

When Protection Becomes Control

How to Safeguard Children's Rights
Without Compromising their Freedom

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IYTT WORKING PAPER No. 10
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The **IYTT: INTERNATIONAL YOUTH THINK TANK** is an international non-political youth think tank. Once a year, we recruit 24 people aged 18-24 through an open call for a four-day conference. This is the entrance ticket and training camp to become an IYTT Youth Fellow. All annual conferences produce twelve decision-making proposals that end up in this handbook. Some proposals are developed and turned into working papers and policy briefs. In addition, Youth Fellows carry out people-centric local activities to promote common ground and active citizenship. The IYTT Participation Toolbox includes Open Chair Democracy Talks, Neighborhooding Democracy, Democratic Workplace Cafés, Roundtable Workshops, Summer Camps, Democracy Festivals, and the IYTT Youth Panel, which is a global sounding board. The annual youth conference travels the world, going to places like Barcelona (2023), Stellenbosch (2024) (which ran as a Nobel Symposium in collaboration with the Norwegian Nobel Institute), Washington DC (2025), and Seoul (2026).

INTERNATIONAL
YOUTH
THINK TANK

When Protection Becomes Control: How to Safeguard Children's Rights Without Compromising Their Freedom

ABSTRACT

Across democratic societies, human rights language is increasingly weaponized to justify securitized policies that, in practice, undermine the rights they claim to protect. Across debates on migration, public order, and crime prevention, children are frequently viewed simultaneously as vulnerable subjects requiring care and as potential risks demanding containment. This working paper addresses an urgent question: How can states respond to social unrest, crime, and migration pressures without undermining the very rights they claim to protect?

Drawing on empirical research and youth perspectives, collected through the reflections of the respondents from the IYTT Youth Panel, this paper challenges the prevailing trajectory of exclusionary policymaking. The findings highlight three major concerns. First, weaponizing rights to justify the repression of vulnerable groups, particularly migrant children, erodes legal integrity and democratic trust. Second, punitive and coercive interventions - such as early criminalization and intrusive surveillance - are empirically ineffective, often exacerbating marginalization and recidivism. Conversely, prevention-oriented and rehabilitative models consistently yield superior outcomes for both the individual and public safety. Third, the "best interests of the child" principle must be applied with robust safeguards against paternalistic overreach, ensuring that policies respect proportionality, developmental sensitivity, and children's autonomy.

Ultimately, the paper dismantles the false dichotomy between public safety and child protection, arguing that sustainable security and children's rights are mutually reinforcing. Concluding with actionable policy recommendations, the paper urges a paradigm shift toward a preventive, inclusive model. Key proposals include establishing independent oversight against the misuse of rights language, rejecting blanket preventive measures, prioritizing victim-first responses to child criminality, and embedding child-centered participation in policy design.

KEYWORDS

children's rights, criminal law, child protection

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Introduction: Children's Rights at a Crossroads

The International Youth Think Tank is an organisation devoted to the renewal of democracy and made of young people from all over the world. The priority of the IYTT is to empower citizens to speak their opinions about democracy and break the hopelessness of those without a voice. We believe innovation is the way for democratic renewal. Every year we recruit 24 Youth Fellows through an open call to an IYTT youth conference. The Youth Fellows are selected on their personal passions, visions, and sociability. The conferences are workshop-styled training camps where they learn to develop and present tangible policy proposals for democratisation, peace keeping, and democracy renewal. The conference deliverables are the concluding presentation, a preliminary conference report, and conference proceedings. The Youth Fellows advance their proposals through working papers and policy briefs, and all proposals are presented in the IYTT Handbook for Innovative Democracy, which is updated and presented in a new edition once a year. The IYTT thereby relies on the bright minds of young people to pitch innovative ideas on how to change society and democracy for the better. With their support, the IYTT champions democratic innovation on the basis of sound knowledge, open discussion and impactful communication. The tools we devised are based on the principles of scholarly inquiry, dialogue and art.

The present work is the output of one of our activities of inquiry. In the month of September 2025 Urban Strandberg, Director and Co-founder of the IYTT, had an inspiring talk with his colleague, Maria Grahn-Farley, professor of law at the University of Gothenburg, Sweden. Maria is heading the HR Just program that studies how states use human rights justifications to explain and defend their actions and decisions. They discussed an upcoming workshop focusing on how states use human rights to justify the derogation of children's rights and how the IYTT could contribute to the workshop. Urban suggested that he could summon a group of IYTT Youth Fellows to craft and carry out a round of the IYTT Youth Panel. We, three IYTT Youth Fellows who have jointly authored this paper - and Urban Strandberg, who has coordinated the process - came together to design a panel round probing the panelists views on justifications of limitation of children's rights. The panel went into the field in October, the results were published in November, and presented by two of us Youth Fellows in the HR Just workshop on December 8, which was hosted by Stockholm University.

When Rights Language Shifts

Across democratic societies, the language of human rights is increasingly invoked in political debates about security, migration, crime prevention, and public order. Yet paradoxically, the same principles designed to protect integrity, dignity and equality are sometimes used to justify restrictive or exclusionary policies, particularly when children, migrants, and other vulnerable groups are involved. In a global climate marked by the mainstreaming of

nationalist rhetoric, growing public anxiety about immigration, and heightened concern about youth crime, the boundaries between protection and repression are becoming blurred.

This working paper addresses a central and urgent question: **How can states respond to social unrest, crime, and migration pressures involving children without undermining the very rights they claim to protect?** We examine whether human rights principles, including the “best interests of the child”, are being applied as safeguards for children or strategically deployed to legitimise restrictive measures.

Recent years have seen a documented rise in exclusionary nationalist discourse across Europe and beyond, especially in the aftermath of the 2015 refugee arrivals and the subsequent politicisation of migration (Völker & Gonzatti 2024; Krzyżanowski 2020). Research shows that immigrants are frequently framed as security threats or moral dangers, creating what scholars describe as “moral panic” dynamics (Krzyżanowski 2020; Ekström et al., 2025). Within these narratives, children often occupy a paradoxical position: they are portrayed simultaneously as vulnerable victims requiring protection and as potential security risks requiring control. Such framing has real policy consequences, from family separations during asylum procedures to intrusive crime-prevention measures targeting minors.

At the same time, developmental science and criminological research strongly challenge purely punitive responses to youth crime. Evidence consistently shows that early criminalisation increases recidivism and entrenches marginalisation, while prevention-focused and rehabilitative approaches yield better long-term outcomes (Bernburg et al. 2006; Lipsey 2009; Petrosino et al. 2010). International standards, including the UN Convention on the Rights of the Child and subsequent guidelines on child-friendly justice, emphasise proportionality, rehabilitation, and respect for evolving capacities. The tension between integrity, security and dignity, protection and autonomy, therefore lies at the heart of contemporary children’s rights governance.

This work builds on survey responses from young people across different countries and situates their perspectives within the broader academic and legal literature. Their reflections reveal a striking pattern: while there is strong support for protection, rehabilitation, and prevention, there is deep scepticism toward blanket restrictions and securitised narratives that treat children as threats. Respondents also engage critically with the limits of the “best interests of the child” principle, recognising both its protective function and its potential misuse as a justification for paternalistic overreach.

