
HARMONIZING JUVENILE JUSTICE WITH INTERNATIONAL LEGAL STANDARDS

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ABSTRACT

The world is transforming at a fast pace, and a new type of crime is emerging. The criminals range from children to adults. This article focuses on children in the juvenile justice system. The juvenile justice system regulates juveniles, where he/she without sent to actual imprisonment but are sent to juvenile jails, which helps them to be treated differently from other age criminals.

A child is born with innocence and it's important to safeguard the child. The juvenile system helps to bring out the best in the child even after he or she has committed any crime by asking them for reformatory justice. Every country has a framework for the juvenile system but it's important to learn from the global perspective and to incorporate all those best practices in the domestic laws.

International law has given various conventions and treaties for the protection of children. This article has included the legal frameworks including the United Nations Convention on the Rights of the Child (UNCRC). This article has studied the juvenile system from an international perspective and has tried to gather information related to legal frameworks, and the hindrances on the part of giving international cooperation for the juvenile justice system. The author has also provided the important suggestions needed for the incorporation of the international legal framework for the juvenile justice system.

Keywords: Juvenile, Safeguard, International Law, Child, and Justice System.

Introduction

A child is an important pillar for the nation, as the child is going to become an adult who will be a responsible citizen of that nation. It is imperative to understand that the juvenile justice system was made for the protection of the child and to inculcate the best habits in them even after committing the crimes which can be the serious crime. This is based on the reformatory justice system.

The United Nations Convention on the Rights of the Child¹ sets out the international universal standard for the betterment of the juvenile and explains the procedure for juvenile trials. This article has focused on the international conventions and treaties for the building of a juvenile justice system at the international level. This international instrument helps to build a base and a guiding pillar for the making and enforcement of domestic laws. The author has used secondary source information for the study which is available in the public platforms.

International Law and Juvenile Justice System

It is important to understand that treatment of children at tender age must be done with care and caution. The United Nations Convention on the Rights of the Child, 1989² gives a detailed framework to ensure the protection of juveniles and bring provisions for their integration into society after they have served their punishment. Important instruments like the Beijing Rules (1985)³ and the Riyadh Guidelines (1990)⁴, etc. play a crucial role in the protection of children and talking about the best interest of the children in a part of their protection during their punishment period on and over. This article has focused on the important parts explaining the coordination and cooperation of nations with international organizations in maintaining adjustable global standards of the juvenile justice system.

There can be multiple issues like the lack of resources, the tension between the two nations or the two states, the cultural barrier, the expert, this sensitivity issue, and expert expertise are the challenges for the establishment of the juvenile justice system in its full strength.

¹ Convention on the Rights of the Child, <<https://www.unicef.org/child-rights-convention>> accessed 20 January 2025

² Convention on the Rights of the Child, <<https://www.unicef.org/child-rights-convention>> accessed 20 January 2025

³ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), <<https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile>> accessed 20 January 2025

⁴ United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-guidelines-prevention-juvenile-delinquency-riyadh>> accessed 21 January 2025

The important features of the juvenile justice system framework from an international perspective:

- 1- The UNCRC (1989)- The UN Convention on the Rights of the Child (UNCRC)⁵ is the most important treaty that serves as an important pillar for the protection of the human rights of the child. This treaty is important in maintaining the international juvenile justice system framework. The various articles mentioned in this treaty deal with treatment of the juveniles, the rehabilitation process, the reintegration process, punishment, etc., everything that helps to build a better juvenile justice system across the world. This treaty needs to be incorporated by all the countries to have a better juvenile system. This convention talks about the civil, political, economic, social, and cultural rights of the child. It also focuses that the child must be grown with full peace and dignity. The government and the adults must consider the child's innocence and allow them to grow with full Freedom. Various rights like the freedom of expression, the freedom of play, the right to be protected against the use of narcotic drugs, the right to have views, the right to have relaxation, etc., must be given to children⁶. This convention or treaty has been made on the pillars of the Charter of the United Nations, 1945, and the Universal Declaration of Human Rights 1948.
- 2- Beijing Rules (1985)- Beijing Rules⁷, also known as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, provides a framework for the juvenile justice system. These rules have protected juveniles through the legal process and have focused on the various alternative measures of punishment or detention. Rules have also focused on various aspects of due process, police training, community support, alternative justice, etc. a lot. These rules are made to treat children equally, fairly, and humanity. This rule has focused on creating an alternative justice system for minors and the rules governing the incorporation of community service for these minors. The laws or procedures which are applied to an adult should not be

⁵ Convention on the Rights of the Child, <<https://www.unicef.org/child-rights-convention>> accessed 20 January 2025

⁶ Convention on the Rights of the Child, <<https://www.unicef.org/child-rights-convention>> accessed 20 January 2025

⁷ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), <<https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile>> accessed 20 January 2025

applied to children⁸.

- 3- The Riyadh Guidelines (1990)⁹- These are the set of guidelines also known as United Nations Guidelines for the Prevention of Juvenile Delinquency. These guidelines promote the reduction of juvenile delinquency to reduce the crime rates. It also emphasizes the promotion of the child protection approach while having the juvenile justice system. It also focuses on community-based interventions in dealing with this sensitive topic. The juveniles must take on communal responsibility to foster social responsibility. These guidelines also emphasise considering the seriousness of any crime and even having lesser penalties or punishments for petty offences. These guidelines emphasise that states adopt these practices for national laws by bringing the best global juvenile justice system framework in the world¹⁰.
- 4- The Havana Rules (1990)¹¹- These rules are also known as the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty. These rules are made to ensure the protection of the human rights of the children. The treatment of the children with dignity and respect. The Havana rules protect the child's rights related to education, healthcare, and their relationship with their families. These Havana rules state that deprivation of liberty should be considered as the last resort. The protection of the child's physical and mental health is both important and medical care must be given in the need. These rules apply under the age of 18 years only. These rules were made for children who are imprisoned or in custody¹².

