulate readiness to support the functioning of the justice system

Materials

Flipchart and pens

Procedure

Free expression of opinions. Writing on a flipchart the key positions expressed.

Debriefing:

Analysis of all arguments “pro” and “con” of being a witness.

Activity 4 Essays (60 minutes)

a) *How to protect myself from violence and criminal acts (theft, assault, robbery)? What do I have to learn or build up in myself (karate techniques, coolness, common sense/sound mind)?*

b) *What factors do you think might contribute to school disorder and violence?*

c) *Most violence prevention programs have not yet been evaluated. Do you think they are effective? Why or why not?*

d) *Imagine that you are the head teacher of a middle school. You are concerned with student violence. What kind of prevention program would you adopt? Why?*

Debriefing

Pragmatism, wholeness, soundness. Assessment and dissemination of information about the best and most original answers and practices.

References

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Coleman, C., & Norris, C. (2000). *Introducing criminology*. Cullompton: Willan Publishing.

Martin, E. A. (Ed.). (1994). *A dictionary of law* (3rd ed.). Oxford: Oxford University Press.

McLaughlin, E., & Muncie, J. (2003). *The Sage dictionary of criminology*. London: Sage Publications.

Omaji, P. (2003). *Responding to youth crime*. Cullompton: Willan Publishing.

Restoring youth justice: New directions in domestic and international law and practice. (2000). <http://www.justice.org.uk/reports/restoringyouthjustice.html>

Rutherford, L., & Bone, S. (Eds.). (1993). *Osborn's concise law dictionary* (8th ed.). London: Sweet & Maxwell.

The UN Declaration on Basic Principles of Justice for Victim of Crime and Abuse of Power. (1985).

Further reading and additional resources

Books and articles

Braithwaite, J. (1989). *Crime, shame and reintegration*. Cambridge: Cambridge University Press.

Braithwaite, J., & Pettit, P. (1990). *Not just deserts: A republican theory of criminal justice*. Oxford: Oxford University Press.

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- Crawford, A., & Burden, T. (2005). *Integrating victims in restorative youth justice*. Bristol: The Policy Press.
- Home Office. (2004). *The role of education in enhancing life chances and preventing offending*, Home Office Development and Practice Report No 19.
- Maxwell, G., & Morris, A. (2002). The role of shame, guilt and remorse in restorative justice processes for young people. In E. Weitekamp & H-J. Kerner (Eds.), *Restorative justice. Theoretical foundations* (pp.267-284). Cullompton: Willan Publishing.
- McCarthy, P., Laing, K., & Walker, J. (2004). *Offenders of the future? Assessing the risk of children and young people becoming involved in criminal or antisocial behaviour*. Newcastle Centre for Family Studies, University of Newcastle upon Tyne, Research Report No 545.

Web-sites

Crime Concern- <http://www.crimeconcern.org.uk>

Crime Reduction - <http://www.crimereduction.gov.uk/>

Department for Education and Skills- <http://www.dfes.gov.uk/>

International Bureau for Children's Rights - <http://www.ibcr.org>

International Centre for the Prevention of Crime- <http://www.crime-prevention-intl.org/>

International Institute of Restorative Practices - <http://www.iirp.org>

<http://www.safersanerschools.org/>

<http://www.realjustice.org>

Mediation UK- <http://www.mediationuk.org.uk>

Restorative Justice Consortium- <http://www.restorativejustise.org.uk>

Thames Valley Police- <http://www.thamesvalley.police.uk>

Transforming Conflict – <http://www.transformingconflict.org>

Youth Justice Board for England and Wales - <http://www.youth-justice-board.gov.uk>

Evaluation studies

Dignan, J. (2000). *Youth justice pilots evaluation: Interim report on reparative work and youth offending teams*. London: Home Office.

Holdaway, H., Davidson, N., Dignan, J., Hammersley, R., Hine, J., & Marsh, P. (2001). *New strategies to address youth offending: The national evaluation of the pilot youth offending teams*. London: Home Office.

Youth Justice Board. (2005). *Persistent young offenders*. London: Home Office.

Appendix

UN Guidelines on justice for child victims and witnesses of crime

http://www.ibcr.org/Publications/VICWIT/2003_IBCR_Guidelines_En-Fr-Sp.pdf