This working paper is distinctive in three important respects. First, it is grounded in the perspectives of young people themselves as part of the IYTT Youth Panel which includes 200+ young persons from more than 50 countries. The findings thus draw on richly embroidered

ideas and lived experiences shared by 21 respondents (of which 52.4 percent are women), in the ages 19-to-31, living in Africa, Europe, Latin America, and North America, offering a uniquely global and youth-led lens on questions that directly affect children and adolescents. At a time when policies concerning children are often designed without their meaningful input, this paper centres the voices of those who experience the consequences of these decisions firsthand. Second, this is not the usual report filled with abstract macro data, instead, this is a deep dive into the daily life and ideas of those who are young themselves. Where conventional barometers focus on political opinion and rely on static survey questionnaires, the IYTT Youth Panel addresses political ideas and concepts with a dynamic ethnographic methodology, which gives the panelists the opportunity to challenge conventional attitudes that define current political leadership. Third, the analysis is developed by three young authors who approach these issues not only as researchers but as members of the generation most affected by long-term shifts in rights governance, securitisation, and public trust in institutions. This empirical and analytical youth perspective allows the paper to bridge academic research, lived experience, and forward-looking policy design in a way that traditional top-down analyses often cannot.

In the month of October of 2025 the survey on children's rights was sent round. After two months, the authors gathered the results and drew the analysis that can be found in the following sections of this Working Paper.

The survey was made of six questions on exploring the topic of protection of children on the one hand and securitisation of children's rights on the other hand. Each question was formulated to allow a yes/no answer and each of them was followed by a (optional) follow up question meant to stimulate the respondents to explain their answer. The survey questions were deliberately designed around the most contested fault lines in contemporary children's rights governance. Rather than addressing abstract principles in isolation, they focus on concrete policy dilemmas: the securitisation of migration, preventive justice practices involving minors, the criminal responsibility of young children, and the limits of the "best interests of the child" principle. Each theme reflects an area where international legal standards, developmental science, and political practice intersect. By structuring the inquiry around these tensions, the working paper seeks to test whether rights rhetoric aligns with evidence-based and rights-respecting policymaking in practice. With the following six questions from the survey, we invite the reader into a structured reflection on these dilemmas:

1. In regard to public policy, state agencies sometimes invoke human rights principles to justify that the policy violates the integrity and rights of certain groups (e.g. children,

- migrants, minorities). Have you observed such behaviour in your country or elsewhere, and/or what are your thoughts about it?
2. In your view, can crime prevention or social order concerns ever justify compromising children's integrity and rights? (Example: crime preventive body searches that involved a 10-year old in Sweden.)
 3. Do you think there are ways to handle criminality and social unrest challenges involving children, such as baby gangs or child involvement in organised crime, without compromising children's rights and integrity?
 4. Do you think the "best interests of the child" principle can justify limiting other individual rights?
 5. In your opinion, is it appropriate to prosecute and convict a child under 14 for a violent crime or for the involvement in socially subversive criminal activities?
 6. Do you think that any of the previous questions missed key aspects of children's rights?

The aim of this working paper is threefold. First, it documents how human rights language is being mobilised in contemporary policy debates. Second, it evaluates whether current practices align with evidence from developmental science and criminology. Third, it distils practical, rights-respecting policy principles that can guide states in responding to crime, migration, and child protection challenges without undermining democratic legitimacy.

By grounding normative debates in empirical research and lived perspectives, this paper seeks to move beyond polarised narratives of "security versus rights". Instead, it argues that sustainable public safety and children's rights are not competing goals, but mutually reinforcing objectives, provided that interventions are proportionate, evidence-based, and anchored in the child's dignity and evolving capacities.

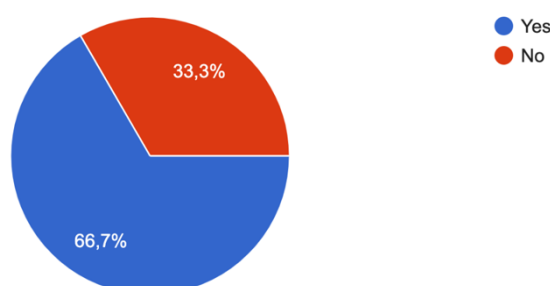
The following sections lead to six concrete takeaways for policymakers on how to safeguard children's rights in contexts of migration, justice, and social unrest while resisting the weaponisation of human rights rhetoric.

1. Weaponised Human Rights Principles

The United Nations' Universal Declaration of Human Rights (UDHR), adopted in 1948 in the context of recognizing and preventing similar horrors as seen during World War II, outlines 30 fundamental rights and freedoms. The promotion and definition of these rights as universal by an intergovernmental organization was meant to limit and direct the actions of states towards the protection and promotion of the welfare of all humans. However, the language of the rights outlined in the UDHR, if removed from the universally equitable aims of the UDHR and the context of its origins, can be utilised to promote systems of exclusionary rights. In such cases, the rights and freedoms in the UDHR such as the freedom from arbitrary arrest or right to life, liberty, and personal security are not equally applied across all groups of people.

Figure 1. State invocation of human rights principles witnessed globally

In regards to public policy, state agencies sometimes invoke human rights principles to justify that the policy violates the integrity and rights of certain groups elsewhere, and/or what are your thoughts about it?
21 Antworten



1.1. Breakdown of Results

Two-thirds of the respondents observed that states often frame repressive practices as protective measures. Across the responses, which brought forth examples from across the world, a recurring pattern of targeted exclusion through language and rhetoric emerges. Respondents highlighted an insider-outsider construction whereby states use the claim of protecting the rights of one group to legitimise restricting the rights of another group.

There are commonalities between countries in the characterisation of protected groups and the framing of other groups as threats. Certain groups are framed as threats, such as LGBTQ+ communities who are depicted as endangering the 'American family', or migrant parents portrayed as national security risks. Through this exclusionary logic, the state justifies suppressing identities or separating children from their parents during asylum processes.

These practices rely heavily on rhetoric and moral framing. The threats invoked are often not grounded in real actions but in anticipated dangers. States draw sharp moral contrasts to juxtapose and separate groups of people. For example, narratives employed include good versus dangerous or pure versus corrupt. These frames are intended to generate public acceptance for restrictive measures, giving repressive practices the veil of democratic legitimacy.

The far most frequently shared example of the weaponisation of human rights principles from respondents included immigrants and refugees. Both British respondents and a South African respondent brought up examples of family separations in their countries, particularly children being separated from their parents, during the asylum-seeking process. In the South Africa case, the respondent highlighted two prongs of discussion around the issue: 1) the initial detention of children and 2) whether keeping the children in a detention with their parents or separating them was better. These cases both highlight the extra vulnerability of children within marginalised communities. The responses reflected that worldwide trend, from South Africa and the United States to Great Britain, that immigrant groups are targeted as threats, whose migration into a country is ‘unfair’ to the existing population.