Hindrances in the path of implementation of the international juvenile justice system framework

- 1- The international standard is made on a common footing, but it is important to understand

⁸ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), <<https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile>> accessed 20 January 2025

⁹ United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-guidelines-prevention-juvenile-delinquency-riyadh>> accessed 21 January 2025

¹⁰ United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-guidelines-prevention-juvenile-delinquency-riyadh>> accessed 21 January 2025

¹¹ United Nations Rules for the Protection of Juveniles Deprived of their Liberty, <https://www.unodc.org/pdf/criminal_justice/United_Nations_Rules_for_the_Protection_of_Juveniles_Deprived_of_their_Liberty.pdf> accessed 23 January 2025

¹² United Nations Rules for the Protection of Juveniles Deprived of their Liberty, <https://www.unodc.org/pdf/criminal_justice/United_Nations_Rules_for_the_Protection_of_Juveniles_Deprived_of_their_Liberty.pdf> accessed 23 January 2025

that every country has different needs and demands for the implementation of the international standard. Some countries are opting for harsh penalties on juveniles to correct their behaviour and to set a standard example for everyone in the nation. It is the same that countries are not able to comply with international standards because of cultural barriers¹³.

- 2- It is imperative to understand that the rise of cross-border juvenile crimes needs the world corporation to be mitigated. With the various activities involving human trafficking, and the cybercrimes where juveniles are involved in such issues, global support is needed to implement the international framework to combat this crime. There can be a difference of opinion between two countries but the two countries where the youth population should be free from all types of crimes. To make society free from crimes, the efforts of everyone are needed.
- 3- The financial lacuna constitutes a major hindrance to the enforcement and establishment of a separate juvenile justice system in the countries. It is evident that in a country where funding is scarce, the lack of infrastructure and expertise is also readily apparent. These lacunas all contribute to hindrances in implementing international standards for the juvenile justice system.

It is in political will which also is in the need for the implementation of the international standard for the betterment of the children¹⁴ of the countries. No one will deny the importance of international law for being the pillar of the domestic laws. This international law helps to act as a guiding source for the making of domestic or national law. It is imperative to understand that the political will must align with the political will of all nations across the globe for the adoption of the best juvenile justice system in any country.¹⁵ The international legal framework has the best juvenile justice system framework. Still, it is the need of the hour that every nation must come forward for the protection and betterment of children. The juvenile system is not the required thing, but it is essential for the safeguarding of children.

Suggestions

- 1- Infrastructure- It is essential to understand that investment in the juvenile justice system

¹³ Le Thu Dao and Yvon Dandurand, 'Social, Cultural and Systemic Barriers to Child Justice Reform: Lessons from Vietnam' <<https://journals.sagepub.com/doi/full/10.1177/14732254211036196>> accessed 24 January 2025

¹⁴ Children, <<https://www.un.org/en/global-issues/children#:~:text=In%201959%2C%20the%20UN%20General,the%20Rights%20of%20the%20Child.>> accessed 25 January 2025

¹⁵ Le Thu Dao and Yvon Dandurand, 'Social, Cultural and Systemic Barriers to Child Justice Reform: Lessons from Vietnam' <<https://journals.sagepub.com/doi/full/10.1177/14732254211036196>> accessed 24 January 2025

will also need special buildings and experts for the children. These all contribute to the betterment of the children. Every country must focus on building infrastructure and investing in infrastructure to have a better juvenile justice system. It means having a special law for juveniles, a special force for juveniles, a special justice system for juveniles, a special infrastructure for juveniles, a special doctor for juveniles, etc. All are needed to make a better infrastructure for the juvenile justice system.

- 2- International and global relations - Bilateral and multilateral agreements must be initiated to facilitate the exchange of resources, supervisors, best doctors, and experts in the field of juvenile justice. International collaboration and meetings are crucial for strengthening the juvenile system through the exchange of ideas and resources. No nation can possess all the necessary resources; we need the support and help of one another in building a better future and a more inclusive society for our children and everyone. International sensitivity programmes and meet-up programs must be initiated to strengthen international collaborations and relations in this regard.¹⁶

Conclusion

The juvenile justice system must be built on the pillars of peace and the maintenance of children's human rights. In this regard, international legal frameworks are the best source for understanding the world's best practices. The international legal framework for juvenile justice systems encompasses all the necessary perspectives for the protection of juveniles and the delivery of justice to them. It is the need of the hour for every nation to come forward in adapting these international frameworks and to work positively for the welfare of the children in their society. The global community must come together to promote and foster global collaboration, leading to a more effective implementation plan for children. The international treaty framework is available to everyone, and every nation must strive to adopt best practices by learning from other nations and removing the obstacles that hinder justice and equality for children in their countries. Domestic laws can be incorporated by having a harmonizing international legal framework for the child. The various treaties are present, but if they are not incorporated into the domestic sphere, then they will be of no use in implementing these treaties. It is the need of the hour to bring a better society and a safer society by working on the pillars of every country, i.e. the children. No one will deny the importance of children in making

¹⁶ Children, <<https://www.un.org/en/global-issues/children#:~:text=In%201959%2C%20the%20UN%20General,the%20Rights%20of%20the%20Child.>> accessed 25 January 2025

a sustainable future thus, the aims and objectives of the United Nations Charter and the UDHR can be achieved by incorporating human rights in all perspectives.