1.2 The Harm of Exclusive Nationalist Rhetoric

Far-right parties’ politicians and positions have seen an increase in popularity and polling viability. At the centre of far-right messaging and agenda setting is a concentration on tackling immigration, often scapegoating immigrants as being to blame for economic stagnation and other issues (Gordon 2024, 495). In Europe, the mainstreaming of the far-right came with the backlash to the ‘refugee crisis’ of 2015 (Völker and Gonzatti 2024). As previously radical sentiments entered mainstream politics, language was employed to normalise radical positions by coupling them with civil, politically correct language (Krzyżanowski 2020). Far-right actors strategically construct narratives to tie immigrants to criminality and incite a ‘moral panic’ among the public (Krzyżanowski 2020, 523; Ekström et al. 2025).

This narrative shift towards the far-right is exemplified by Sweden, one of the primary asylum recipients from the 1980s to 2015, where immigration was not traditionally very politicised (Ekström et al. 2025, 189). Following the accession of the far-right party, the Sweden Democrats (SD), into parliament in 2010, the ‘refugee crisis’ in 2015, and the 2022 election leading to a center/center-right coalition government supported by the SD in parliament, the tone towards immigration in Sweden shifted, with immigrants and people with foreign backgrounds presented in misleading government statements and misinterpreted statistics as being overrepresented in criminal activities (Ekström et al. 2025, 190-191; Krzyżanowski and Ekström 2025, 489).

1.3 Policy Implications

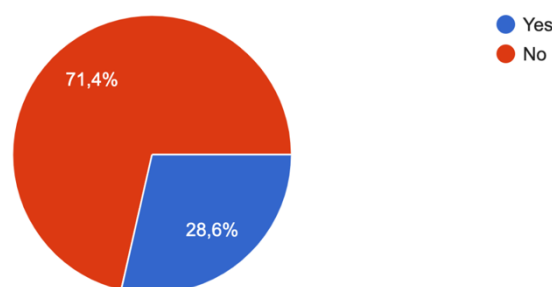
Analyzing the variety of examples respondents presented on how states frame and employ rights highlights how the protection of the rights of one group can be used as the justification to limit the rights of another group. Discriminatory application of rights must be explicitly prevented through policy. In the process of designing policy, anti-discrimination statements must be included and be comprehensive and without exception. Policies should undergo a systematised process of review before formal introduction by comprehensive panels of civil society representatives who can advocate for communities who remain formally marginalized in civic matters such as children, convicted persons, and immigrants. Through this process, any externalities of a policy which would exclude certain groups, limit the policies intended effects within communities, or negatively affected group could be identified and internalised in the design of the policy.

2. Prevention Measures Not Preventive Searches

The second question of the panel survey asks respondents to consider the framework that guides interactions between children and criminal systems. Under international treaties children hold rights such as those enjoyed by adults as well as extra protective measures that account for the vulnerability and special status of children.

Figure 2. Any interaction between children and the justice system must be constructive and sustainable

In your view, can crime prevention or social order concerns ever justify compromising children's integrity and rights? (Example: crime preventive body searches that involved a 10-year old in Sweden.)
21 Antworten



2.1 Breakdown of Results

In their responses, the respondents were divided on whether crime prevention can justify compromising children's integrity, yet even those who answered 'yes' (28.6% of respondents) imposed strict conditions and expressed deep discomfort.

The core tension highlighted by the responses here is between security and dignity. Some acknowledged that children are weaponised by adults in criminal networks and used as tools precisely because they are seen as low-risk. Nearly all respondents emphasised that any state intervention must recognise children as categorically different from adults. Respondents underlined that children must be recognised as individuals who are less culpable, more vulnerable, and are still developing cognitively and emotionally.

Respondents reject blanket preventative measures. They insist that children cannot be treated as potential criminals simply for the sake of social order. Instead, they argue that prevention must focus on addressing root causes, such as providing safety, community, and material needs. When these needs are not met, children may seek to meet them through methods that leave them susceptible to exploitation by criminal networks and malicious actors.

In the responses, a few themes stand out. One being that children's dependency on adults makes them victims of adult criminality, not perpetrators. Another being that any state response must prioritise the child's welfare and rehabilitation over punishment, through non-invasive methods that build instead of erode trust in institutions. The few respondents who accepted intrusive measures only did so when there was evidence-based suspicion of danger, not as a routine practice.

2.2 Principles of Children's Rights

A vast body of legally binding treaties and non-treaty instruments that apply to children's rights and children's interactions with the criminal justice system have been written and adopted by the United Nations as well as other international bodies (Penal Reform International 2013, 11-13). With the 1948 Universal Declaration of Human Rights and the 1989 Convention on the Rights of the Child serving as referential frameworks, children's rights standards have been further enshrined in the 1990 UN Guidelines for the Prevention of Juvenile Delinquency ('Riyadh Guidelines'), the 1990 African Charter on the Rights and Welfare of the Child, the 1997 Guidelines for Action on Children in the Criminal Justice System, and the 2010 Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice. The standards set out in these texts are built upon a set of common principles regarding the protection of children in criminal justice systems, such as the concepts of best interest, protection, right to be heard, and non-discrimination (Penal Reform International 2013, 14). However, shaping a child's relationship with the criminal justice system starts before any direct interaction is necessary. Juvenile criminality is an output which state actors can shape through targeting and changing the inputs; the conditions of children's

environments growing up. Childhood interventions that target poverty and improve children's material conditions decrease criminal engagement (Barrand and Gibbs 2019, 28).

2.3 Policy Implications

Policies must be designed as safeguards that provide a careful framework for how criminal justice systems interact with children. As respondents voiced, children must exist as a specially recognized category that carries with it special protections and considerations. State action in regard to children and crime must be shaped within a preventative model that understands that investing in shaping the environment around a child from a young age is crucial. Investments in education, community development, child-care, extra-curriculars, healthcare, and nutrition with extra material support to children in economically vulnerable communities will shape and widen children's opportunity landscape. The benefits of such investments, which spill-over into the next generation, far outweigh the costs (Barrand and Gibbs 2019).

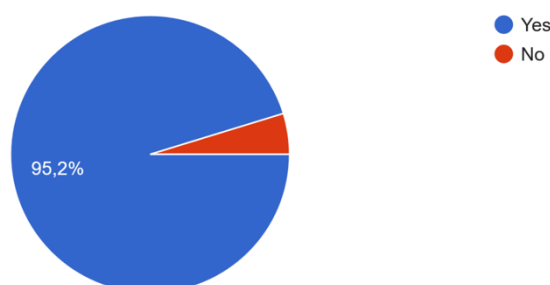
3. From Blame to Support: A Victim-First, Prevention-Focused Approach

Children's involvement in organised crime, gangs, and serious criminal activity is often framed in public debate as a security problem requiring punitive responses. Yet a growing body of research in criminology and child development shows that such involvement is more accurately understood as a consequence of exploitation, vulnerability, and structural disadvantage rather than autonomous criminal choice. Against this backdrop, Question 3 examined whether criminality and social unrest involving children can be addressed without compromising children's rights and integrity.

Figure 3. A shared conviction that security and children's rights can go hand in hand

Do you think there are ways to handle criminality and social unrest challenges involving children, such as baby gangs or child involvement in organis...hout compromising children's rights and integrity?

21 Antworten



An overwhelming 95% of respondents answered in the affirmative. The dominant framing among respondents was explicitly victim-centred, captured by one participant's assertion that "children involved in organised crime are victims of exploitation first and offenders second". This perspective aligns closely with contemporary criminological and developmental research, which increasingly conceptualises child involvement in organised crime as a product of coercion, vulnerability, and structural disadvantage rather than autonomous criminal choice.

3.1 Children in Organised Crime as Victims of Exploitation

A substantial body of empirical research supports the view that children involved in gangs and organised crime are disproportionately exposed to coercion, manipulation, and abuse. Studies in developmental criminology show that adolescents' cognitive and psychosocial capacities - particularly impulse control, risk assessment, and resistance to peer pressure - are still developing, making them especially susceptible to exploitation by adult criminal actors (Steinberg, 2009; Steinberg et al., 2018). Organised criminal groups often capitalise on these vulnerabilities by using children as low-risk operatives, knowing that legal consequences are typically less severe and that children are easier to control (UNODC, 2017; Windle & Briggs, 2015).

Empirical work on youth gangs further demonstrates that early involvement is rarely driven by intrinsic criminal motivation. Instead, it is strongly associated with exposure to violence, family instability, school exclusion, and neighbourhood disadvantage (Howell & Griffiths, 2018; Pyrooz et al., 2025). Longitudinal evidence shows that many children enter criminal networks through older peers or relatives, frequently under conditions that blur the line between "participation" and coercion (Decker et al., 2012). These findings directly support respondents' framing of child offenders as victims of exploitation whose criminal involvement reflects constrained choices rather than free agency.

3.2 Prevention Over Punishment: What the Evidence Shows

Respondents overwhelmingly emphasised prevention as the only sustainable way to disrupt cycles of child criminality. This view is strongly corroborated by evaluations of punitive versus preventive interventions. Meta-analyses consistently find that punitive approaches (e.g., incarceration or aggressive policing) have weak or even counterproductive effects on youth reoffending, particularly when applied to children and adolescents (Petrosino et al., 2013; Lipsey, 2009). Early criminal justice contact has been shown to increase the likelihood of future offending by reinforcing criminal identities and weakening ties to education and employment (Bernburg et al., 2006).

In contrast, prevention-oriented and rehabilitative interventions demonstrate significantly more robust outcomes. Evidence from randomised and quasi-experimental studies indicates that mentorship programmes, cognitive-behavioural therapy, family-based interventions, and school reintegration initiatives substantially reduce reoffending and gang affiliation among at-risk youth (Henggeler & Schoenwald, 2011; Heller et al., 2017). For example, intensive mentoring and psychosocial support have been shown to improve self-regulation and reduce violent behaviour in high-risk adolescents (Heller et al., 2017), while family-centred approaches such as Multisystemic Therapy produce lasting reductions in serious juvenile offending (Henggeler et al., 2009).

3.3 Addressing Structural Drivers Without Compromising Rights

Across responses, participants repeatedly shifted the analytical focus from individual blame to broader social and structural explanations, asking not “What did the child do?” but “Why did this happen?” This explanatory orientation reflects well-established findings on the structural determinants of youth crime. Research consistently links child involvement in gangs and organised crime to concentrated poverty, residential instability, educational exclusion, and limited access to legitimate economic opportunities (Sampson et al., 2002; Sharkey et al., 2017). These conditions create environments in which criminal groups can offer children protection, income, or a sense of belonging that formal institutions fail to provide.

Importantly, addressing these drivers does not require compromising children’s rights. On the contrary, rights-respecting approaches (such as access to education, mental health services, safe housing, and child protection systems) are themselves among the most effective crime-prevention tools. Cross-national evidence shows that welfare-oriented youth justice systems, which prioritise diversion and social support over punishment, achieve lower recidivism rates and better long-term outcomes than punitive models (Dünkel et al., 2015). Similarly, child-centred violence-prevention strategies grounded in social policy have been shown to reduce youth involvement in serious crime without increasing coercive state intervention (WHO, 2016).

3.4 Policy Implications

While respondents expressed uncertainty about the precise mix of programmes required, their consensus on principle is well supported by scientific evidence: effective responses to child involvement in organised crime must prioritise protection, prevention, and rehabilitation rather than repression. Policies that treat children primarily as offenders risk deepening harm, entrenching criminal trajectories, and violating fundamental rights. By

contrast, a victim-first, prevention-focused approach offers a rights-respecting and empirically grounded pathway to reducing criminality and social unrest involving children.

4. Protection, Autonomy, and Proportionality: Navigating the Limits of the “Best Interests of the Child”

The “best interests of the child” principle lies at the heart of children’s rights law, yet it also raises difficult questions about the limits of protection and the risk of paternalism. While the principle is intended to safeguard children’s safety, integrity, dignity, and development, scholars have long warned that its broad and indeterminate nature can be used to justify restrictions on children’s autonomy and participation.

4.1 Defining the “Best Interests of the Child” Principle

A substantial body of empirical research supports the view that children involved in gangs and organised crime are disproportionately exposed to coercion, manipulation, and abuse. Studies in developmental criminology show that adolescents’ cognitive and psychosocial capacities - particularly impulse control, risk assessment, and resistance to peer pressure - are still developing, making them especially susceptible to exploitation by adult criminal actors (Steinberg, 2009; Steinberg et al., 2018). Organised criminal groups often capitalise on these vulnerabilities by using children as low-risk operatives, knowing that legal consequences are typically less severe and that children are easier to control (UNODC, 2017; Windle & Briggs, 2015).

Empirical work on youth gangs further demonstrates that early involvement is rarely driven by intrinsic criminal motivation. Instead, it is strongly associated with exposure to violence, family instability, school exclusion, and neighbourhood disadvantage (Howell & Griffiths, 2018; Pyrooz et al., 2025). Longitudinal evidence shows that many children enter criminal networks through older peers or relatives, frequently under conditions that blur the line between “participation” and coercion (Decker et al., 2012). These findings directly support respondents’ framing of child offenders as victims of exploitation whose criminal involvement reflects constrained choices rather than free agency.

The best interests of the child principle is a foundational norm of international children’s rights law, most prominently enshrined in Article 3(1) of the UN Convention on the Rights of the Child (CRC), which requires that “in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration” (United Nations, 1989).

Importantly, the principle does not prescribe a single substantive outcome. Rather, it functions as a procedural and interpretative standard guiding decision-making in all matters affecting children. Legal scholars emphasise that the principle requires decision-makers to identify, assess, and balance factors relevant to a child's well-being, including safety, physical and mental health, emotional development, identity, family relationships, and the child's own views (Tobin, 2013; Eekelaar, 2015). As such, it is inherently context-specific and must be applied on a case-by-case basis.

The UN Committee on the Rights of the Child has clarified that the best interests principle has three dimensions:

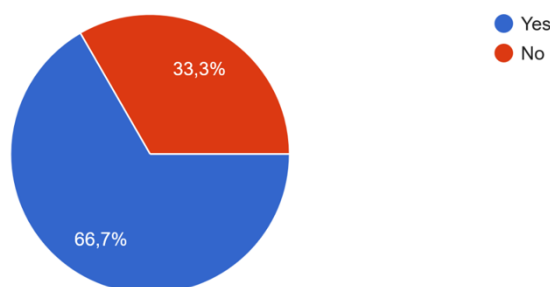
- 1) a substantive right of the child to have their best interests assessed and taken seriously;
- 2) a fundamental interpretative principle for resolving ambiguities in child-related rights; and
- 3) a procedural rule requiring transparent justification of how decisions serve the child's interests (United Nations, 2013).

Crucially, contemporary scholarship stresses that the principle is not a license for unchecked paternalism. Its application must be consistent with other children's rights, particularly the rights to participation (Article 12 CRC), autonomy, and respect for evolving capacities (Archard & Skivenes, 2009; Freeman, 2007). When applied without clear safeguards, the principle risks reflecting adult values or institutional convenience rather than the lived interests of the child. When applied rigorously, however, it provides a structured framework for balancing protection and autonomy in a rights-respecting manner.

Figure 4. Qualified support: rights limitations accepted only when strictly necessary and proportionate

Do you think the "best interests of the child" principle can justify limiting other individual rights?

21 Antworten



Question 4 examined whether the "best interests of the child" principle can justify limiting

other individual rights. Two-thirds of respondents agreed that such limitations may be justified, but only under strict, clearly defined conditions. Their responses reveal a nuanced engagement with a longstanding tension in children's rights theory: how to reconcile the obligation to protect children with respect for their autonomy, dignity, and evolving capacities.

4.2 The Risk of Protection Becoming Control

A central concern raised by respondents is that restricting children's rights risks reinforcing existing power imbalances between children and adults. This concern is well established in socio-legal and rights-based scholarship. Critics of overly protective approaches argue that invoking "best interests" without clear safeguards can legitimise paternalism, allowing adult authorities to substitute their own judgments for those of the child (Freeman, 2007; Archard & Skivenes, 2009). Empirical research further shows that children already experience systematic exclusion from decision-making processes that affect them, particularly in institutional settings such as schools, care systems, and the justice system (Lansdown, 2005).

From this perspective, limiting a child's autonomy does not merely restrict a single right; it can entrench a broader condition of powerlessness. Studies in child development and social psychology suggest that agency and participation are not optional "extras" but core components of healthy cognitive, emotional, and social development (Ryan & Deci, 2017; Alderson, 2014). Respondents' discomfort with rights limitations thus reflects an evidence-based fear that protective interventions, if poorly designed, may undermine the very well-being they claim to promote.

4.3 When Limiting Rights Becomes a "Necessary Evil"

At the same time, respondents acknowledged that in clearly necessary cases (such as when a child's safety, dignity, or fundamental development is at stake) some limitations of rights may be justified. This position aligns closely with international human rights law. The UN Convention on the Rights of the Child explicitly recognises that children's rights must be interpreted in light of their evolving capacities, allowing for graduated limitations that diminish as children mature (CRC, Article 5). Legal scholars emphasise that the "best interests" principle is not an absolute trump card, but a balancing tool that must be weighed against other rights, including participation, liberty, and privacy (Tobin, 2013).

Importantly, empirical evidence suggests that carefully targeted, proportionate interventions can indeed protect children from serious harm without producing long-term negative effects. This is particularly prevalent when such measures are temporary, transparent, and accompanied by meaningful participation (Skivenes & Sørtdal, 2017). In this sense,

respondents' characterisation of rights limitations as a "necessary evil" captures a real ethical dilemma: while restrictions may feel normatively troubling, the absence of intervention in situations of abuse, exploitation, or severe neglect can result in demonstrably worse outcomes (Gilbert et al., 2008).

4.4 Proportionality as a Practical Ethical Compass

A recurring theme across responses is proportionality. Respondents consistently argued that if rights are limited, this must be done minimally, cautiously, and only when strictly required to protect the child's core interests. This mirrors proportionality principles widely used in constitutional law and human rights jurisprudence, which require that any rights limitation pursue a legitimate aim, be suitable to achieve that aim, be necessary, and impair rights as little as possible (Alexy, 2002).

Applying proportionality to children's rights has been shown to improve decision-making quality by forcing authorities to justify not only whether they intervene, but how and to what extent (Eekelaar, 2015). Research on child welfare and youth justice systems indicates that proportional, individualised interventions are associated with better compliance, higher perceived legitimacy, and improved long-term outcomes for children (Tyler & Trinkner, 2018).

4.5 Proportionality as a Practical Ethical Compass

Finally, respondents strongly rejected a static understanding of children's rights. Instead, they emphasised that as children grow, their needs, competencies, and capacity for autonomous decision-making evolve and so must the balance between protection and freedom. This view is firmly grounded in developmental science, which shows that adolescents' decision-making abilities, self-regulation, and risk assessment improve markedly over time, though unevenly across individuals and contexts (Ebert, 2015).

Legal and philosophical scholarship increasingly argues that children's rights should be understood as dynamic and relational, requiring continual recalibration rather than fixed thresholds (Liebel, 2020). Respondents' reflections thus point toward an adaptive model of children's rights governance: one that treats the "best interests of the child" not as a justification for overriding rights, but as a disciplined framework for weighing protection against autonomy in light of development, context, and proportionality.

4.6 Policy Implications

Taken together, these findings suggest that limiting rights in the name of children's best interests is neither inherently illegitimate nor inherently justified. The key policy challenge lies

in ensuring that any such limitation is exceptional, proportionate, developmentally informed, and accompanied by meaningful safeguards against abuse of power. When applied in this way, the best interests principle can function not as a license for control, but as a constraint on it. This ensures that protection does not come at the cost of dignity, agency, and long-term empowerment.

5. Minimum Age for Criminal Responsibility

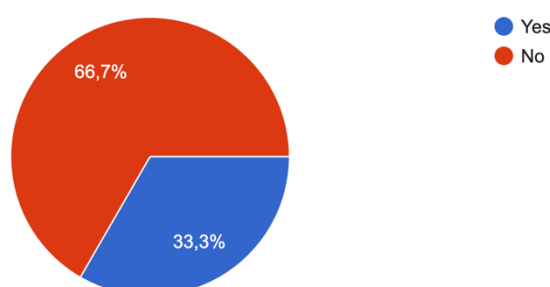
The “best interests of the child” principle lies at the heart of children’s rights law, yet it also raises difficult questions about the limits of protection and the risk of paternalism. While the principle is intended to safeguard children’s safety, integrity, dignity, and development, scholars have long warned that its broad and indeterminate nature can be used to justify restrictions on children’s autonomy and participation.

The minimum age for criminal responsibility is often at the center of debates at the intersection between law, psychology and human rights. This section dives into the survey's differing opinions on the right age where a child can actually understand they've committed a crime and face legal consequences. Specifically, we're looking at the idea of prosecuting or assigning criminal penalties to kids under fourteen, weighing up arguments based on how kids develop, the importance of rehabilitation, keeping the public safe, and our ethical duty to protect children.

Figure 5. Respondents' views on criminal consequences for children under 14.

In your opinion, is it appropriate to prosecute and convict a child under 14 for a violent crime or for the involvement in socially subversive criminal activities?

21 risposte



5.1 Breakdown of Results

I. Arguments Against Criminal Liability of Children Under Fourteen ('yes' responses): Why Respondents Oppose Punitive Measures

According to the position of the majority of the respondents, children under 14 should not be criminally prosecuted or held criminally liable in the same way as adults (or at all). Responses emphasize protection, rehabilitation, and welfare over punishment.

One of the key arguments brought up is the lack of emotional maturity: children under 14 do not have the psychological, cognitive, or moral capacity to fully understand criminal intent or long-term consequences. Criminal liability assumes a level of reasoning and foresight children do not yet possess.¹

In addition, prosecution, detention, or criminal records can permanently marginalize children. Respondents have referred to studies demonstrating that juvenile detention and prison environments increase recidivism rather than preventing crime. Early criminalization pushes children further into criminal cycles instead of reintegrating them.

Most answers put an emphasis on therapeutic, pedagogical, restorative, and child-protection approaches. The focus should be on education, mental health support, mentoring, and reformatory care, as the goal is reintegration into society, not punishment. The reason behind this is that children are often victims of social, economic, or familial circumstances. They are exposed to a high risk of coercion, manipulation, or exploitation by adults or criminal networks. That is why, according to some respondents, responsibility should shift toward adults or systems that exploit children.

Prosecuting young children raises serious ethical concerns, as children are in a formative stage and deserve second chances, as stated by one of the participants in the survey: "Children are children and should be treated as such."

Overall, we can find a clear rejection of prosecution under 14, a strong emphasis on safeguarding, reformatory care, and second chances, as well as a strong concern about long-term societal harm of early criminalization.

II. Arguments In Favour of Criminal Liability ('no' responses): Public Safety and the Gravity of the Offense

Even those arguing that children under 14 should be held criminally liable often affirm that modified procedures and sentencing. More specifically, a few argue that if children have rights

¹ The specific reference is to the *mens rea* concept.

similar to adults, they should also face consequences for violating others' rights. According to this position, when children knowingly commit serious crimes and show awareness or lack of remorse, consequences are seen as justified. In addition, if there is a pattern of offending or a high risk of reoffending, prosecution may be in the public interest.

Therefore, what emerges according to this group of respondents, is that criminal liability should depend on various aspects, such as the type and severity of the crime, the distinction between repeated behaviors vs. isolated incidents, and signs of remorse coming from the author, or evidence of manipulation by others.

However, as stated at the beginning of this paragraph, even those in favour of holding children criminally liable believe that they should not be treated the same as adults. This means that all in all both the groups are advocating for specialized justice systems for minors. This would include, as exemplified in some of the answers, psychological support for youth in courts and child-appropriate judicial settings; a stronger emphasis on sentencing focused on prevention, rehabilitation, and non-reoffending rather than punishment; and only if the process is not overwhelming or harmful for the child involved.

Finally, some argue that children around 14 (or younger) know right from wrong and understand that acts like killing or stealing are wrong. The answers sustaining a 'stronger' approach cite real-world crime examples to justify accountability.

To sum up, 'no' respondents support prosecution in serious cases, focusing on public safety and responsibility rather than blanket immunity, but, on the other hand, they agree on the necessity of modified, child-specific procedures.

Balancing Accountability and Protection: Divergent Trends in Youth Prosecution

The majority trend strongly opposes criminal prosecution of children under 14, favoring welfare, rehabilitation, and restorative justice. The minority trend manifests conditional support for criminal liability, stressing seriousness of crimes, public safety, and tailored judicial processes.

Across both positions, there is notable convergence on the principle that children under fourteen should never be subjected to adult-style punishment. Even proponents of criminal liability emphasise the necessity of child-sensitive procedures, rehabilitative sentencing, and safeguards against excessive or harmful sanctions. The principal disagreement lies not in whether children should be protected, but in whether legal accountability should ever take the form of formal criminal liability.

The results highlight a need for a transition from punitive justice to reformatory care, recognizing that children often require support and second chances rather than

criminalization, similarly to what emerged in the third question (see par. 3). Even when public safety requires intervention, the primary objective must always be rehabilitation and preventing recidivism rather than applying punitive measures.

Criminal behavior is often the result of failing social structures and circumstances, the system bears the responsibility to correct these failures and support the child rather than assigning blame. Legal frameworks should prioritize the "second chance" principle.

5.2 Minors, Culpability, and the Justice System: A Global Perspective

Literature on minors under 14 who commit criminal violations emphasizes that this age group lacks the emotional and cognitive maturity to be held fully criminally responsible. Recent research highlights a shift toward raising the Minimum Age of Criminal Responsibility (MACR) to 14 years old, prioritizing therapeutic and rehabilitative interventions over punitive ones.² For instance, in Australia, as of July 1st 2025, the MACR was raised to 14, meaning children under this age generally cannot be charged with a crime, except for the most serious offenses like murder.

Most European and OECD nations set the MACR at 14, though some countries still maintain lower ages (e.g., England, Wales, and Northern Ireland). In jurisdictions with lower MACRs, the principle of *doli incapax* - the presumption that a child under 14 does not understand their actions were seriously wrong - remains a critical legal defense.³ However, academic literature suggests a shift away from the *doli incapax* focus on "moral understanding" toward a defense based on limited personal autonomy—recognizing that the adolescent brain is not fully capable of mature decision-making. In fact, developmental science indicates adolescent brains are more prone to impulsive decision-making because the emotional system develops faster than the cognitive control system.⁴

More specifically, the global landscape of the MACR⁵ is characterized by significant jurisdictional fragmentation, revealing a divergence between international human rights standards and domestic legal traditions. While the United Nations Committee on the Rights of

² Ransley, J. et al. (2024) 'A review of arguments for raising the age of criminal responsibility', *Current Issues in Criminal Justice*, 36(4), pp. 369–385. doi: 10.1080/10345329.2024.2353489; Rea, L., (2023), 'The EU Strategy on the Rights of the Child: A missed opportunity to introduce harmonisation for the age of criminal responsibility in Europe?', European Student Think Tank, available at: [https://esthinktank.com/2023/04/04/the-eu-strategy-on-the-rights-of-the-child-a-missed-opportunity-to-introduce-harmonisation-for-the-age-of-criminal-responsibility-in-europe/#:~:text=Whilst%20the%20Convention%20addresses%20the,6%2C%20para%2039\).](https://esthinktank.com/2023/04/04/the-eu-strategy-on-the-rights-of-the-child-a-missed-opportunity-to-introduce-harmonisation-for-the-age-of-criminal-responsibility-in-europe/#:~:text=Whilst%20the%20Convention%20addresses%20the,6%2C%20para%2039).)

³ Crofts, T. (2018) 'Prosecuting child offenders: Factors relevant to rebutting the presumption of *doli incapax*', *Sydney L. Rev.*, 40, 339.

⁴ Steinberg, L. (2010). A dual systems model of adolescent risk-taking. *Developmental Psychobiology*, 52(3), 216–224; Casey, B. J., Getz, S., & Galván, A. (2008). The adolescent brain. *Developmental Review*, 28(1), 62–77.

⁵ Minimum ages of criminal responsibility in Europe, Child Rights International Network (CRIN). Available at: <https://archive.crin.org/en/home/ages/europe.html>.

the Child advocates for an absolute minimum age of 14, state practice varies considerably, and they generally can be divided into three distinct bands. The "low" band, composed primarily of jurisdictions with English Common Law heritage, maintains an MACR between 7 and 11; notably, England and Wales set the age at 10 without exception, having abolished the doctrine of *doli incapax* in 1998.

In contrast, the majority of continental European and OECD nations such as Germany and Italy, align with the age of 14, viewing early adolescence as the developmental threshold for criminal intent. Scandinavian nations like Sweden and Norway, set MACR at 15, and Brazil, reserves full criminal responsibility for age 18. However, these statutory limits are rarely absolute; many legal systems employ mechanisms of derogation that allow for the lowering of the age in cases of heinous offenses. For instance, while New Zealand maintains a standard MACR of 14, individuals as young as 10 can be prosecuted for murder or manslaughter. Similarly, recent legislative amendments in China (2021) permit the prosecution of children aged 12 to 14 for intentional homicide, contingent upon approval from the Supreme People's Procuratorate. Conversely, in the United States, "transfer" or "waiver" laws effectively nullify minimum age protections in numerous states, exposing minors to adult criminal proceedings for serious felonies.

Crucially, a higher MACR does not equate to impunity; rather, it signifies a bifurcation of state response. In jurisdictions with high age limits, offending behaviors by minors are addressed through civil or welfare-based frameworks—such as secure psychiatric care or closed educational facilities—prioritizing therapeutic intervention over the stigma of criminal conviction. Thus, the global debate centers not on whether the state should intervene in youth misconduct, but on whether that intervention should occur within a punitive criminal justice paradigm or a rehabilitative welfare system.

Lastly, the literature identifies three primary categories of risk that predispose minors to offending, undergirded by a "culpability gap" between cognitive and psychosocial maturity.

- Family: Childhood adversity, lack of parental supervision, domestic violence, and neglect are powerful predictors of early offending.
- Peers: Association with delinquent peers and exposure to antisocial behavior significantly increase the likelihood of criminal involvement.

- Mental Health: Juvenile offenders have a markedly higher prevalence of mental disorders, such as Conduct Disorder and ADHD, compared to the general population.⁶

Scholars argue that these risk factors are exacerbated by a developmental disconnect: while children may cognitively understand that an act is "wrong," their prefrontal cortex—responsible for impulse control and consequence evaluation—is not fully formed. This biological reality challenges legal standards like *doli incapax*, which scholars argue fails to account for the inability of impulsive brains to conform to the law, regardless of moral understanding.

Furthermore, criminologists emphasize Labeling Theory to explain the systemic failure of punitive measures. By formally processing a child as a "criminal," the justice system stigmatizes them, reinforcing a deviant self-identity and driving them toward deviant peer groups (Bernburg et al., 2006). This "criminogenic" effect is empirically supported by the Edinburgh Study of Youth Transitions and Crime, which found that contact with the juvenile justice system was the primary factor inhibiting desistance from crime (McAra & McVie, 2010). Additionally, a systematic review by the Campbell Collaboration concluded that formal processing increases delinquency compared to diversion (Petrosino et al., 2010). Consequently, the academic consensus advocates for diverting children under 14 away from the formal justice model, to social welfare and therapeutic panels (Damm, Anna & Larsen, Britt & Nielsen, Helena & Simonsen, Marianne, 2025).

6. Key Elements for a Comprehensive Insight

To effectively address child crime, we must shift from punitive measures to a holistic approach that repairs systemic and parental failures, potentially by actively involving youth in co-designing their own solutions. As a matter of fact, there is a strong call to move beyond punitive detention by involving at-risk youth directly in decision-making. Participatory research allows children to help co-design rehabilitative alternatives that they feel will actually benefit them.

Panelists also suggested a need to explore if guardians should be held liable when their failure to act in the child's best interest leads to offending. Not only parents and guardians, but also societal failures have a role in encouraging criminal behaviours among children. Often children in the justice system occupy a dual role of victim and offender. True protection

⁶ Abhishek, R., & Balamurugan, J. (2024). Impact of social factors responsible for Juvenile delinquency - A literature review. *Journal of education and health promotion*, 13, 102. https://doi.org/10.4103/jehp.jehp_786_23.

requires repairing the socioeconomic failures that create vulnerability, rather than just punishing the child.

In the following paragraph we will be trying to briefly address a few questions and topics that young people see the most urgent need for deeper exploration.

6.1 How can we safeguard children's rights in digital spaces?⁷

Digital spaces often present risks to children, due to their specific vulnerability and the way many platforms are designed. Examples of risks can include exposure to inappropriate content, as violence and hate; harmful habits, such as eating disorders, substance abuse or self-harm; and fake news. Children could also fall victim of other users, both adults and peers (cyberbullying). Many studies have also demonstrated that the excessive use of social networks can cause addictive behaviours and have an impact on psychological health and brain development. Finally, companies collect various kinds of personal data for behavioral profiling and advertising, and there is a rising concern over AI-generated deepfakes.

The solutions to these issues move across different lines. Education should play an important role: school curricula should include training on digital rights and recognizing online risks. Parents and educators also need resources to help them guide children's online experiences, such as the UNICEF guides⁸ on digital parenting and screen time.

From the legal point of view, on the other hand, States must implement and enforce laws such as the EU's Digital Services Act (DSA) and the General Data Protection Regulation (GDPR), which mandate high levels of privacy and safety for minors. Policies should require "safety by design," ensuring that digital services prioritize children's best interests from the start, rather than as an afterthought, and making submitting complaints easy and child-friendly. Finally, terms of service and privacy settings must be presented in clear, age-appropriate language that children can understand.

⁷ Main references: Niedstat M. (2025), *Protecting children online*, European Parliamentary Research Service, available at: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/769570/EPRS_BRI\(2025\)769570_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/769570/EPRS_BRI(2025)769570_EN.pdf); VV. AA. (2025), *The rights of children in the digital environment*, Eurochild position papers, available at: <https://eurochild.org/uploads/2025/01/Eurochild-Position-paper-Childrens-Rights-in-the-Digital-Environment.pdf>; EU Joint research Center, 18 may 2025, accessed on 6 January 2026, https://joint-research-centre.ec.europa.eu/jrc-explains/why-are-children-and-adolescents-vulnerable-social-media_en#:~:text=A%20critical%20phase%20for%20children's,adults%20in%20mind%2C%20not%20childr en.

⁸ <https://www.unicef.org/innocenti/stories/protecting-young-digital-citizens>

6.2 How might children be meaningfully included in decisions that directly affect them?⁹

Children should be treated as active co-creators of policies that directly affect them or their environment. Their participation shall not be limited to just hearing their inputs without acting on it, but should be taken seriously. Practical methods for participation include spreading child-friendly information, by translating complex documents in easier language and formats, providing honest feedback on what suggestions might be implemented and what decisions cannot be influenced. Adults should also be taught how to interact with children without biases or adult-centric approaches.

6.3 How are children's rights realised in practice, and which frontline organisations play a role in safeguarding them?

This question aims at stressing the role of international legal frameworks, national legislation and real-life networks that deliver children protection.

The UN Convention on the Rights of the Child (UNCRC) serves as the foundational legal framework for children's rights, defining children as individual rights-holders rather than passive objects of care. Its realization is driven by four General Principles: non-discrimination, the right to life and development, respect for the child's views, and the "best interests of the child" .

In this context, frontline organisations include intergovernmental institutions like UNICEF, that coordinates global humanitarian responses providing child protections; global and local NGOs, that implement programs either at the field-level or with a focus on specific issues. Moreover, advocacy networks (e.g. Child Rights Connect, Eurochild) monitor government reporting to the UN and advocate for child-friendly policies in regional bodies like the EU. Finally, local authorities (police, schools, health and social services) serve as the immediate resource, responsible for identifying and responding to children at risk of harm.

⁹ Main sources: https://eu-for-children.europa.eu/eu-childrens-participation-platform_en; Guidance on Child and Adolescent Participation, UNICEF, 2021: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.unicef.org/eca/media/19426/file/child%20and%20adolescent%20participation%20in%20the%20cg%20phase%20iii_version%201.0-dec2021.pdf; Children's participation in decision making: Why do it, When to do it, How to do it (2007) Inter-Agency Working Group on Children's Participation (IAWGCP).

6.4 How should we understand the roles of families and wider social structures in shaping children's development and vulnerability?

A child's growth is the result of a constant interaction between different spheres. A stable and reliable home environment establishes secure attachment, giving children the confidence to explore and the resilience to handle setbacks. Families are also responsible for teaching critical thinking, language, and emotional skills through daily interaction. An insatiable family environment can heighten vulnerability and emotional insecurity.

Beyond the home, layered social systems indirectly yet profoundly influence a child's life trajectory. The quality of interaction between environments (e.g., communication between parents and teachers) supports holistic development. Systems like a parent's workplace or local government policies affect children indirectly. For example, parental work stress or lack of community resources can degrade the home environment. Broader cultural values, economic conditions, and national policies dictate the resources and opportunities available to families.

Life transitions and major historical events (e.g., shifting attitudes toward mental health or technological changes) impact how children develop across different eras.

Vulnerability arises when these systems fail to provide necessary protections. Children in low-income households often face "material deprivation," which limits access to quality early learning and healthcare, creating long-term educational gaps. Neighborhood safety, exposure to violence, and social isolation are major environmental factors that increase a child's susceptibility to adverse outcomes. Lack of social protection schemes or affordable childcare can strain even high-functioning families, leading to increased risk of neglect or developmental delays.

Ultimately, high-quality family engagement and supportive social policies are essential to "changing the odds" for vulnerable children.

Conclusion: Reclaiming Children's Rights from Securitisation

This working paper set out to examine a central paradox in contemporary children's rights governance: the increasing use of human rights language to justify policies that may, in practice, undermine the very rights they claim to protect. Across debates on migration, crime prevention, and public order, children are frequently positioned at the intersection of protection and control, simultaneously framed as vulnerable individuals in need of care and as potential risks requiring containment. This dual framing reflects a broader shift in political discourse, where security concerns and exclusionary narratives increasingly shape policy responses.

The findings of this paper, grounded in both empirical research and the perspectives of young respondents, challenge this trajectory. A consistent pattern emerges: while there is strong support for protecting children from harm, there is equally strong resistance to approaches that compromise their dignity, integrity, autonomy, and rights in the name of security. Respondents and the literature alike converge on a key insight: rights-respecting approaches are a non-negotiable precondition for effective policy.

First, the analysis highlights the dangers of instrumentalising human rights language. When states invoke the protection of one group to justify the exclusion or repression of another, particularly vulnerable populations such as migrant children, rights lose their universal character and become tools of political convenience. This not only undermines legal integrity but also erodes public trust in democratic institutions.

Second, the evidence clearly demonstrates that punitive and securitised responses to children (whether in the context of crime prevention or migration) are not only normatively problematic but empirically ineffective. Early criminalisation, intrusive surveillance, and coercive interventions risk reinforcing marginalisation, increasing recidivism, and damaging long-term developmental outcomes. By contrast, prevention-oriented, rehabilitative, and welfare-based approaches consistently produce better results, both in terms of individual well-being and public safety.

Third, the paper underscores the importance of proportionality, participation, and developmental sensitivity in policymaking. The "best interests of the child" principle remains a vital framework, but only when applied with clear safeguards that prevent paternalistic overreach. Children's rights must be understood as dynamic, evolving alongside their

capacities, and policies must reflect this by balancing protection with meaningful opportunities for agency and participation.

Taken together, these findings point toward a coherent alternative to the current securitisation trend: a model of children's rights governance that is preventive rather than punitive, inclusive rather than exclusionary, and grounded in evidence rather than rhetoric. Such a model recognises that addressing the root causes of vulnerability (i.e., poverty, exclusion, lack of access to education and support) is not only a moral imperative but also the most effective strategy for reducing crime and social unrest.

Ultimately, the question is not whether states must choose between protecting children and ensuring public safety. The evidence presented here suggests that this is a false dichotomy. Sustainable security and children's rights are mutually reinforcing, but only when policies are designed with care, restraint, and a genuine commitment to the dignity and integrity of every child.

Policy Recommendations

- **Prevent the misuse of human rights language:** Establish independent oversight, transparency, and judicial review to ensure that rights-based justifications are not used to legitimise exclusionary or repressive policies against vulnerable groups.
- **Reject intrusive and blanket preventive measures:** Prohibit routine or suspicionless interventions (such as preventive searches) that compromise children's integrity, and prioritise non-invasive, trust-building approaches.
- **Adopt a victim-first, prevention-focused approach to child criminality:** Treat children involved in organised crime primarily as victims of exploitation and invest in early intervention, family support, education, and mental health services rather than punitive responses.
- **Ensure proportionality and safeguards in rights limitations:** Allow limitations of children's rights only when strictly necessary, proportionate, and developmentally appropriate, supported by clear justification, participation, and review mechanisms.
- **Prioritise rehabilitation over punishment in youth justice systems:** Avoid adult-style punitive measures for children and focus on second chances, restorative justice, and long-term reintegration.

Promote child-centred, participatory policymaking: Recognise children as active rights-holders and involve them meaningfully in designing policies that affect their lives, including in digital and social environments shaped by “safety by design” principles.

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This working paper explores the tendency of using human rights language to justify securitized, exclusionary policies targeting children. Challenging punitive approaches in migration and youth justice, the research advocates for a preventive, welfare-based model. Ultimately, it demonstrates that sustainable public safety and children's rights are mutually reinforcing, not mutually exclusive.

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